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Iowa

The Honorable Kim Reynolds
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Copy: Sam Langholz, Senior Legal Counsel and Special Advisor to the Governor, *via email*.

Iowa Utilities Board
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Delivered via email to iub@iub.iowa.gov.

April 30, 2020

Dear Governor Reynolds and members of the Iowa Utilities Board:

The ACLU and 22 undersigned civil rights organizations and direct service providers to survivors of domestic violence and sexual assault deeply appreciate the moratorium on evictions that you put in place through April 30¹ and yesterday extended until May 27². We likewise appreciate the Iowa Utilities Board's emergency order imposing a moratorium on utility shut-offs of those utilities under

¹ State of Iowa Executive Department, April 2, 2020 Proclamation of Disaster Emergency, at § 56
<https://governor.iowa.gov/sites/default/files/documents/Public%20Health%20Disaster%20Proclamation%20-%202020.04.02.pdf>.

² State of Iowa Executive Department, April 27, 2020 Proclamation of Disaster Emergency, at § 103
https://www.homelandsecurity.iowa.gov/documents/disasters/proclamations/2020/PROC_2020_44_COVID-19_April27.pdf.

the Board's jurisdiction³ through the end of the Governor's declaration of public health emergency (currently set to expire on May 27⁴), the Board's prior order extending the Winter Moratorium on electric and natural gas shut-offs until May 15, and the Board's extension of the application period for Iowa's Low Income Home Energy Assistance Program available through the Iowa Department of Human Rights until May 31⁶.

These protections are critical to protect Iowans from homelessness due to the COVID-19 pandemic and resulting economic fallout, as you know. However, they will not be sufficient, without further protection, to protect against these harms during a continuing public health and economic emergency. We are very concerned that the new Proclamation indicates that "Iowans should not expect that [the Governor] will issue any further extensions of this suspension past May 27, 2020."⁷ In order to prevent these harms come May 27, 2020, we are writing now to urge you to extend the statewide moratoria on evictions and utility shut-offs in Iowa, to expand the moratoria on utility shut-offs to include all water shut-offs moving forward, and to commit to prevention of mass evictions after the moratorium ends.

Across the nation, the COVID-19 pandemic has already resulted in widespread and devastating economic consequences, as the number of Iowa unemployment claims filed has reached over 27,912 claims for the week of April 12-

³ Only investor-owned water utilities are regulated by the Board; municipal, cooperative, and private utilities, which control water utilities for 80 percent of Iowans, are not subject to the Board's moratorium.

⁴ Iowa Utilities Board, Order Re. Disconnection Of Electric, Natural Gas, And Water Utility Customers, Docket No. SPU-2020-0003 (Mar. 27, 2020), https://efs.iowa.gov/cs/idcplg?IdcService=GET_FILE&dDocName=2023388&allowInterrupt=1&noSaveAs=1&RevisionSelectionMethod=LatestReleased.

⁵ Iowa Utilities Board, Order Extending Winter Moratorium For Electric And Natural Gas Customers, Docket No. SPU-2020-0003 (Mar. 13, 2020), https://efs.iowa.gov/cs/idcplg?IdcService=GET_FILE&dDocName=2021815&allowInterrupt=1&noSaveAs=1&RevisionSelectionMethod=LatestReleased.

⁶ Iowa Department of Human Rights, LIHEAP Application Period Extended to May 31, 2020 (Apr. 3, 2020), https://humanrights.iowa.gov/sites/default/files/media/LIHEAP_Press_Release-English_04-03-20.pdf.

⁷ *Id.*

18, 2020, bringing the total number of continuing claims up to 151,846.⁸ One-third of all Iowa households rent rather than own their homes.⁹ In the face of staggering unemployment numbers and climbing medical costs, over 790,918 renters living in Iowa face the imminent threat of losing their homes¹⁰ or access to utility service. These consequences risk further spread of COVID-19 throughout Iowa and undermine efforts to protect public health and well-being. Moreover, the nearly guaranteed wave of evictions and utility shut-offs would inflict far-reaching and significant economic and social harm on Iowa's residents—particularly on women, people of color, low-income residents, and other vulnerable communities.

