

Everyone ~~Can~~ *Must* Do Something

Kentucky's Eviction Explosion is Days Away

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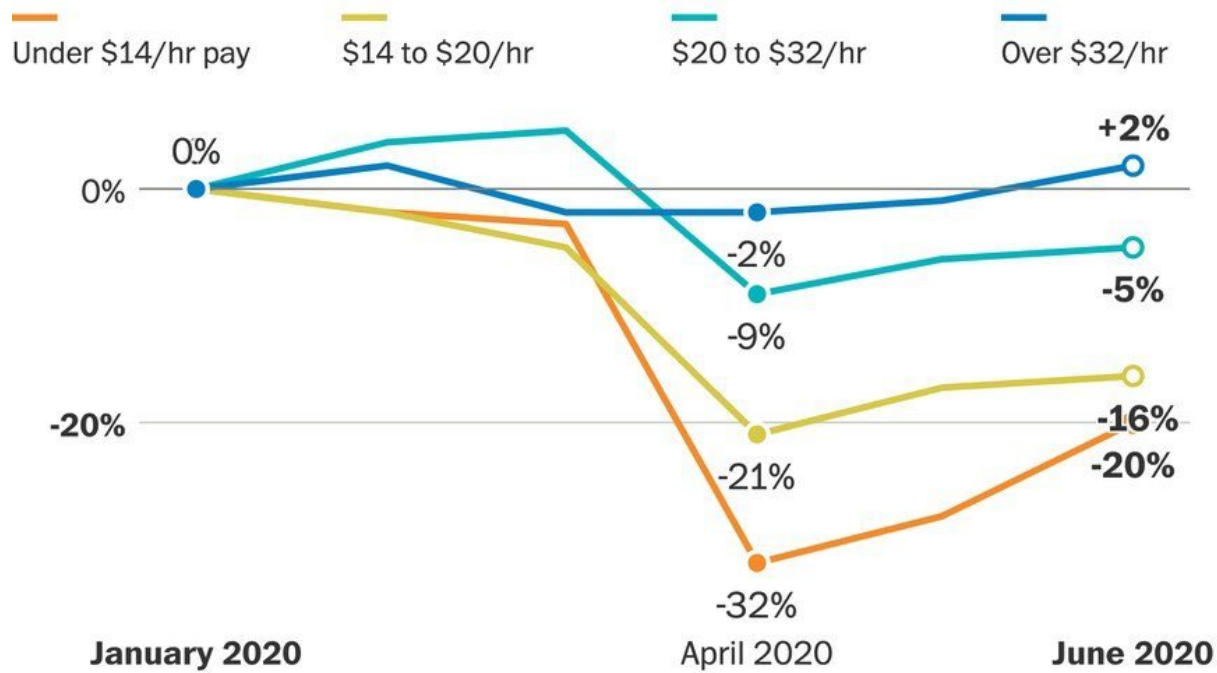
Kentucky Equal Justice Center

August 24th, 2020 Presentation to Interim Joint Committee on Judiciary



Jobs have rebounded for the top, but not for the bottom

(Chart shows percent change in employment since January 2020)



Source: Current Population Survey and John Friedman of Opportunity Insights

HEATHER LONG/THE WASHINGTON POST

Advising Homerenters in Kentucky

- Where do you live?
 - Patchwork of rules depending on whether a local government has adopted the Uniform Residential Landlord-Tenant Act (URLTA), a basic set of rules agreed-upon by landlords and tenants in 1972 or not.
 - URLTA: 7-day notice of nonpayment; 15-day notice of other breach; Opportunity to fix (cure)
 - Non-URLTA: Trial must be at least three days from the time homerenter gets notice (KRS 383.215).
- 🙋 Do you live in a “covered dwelling” under the CARES Act? 🙋
 - 1/3 of single-family; 1/2 of multifamily mortgages backed by a GSE (Fannie Mae, Freddie Mac, FHA)
 - Section 8, Low-Income Housing Tax Credits (LIHTC), many rural housing programs
 - If covered: no late fees from March 27-July 26, no eviction for nonpayment until 30 days after notice of nonpayment (no notice before July 26th, so **August 25th**).
 - Homerenters cannot determine CARES Act protection or not; landlords not required to prove, only “certify”

Advising Homerenters in Kentucky

- What rental assistance is available in your community?
 - Available in Louisville; low uptake by landlords and renters
 - Not available yet anywhere else
- Is your Sheriff setting people out or not?
- Over it all:
 - Rules change with almost no notice
 - Federal judge may strike down the “no set-out” Order within weeks

Where are we?

Jefferson County Sheriff:

“I know that there’s orders from the governor which conflict sometimes with what the court orders are. If we get the order signed by a judge, that trumps the governor. The Sheriff’s office and our deputies are kind of in the middle and all we are commanded to do by the courts is to make sure the peace is kept, and that this process goes forward as peacefully and painlessly as possible.”

