

ALERT

Royal Decree 401/2021: Procedure to compensate lessors and homeowners affected by the suspension of eviction and foreclosure proceedings in Spain

June 10, 2021



On June 10, 2021, Royal Decree 401/2021, of June 8, entered into force. This law establishes the procedure for the approval of compensation to lessors and homeowners referred to in article 1 and 1 bis of Royal Decree-law 11/2020, of March 31, implementing complementary urgent measures to respond to the social and economic impact of COVID-19 (“**RD 401/2021**”).

RD 401/2021 implements the Second Additional Provision of Royal Decree-Law 37/2020 on urgent measures to face situations of social or economic vulnerability related to housing and transportation (“**RDL 37/2021**”), which entitled lessors and homeowners affected by the suspension of eviction and foreclosure proceedings in certain cases^[1] to request compensation until September 9, 2021.

Lessors and homeowners have until September 9, 2021, to submit their applications to the competent housing authority in each autonomous region or in the cities of Ceuta and Melilla.

The application must include the grounds and a justification for the requested compensation on the basis of the following criteria: (i) for lessors, the compensation will be the average home rental rates in the area of the property, provided by the reference

^[1]Eviction and foreclosure proceedings (i) due to default of rent payments affecting vulnerable households with no alternative housing options subject to the 1994 Spanish Urban Leases Act; (ii) affecting people inhabiting a dwelling without any legal right to do so that are victims of gender violence, dependents or people that care for dependents or minors and are in a vulnerable situation, provided the dwelling belongs to a legal entity or individual that owns more than ten properties.

index of lease prices or other objective references that are relevant in the lease market, unless that value is higher than the actual rent (in which case, the latter will apply); and (ii) for homeowners, the compensation will be the economic damage that has been proved and is caused by the fact that the affected property was being leased or was up for sale.

The compensation affects the period between the suspension date and the date it is lifted, or August 9, 2021, depending on the case. In both cases, ordinary property expenses borne by the lessors and homeowners during that period can be included.

For legal entities, the application and other steps of the procedure can be carried out online.

The resolution will be reached and notified to the interested party within three months. As an exception, the competent body may extend that period for three additional months, providing its reasons for doing so. If, at the end of the period, the competent body has not reached a resolution, the request will be deemed accepted through administrative silence.

The autonomous regions and the cities of Ceuta and Melilla can rule on this procedure or complete it.

For additional information, please contact Cuatrecasas.

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