We commend your actions thus far in providing relief to Iowans through the existing evictions moratorium. Yet it is critical that you extend and expand the eviction and utilities shut-off moratorium in advance of May 27.

Evictions and Utility Shut-Offs Will Disproportionately Harm Communities of Color—And Particularly Women of Color.

The ACLU's Data Analytics team [analyzed national eviction data from 2012 to 2016](#), provided by the Eviction Lab at Princeton University, and found that on average, Black renters had evictions filed against them by landlords at nearly twice the rate of white renters.¹¹ Women of color, and particularly Black women, [bear the burden of eviction](#).¹² The harmful impact of eviction is further compounded by other

⁸ Iowa Workforce Development Communications, *Iowa Workforce Development reports initial unemployment insurance claims filed for week of April 12 - April 18, 2020* (Apr. 23, 2020), <https://www.iowaworkforcedevelopment.gov/iowa-workforce-development-reports-initial-unemployment-insurance-claims-filed-week-april-12-april>.

⁹ National Low Income Housing Coalition, *Out of Reach 2019: Iowa*, <https://reports.nlihc.org/oor/iowa>.

¹⁰ *Covid-19 Housing Policy Scorecard: Iowa* (Apr. 19, 2020), <https://evictionlab.org/covid-policy-scorecard/ia/>.

¹¹ Sophie Beiers et al., *Clearing the Record: How Eviction Sealing Laws Can Advance Housing Access for Women of Color* (Jan. 10, 2020), <https://www.aclu.org/news/racial-justice/clearing-the-record-how-eviction-sealing-laws-can-advance-housing-access-for-women-of-color/>.

¹² Matthew Desmond, *Poor Black Women Evicted at Alarming Rates, Setting Off a Chain of Hardship* (Mar. 2014), https://www.macfound.org/media/files/HHM_-_Poor_Black_Women_Are_Evicted_at_Alarming_Rates.pdf.

racial, gender, and socioeconomic barriers—such as wealth gaps, pay disparities, and inequities in our healthcare system.

Critically, the aftermath of an eviction persists for decades, as tenants with prior eviction records face major obstacles to accessing future housing opportunities. Landlords routinely employ screening policies that deny housing to any renter previously named in an eviction case, regardless of whether the case was dismissed, occurred many years ago, or was filed on unlawful grounds.¹³ As a result, eviction often exacerbates and reproduces conditions of economic insecurity for low-income women and communities of color.

These stark racial and gender disparities in eviction are even more alarming in Iowa. Iowa is among those states where the disproportionate harm on women and Black renters is highest.¹⁴

On average, between 2012 and 2016, Black renters in Iowa were 4.8 times more likely than white renters to have evictions filed against them. Additionally, Black women renters were 5.5 times more likely to have evictions filed against them than white renters.¹⁵

Utility shut-offs also disproportionately harm communities of color. A 2017 report by the NAACP found that Black households experience utility disconnections at a higher rate than financially similar white households. For households at or below 150% of the federal poverty level, only 5.5% of white-headed households experienced shutoffs as compared to 11.3% of Black-headed households.¹⁶ Similarly, another study revealed that residents in predominantly minority neighborhoods faced 27% higher energy cost burdens than those in

¹³ Sandra Park, *Unfair Eviction Screening Policies Are Disproportionately Blacklisting Black Women* (Mar. 30, 2017), <https://www.aclu.org/blog/womens-rights/violence-against-women/unfair-eviction-screening-policies-are-disproportionately>.

¹⁴ Beiers et al., *supra* note 4.

¹⁵ Data were drawn from Lexis Nexis eviction court records and compiled by the Eviction Lab of Princeton University. The ACLU Data Analytics Department performed the race and gender analysis of eviction court records from 2012 until 2016.