Where are we?

Each year, 2/3 of all evictions in Kentucky happen in Louisville/ Jefferson County, so the Sheriff saying that he's going to set people out despite Governor Beshear's Executive Order prohibiting set-outs during the state of emergency is pretty much the nightmare scenario.

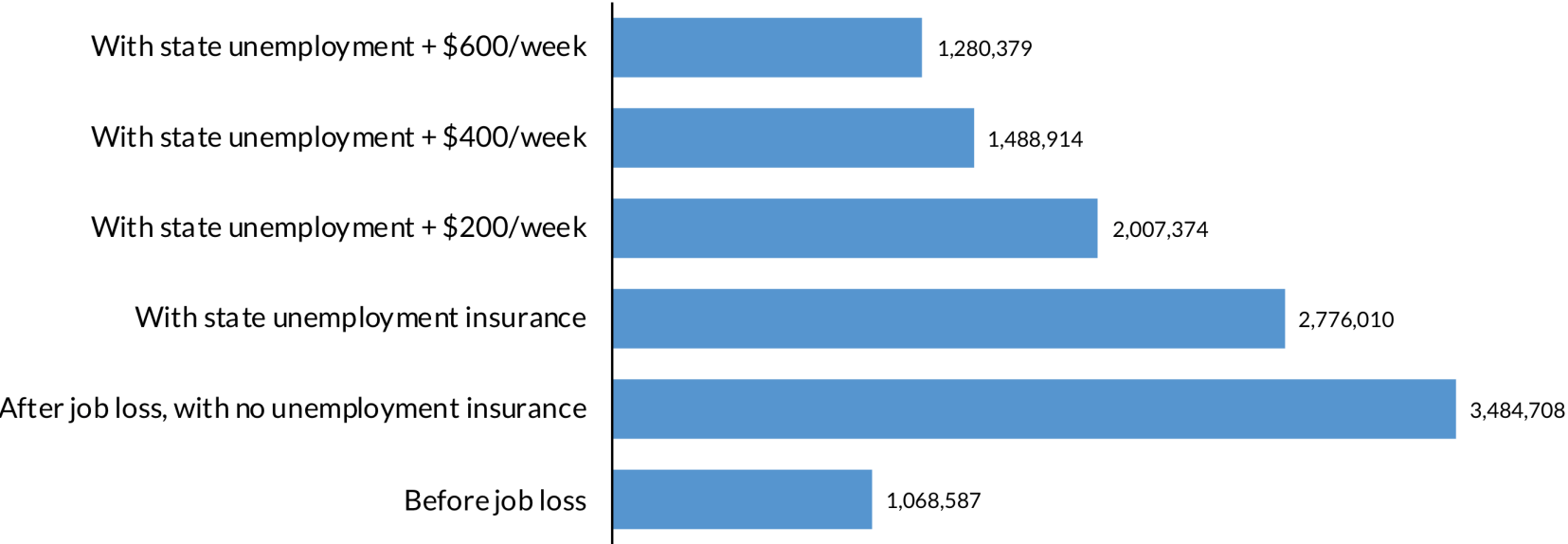
How did we get here?

- March 25th Executive Order: Suspending Evictions
- March 26th Supreme Court Order 2020-13: Suspends eviction filings, proceedings
- May 8th Executive Order: Allows evictions for reasons other than nonpayment of rent
- May 29th Supreme Court Order: Allows filings, proceedings for reasons other than nonpayment, effective June 1
- July 7th Landlords sue Governor, Courts
- July 27th Supreme Court Order: Allows filings, proceedings for any reason (nonpayment of rent included), effective August 1

3 Things that Keep Me Up at Night

- The Court's last-minute change to allow evictions for nonpayment of rent meant some landlords weren't ready to file on August 1
- Pandemic Unemployment Insurance benefit (\$600/week) ended on July 31
 - This was essentially rental assistance for homerenters and landlords.
 - September 1 will be ugly. (30,000,000 Americans lost 50-75% of their income.)
- CARES Act properties: evictions for nonpayment of rent start August 25th

