

## CDC Order Halts Residential Evictions

The Centers for Disease Control and Prevention (“CDC”) recently issued a Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19 (“CDC Order”). The CDC Order is a temporary halt in evictions for non-payment of rent. The CDC Order is broad and applies to any landlord, owner of a residential property, or other person (which expressly includes corporations, companies, associations, and firms) and prohibits evicting a “covered person” from any residential property. The express purpose of the CDC Order is to prevent the further spread of COVID-19.

The definitions within the CDC Order are important. “Evict” and “eviction” are defined as “any action by a landlord, owner of a residential property, or other person with a legal right to pursue eviction or a possessory action, to remove or cause the removal of a covered person from a residential property.” Eviction does not include foreclosure on a home mortgage. A “covered person” is defined as, “any tenant, lessee, or resident of a residential property who provides to their landlord, the owner of the residential property, or other person with a legal right to pursue eviction or a possessory action, a declaration under penalty of perjury” that includes five certifications. The individual must certify:

1. The individual has used best efforts to obtain all available government assistance for rent or housing;
2. The individual expects to earn less than \$99,000 in annual income for 2020 (or less than \$198,000 if filing a joint tax return), or was not required to report any income in 2019, or received an economic stimulus check pursuant to the CARES Act;
3. The individual is unable to pay full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary (defined as an unreimbursed medical expense likely to exceed 7.5% of the individual’s adjusted gross income for the year) out-of-pocket medical expenses;
4. The individual is using best efforts to make timely partial payments that are as close to the full payment as the individual’s circumstances may permit, taking into account other nondiscretionary expenses; and
5. Eviction would render the individual homeless or force the individual to live in close quarters or a shared living situation because the individual has no other available housing options (defined as any available unoccupied residential property, seasonal, or temporary housing that would not violate occupancy standards and would not result in an overall increase of housing costs).

The CDC Order only prohibits evictions of a covered person (one who has provided a signed declaration to his or her landlord) for non-payment of rent. Evictions for other purposes, such as damaging the property or violating other portions of the lease unrelated to the payment of rent or late fees, are still permissible. A landlord or property owner is not required to issue the declaration to its tenants or inform its tenants of the CDC Order. A landlord or property owner may proceed with “business as usual” (including evictions) **until** it receives a signed declaration from the tenant. Once a landlord receives a declaration from the tenant, the landlord must immediately stop all eviction actions. There are criminal penalties associated with proceeding with an eviction after a landlord receives a declaration.

Importantly, the CDC Order does not relieve a tenant of his or her duty to pay rent, late fees, or comply with any other obligation under the lease. The CDC Order specifically states, “[n]othing in this Order precludes the charging or collecting of fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.”

Additionally, because the tenant must certify they are using best efforts to make timely partial payments, it is advisable to remind the tenant that they have a continuing obligation to make as close to full rental payments as his or her circumstances may permit.

The CDC Order is in effect until December 31, 2020.

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