¹⁶ NAACP, *Lights Out in the Cold: Reforming Utility Shut-Off Policies as if Human Rights Matter* (Mar. 2017), https://www.naacp.org/wp-content/uploads/2017/12/Lights-Out-in-the-Cold_NAACP.pdf.

predominantly white neighborhoods.¹⁷ Research further shows that Black communities disproportionately experience higher water costs, water service terminations, and water liens, resulting in negative health and economic outcomes.¹⁸

The undersigned direct service providers have worked with many survivors of sexual assault and domestic violence who, as a result of the evictions moratorium already in place, were saved from eviction. These Iowans need the moratorium to continue, however. A couple typical examples follow.

One survivor in rural Iowa had been employed in a local shop prior to the public health crisis. However, due to COVID-19, the shop has closed, leaving her unemployed. She has not yet received any unemployment. Through local resources, which are limited, she was able to obtain assistance for rent, as well as utilities assistance through LIHEAP. However, she is facing a likely disconnection after the moratorium ends.

For other survivors, the public health crisis has interrupted their ability to rebuild their lives, exacerbating existing economic and housing security issues. For example, one survivor in Iowa was in between jobs when the outbreak hit. Under normal circumstances, the survivor would have been able to obtain other work quickly, but because of skyrocketing layoffs due to the crisis, the survivor was unable to find employment. The survivor's job circumstances didn't qualify for the COVID-19 related expansion of unemployment benefits, and the unemployment they were already receiving is expiring. This survivor has still not received a government stimulus check as of this writing, but that check will only cover one month of minimum expenses. Under normal circumstances, there would be available community resources like general relief, faith groups that have community outreach funds, local food pantries, and others that can help with temporary financial burdens. However, due to the pandemic these resources have dwindled as exponentially more people are needing assistance to meet their basic needs. This survivor has struggled and barely made it through March and April, and is falling further and further behind on bills. Without an expansion of the moratoria after May 27, this Iowan faces likely eviction and homelessness.

¹⁷ Kyle Miller, *The Hidden Cost in Housing Affordability* (Feb. 20, 2020), <https://www.planning.org/blog/9195636/hidden-cost-in-housing-affordability/>.

¹⁸ The Thurgood Marshall Institute at the NAACP Legal Defense and Educational Fund, Inc., *Water/Color: A Study of Race & the Water Affordability Crisis in America's Cities* (May 2019), https://www.naacpldf.org/wp-content/uploads/Water_Report_Executive-Summary_5_21_19_FINAL-V2.pdf.

Iowa Must Extend and Expand Its Moratorium on Evictions and Utility Shut-Offs In Order to Also Prevent Mass Evictions After the Moratorium ends.

In light of the widespread and devastating impact of eviction during the pandemic, we urge you to issue an extension and expansion of the moratoria on evictions and utility shut-offs throughout the entire state. In doing so, our state must also plan ahead for when the moratorium ends to prevent mass evictions and other enduring housing consequences for tenants hurt by the pandemic.

Iowa’s Moratorium Must Continue to Prevent Evictions During and Shortly After the Pandemic, with Extensions.

Given the ongoing and unpredictable nature of the COVID-19 pandemic, the expanded moratorium must, at a minimum, continue until at 45 days or longer¹⁹ after the following conditions are met: (1) the period for mandated or recommended social distancing has ended; (2) the State has determined the moratorium is no longer needed to control or limit the spread of COVID-19; and (3) the State has determined there are no further public health, economic, or other circumstances supporting the continued need for the moratorium. Moreover, an effective eviction moratorium should allow for extensions as necessary to allow tenants reasonable time to apply for and receive financial resources and assistance following the conclusion of the pandemic. The moratorium should also guarantee that landlords and housing providers give at least 30 days’ notice to evict a tenant upon expiration of the moratorium period.²⁰

Iowa’s Extended Moratorium Must Continue to Halt Every Stage of the Eviction Process, Apply to the Broadest Possible Categories of Tenants, And Should Be Expanded to Toll Court Deadlines for Pending Eviction Proceedings.

Currently, Iowa’s moratorium suspends the provisions of Iowa’s landlord-tenant and manufactured homes laws allowing for rental agreement terminations and evictions, except for forcible entry and detainer cases based on a tenant’s use of force, intimidation, fraud, or stealth to obtain possession, or in cases of clear and

¹⁹ See, e.g., Mass. H. 4647, *An Act Providing for a Moratorium on Evictions and Foreclosures During the COVID-19 Emergency*, <https://malegislature.gov/Bills/191/H4647>.