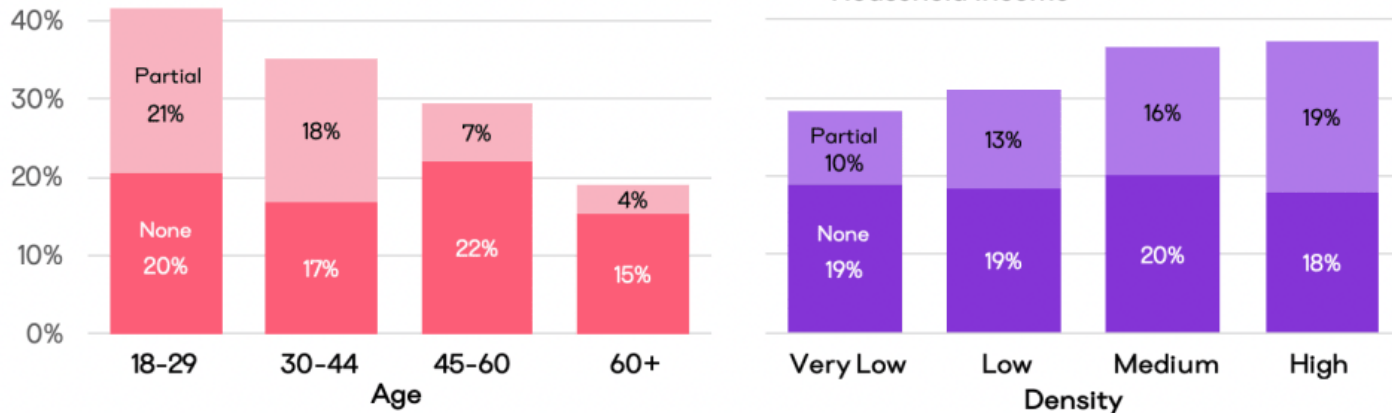
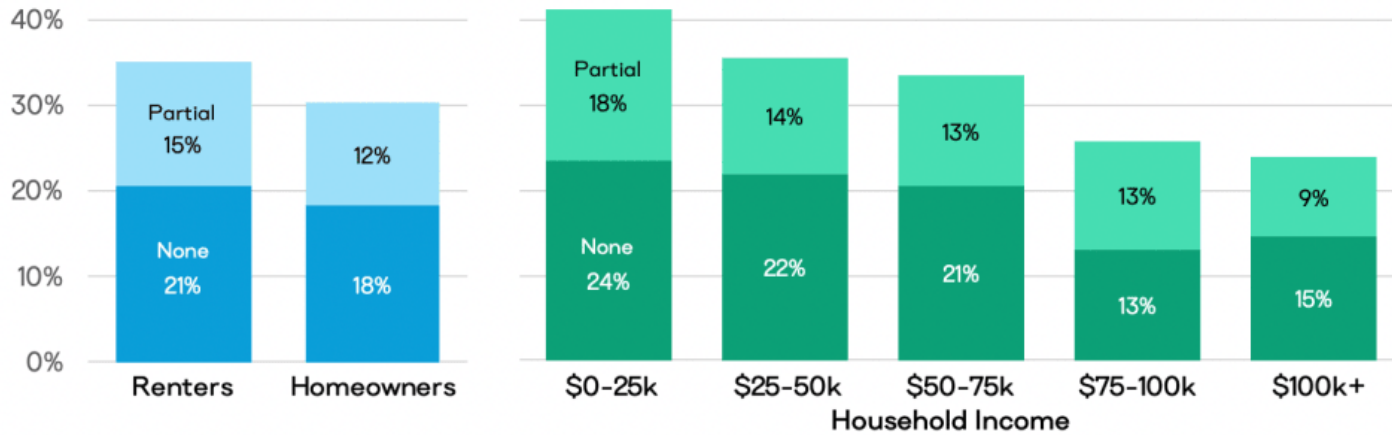
Number of Recently Unemployed Renter Households Paying More Than 50 Percent of Income on Rent



Source: Sarah Stochak, "How Much Assistance Is Needed to Help Renters Impacted by COVID-19?" (Washington, DC: Urban Institute, 2020).

Many Americans Could Not Afford Their Full Housing Costs In July

The percentage who made no payment or a partial payment



Source: Apartment List Survey Data

Everyone Needs More Time

- **The Governor** needs more time to process the backlog of unemployment insurance benefits.
- **The Courts** need more time to develop eviction processes that are uniform, safe, and fair.
 - What is happening right now across Kentucky's 120 counties is neither uniform, nor safe, nor fair.
 - Needlessly dangerous and destabilizing to Kentuckians.
 - Jefferson County Eviction Diversion Program (announced last week) is an inadequate response to the challenge.
 - The Kentucky Supreme Court must **pause evictions** until it has processes that are safe *and* fair (protecting due process rights of homerenters).

Everyone Needs More Time

- **Local governments and agencies** need more time to spin up programs to distribute the rental assistance funding in the CARES Act that they have yet to receive from the federal government.
- **Landlords** need more time to apply for rental assistance in the few areas (including Louisville) that have received the rental assistance funding in the CARES Act.
- The Legislature needs to pass **URLTA statewide** and clarify statutes to make it crystal-clear that **judges have the opportunity and obligation to consider issues beyond simply “payment/not payment” in an eviction proceeding.**

Everyone Needs More Time

- **Congress** needs more time to pass additional coronavirus aid, including unemployment benefit extension, protections from eviction.
- **Homerenters** need more time to get back to work, get those unemployment benefits, get the rental assistance available to them, or get out of the rented home.

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