²⁰ See, e.g., Coronavirus Aid, Relief, and Economic Security Act (CARES Act), § 4024.

present danger.²¹ With those exceptions noted, this moratorium appropriately and effectively prohibits landlords and housing providers from proceeding with any stage of the eviction process, including, but not limited to: (1) formal or informal issuance of eviction notices; (2) service of legal process in eviction actions; (3) filing of new eviction cases; (4) eviction hearings; and (5) enforcing orders of eviction, including orders that were issued prior to the date that the moratorium went into effect.²² The moratorium also appropriately is not limited to evictions for non-payment of rent. Rather, other than those exceptions described above, the moratorium prohibit all evictions, regardless of the type of tenant or lease violation.

However, the moratorium should be expanded moving forward to also extend or toll all court deadlines for pending eviction proceedings for at least 30 days after the extended moratorium is lifted. Absent this expansion, tenants still face a heightened risk of losing their homes or sustaining an eviction filing record that may unjustly act as a barrier to housing in the future.

The Expanded Moratorium Should Prohibit the Collection of Late Fees and Protect Tenants Who Assert Rights Provided by the Moratorium.

The moratorium should also be expanded to prohibit landlords from imposing fees or fines associated with the late payment of rent due during the period of the moratorium, which can often be considerable. Additionally, the expanded moratorium should prohibit landlords from retaliating against tenants who seek protections under the moratorium.

Iowa Must Issue a Moratorium Against All Utility Shut-Offs Without Exception.

In addition to issuing a comprehensive eviction moratorium, our state should protect its residents' access to critical utility services by prohibiting utility shut-offs or disconnections for the duration of the pandemic. Responding to the critical and urgent public health need, the Iowa Utilities Board has appropriately prohibited gas and electric utility shut-offs until May 1, extended the LIHEAP application period to May 31, and prohibited investor-owned water utility shut-offs, as well as

²¹ State of Iowa Executive Department, April 2, 2020 Proclamation of Disaster Emergency, at § 56 <https://governor.iowa.gov/sites/default/files/documents/Public%20Health%20Disaster%20Proclamation%20-%202020.04.02.pdf>.

²² National Housing Law Project, *Protecting Renter and Homeowner Rights During Our National Health Crisis*, <https://www.nhlp.org/campaign/protecting-renter-and-homeowner-rights-during-our-national-health-crisis-2/>.

gas and electric utility shut-offs until the end of the public health emergency as declared by the Governor (currently May 27).²³

However, the Governor and/or the Iowa Utilities Board should extend the duration of this moratorium. Furthermore, because the Iowa Utilities Board does not have jurisdiction over approximately 80 percent of water utilities in the state, as Governor, you should include the suspension of *all* utility shut-offs, including by municipal and private water utilities, in the next Proclamation.

Access to clean running water at home is necessary to allow people to safely shelter in their homes if they become symptomatic. Only investor-owned water utilities are regulated by the Board; municipal, cooperative, and private utilities, which control water utilities for 80 percent of Iowans, are not subject to the Board's jurisdiction or its moratorium. Some but not all municipalities have committed to keeping water on, but coordinated executive action to prevent water shut-offs across the state is needed to mitigate the spread of COVID-19. While many cities have acted appropriately to suspend utility disconnections for the time being, the Governor must issue a statewide moratorium to ensure protections for its all its residents. Doing so does not impact those cities already appropriately acting to protect the health of their residents by ensuring access to clean water at home, and provides critical water access for those Iowans living in cities who are not voluntarily complying with the Iowa Utility Board's recommendation.

In addition, the Governor's next Proclamation should require utilities to restore previously disconnected utility services for residents without water or other services during the public health crisis. Regardless of past nonpayment, all Iowans need access to clean running water at home to prevent the spread of COVID-19 and to stay at home in order to socially distance, to avoid stores, and ultimately to stay out of the hospitals in the case of milder courses of COVID-19.

²³ Iowa Utilities Board, Order Re. Disconnection Of Electric, Natural Gas, And Water Utility Customers, Docket No. SPU-2020-0003 (Mar. 27, 2020), https://efs.iowa.gov/cs/idcplg?IdcService=GET_FILE&dDocName=2023388&allowInterrupt=1&noSaveAs=1&RevisionSelectionMethod=LatestReleased; Iowa Utilities Board, Order Extending Winter Moratorium For Electric And Natural Gas Customers, Docket No. SPU-2020-0003 (Mar. 13, 2020), https://efs.iowa.gov/cs/idcplg?IdcService=GET_FILE&dDocName=2021815&allowInterrupt=1&noSaveAs=1&RevisionSelectionMethod=LatestReleased; Iowa Department of Human Rights, LIHEAP Application Period Extended to May 31, 2020 (Apr. 3, 2020), https://humanrights.iowa.gov/sites/default/files/media/LIHEAP_Press_Release-English_04-03-20.pdf.

Iowa Must Also Prevent Mass Evictions After the Moratorium Ends.

The issuance of a moratorium will play an important role in mitigating the public health and economic impact of the pandemic. In addition to containing further spread of COVID-19 by ensuring residents can comply with stay-at-home orders, a moratorium will prevent the harmful aftermath of eviction, such as medical and mental health issues, financial hardship, and homelessness.²⁴ However, permitting mass evictions to take place the moment the moratorium lifts will similarly cause huge upheavals in local communities, harm public health, and threaten families.

For that reason, our state should commit to adopting policies that would prevent mass evictions once the moratorium ends. Key policies should include requiring landlords to negotiate payment plans prior to the filing of eviction cases, creating renters' relief funds to cover back rent, providing renters with a grace period of at least 30 days to pay rent, establishing right to free legal counsel to tenants facing eviction, and exploring other creative strategies for addressing this unprecedented threat to community stability.

Iowa Should Also Protect Tenants from Blacklisting Because They Face Eviction After the Moratorium Ends.

The mere filing of an eviction—even where an eviction judgment is not entered—deprives tenants of housing opportunities, because landlords often will not rent to anyone who has been subject to an eviction case. This type of blacklisting is devastating, locking out families from better housing, schools, and employment for decades. The Governor's next Proclamation must ensure that any evictions filed during this period do not impede tenants' opportunities for the rest of their lives by preventing consideration of evictions filed during this crisis period. Moreover, the Governor's next Proclamation should prohibit landlords and housing providers from reporting missing or late rental payments to credit agencies or debt collection agencies to avoid future economic hardship following the pandemic.

With the first of the month rapidly approaching, it is critical that the Governor act quickly to protect its residents against eviction and utility shut-offs. The Governor's actions will provide the certainty and stability that residents need

²⁴ Matthew Desmond & Carl Gershenson, *Housing and Employment Insecurity among the Working Poor*, Oxford: Social Problems Advance Access 1–12 (Jan. 11, 2016), <http://scholar.harvard.edu/files/mdesmond/files/desmondgershenson.sp2016.pdf?m=1452638824>; see also Allison Bovell-Ammo & Megan Sandel, *The Hidden Health Crisis of Eviction*, Boston Univ. School of Public Health (Oct. 5, 2018), <https://www.bu.edu/sph/2018/10/05/the-hidden-health-crisis-of-eviction/>.

to ensure that no one is at immediate risk of losing their homes while we work to find longer-term solutions to handling unpaid rent, providing economic and financial support, and ensuring access to stable housing in the aftermath of the COVID-19 pandemic.

Thank you again for acting quickly to protect Iowans from eviction and utilities shut-offs. We respectfully ask you to again act quickly in addressing the critical issues facing the residents of Iowa, prior to May 27. If you have any questions or concerns, please contact Rita Bettis Austen, ACLU of Iowa legal director, at rita.bettis@aclu-ia.org, or Daniel Zeno, ACLU of Iowa policy and advocacy director, at daniel.zeno@aclu-ia.org. Thank you in advance for your time and consideration.

Sincerely,



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