Lowndes

Insights

Governor's Executive Order Suspends Residential Tenant Evictions

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Related Attorneys

Nicole C. Leath

James E. Walson

Coronavirus Disease 2019 (COVID-19) has impacted many Floridians financially. In response, the State of Florida has taken a variety of measures to alleviate financial hardship, including suspending residential tenant evictions.

The Florida Supreme Court addressed tenant evictions on March 24 by issuing an Administrative Order prohibiting clerks of court from issuing writs of possession. This prohibition applies to both commercial and residential tenants and is significant because a clerk must issue the writ of possession in order for a landlord to finalize an eviction. Despite this Administrative Order, landlords were able to commence eviction proceedings and prosecute them up to the point of the writ of possession.

On April 2, 2020, Florida Governor Ron DeSantis issued an executive order suspending and tolling any Florida Statute that allows landlords to evict residential tenants for non-payment of rent for the next 45 days. This order only bars landlords from using Florida Statutes to evict a residential tenant that fails to pay rent. Landlords may still commence residential evictions resulting from a non-monetary default under the lease.

Landlords remain able to commence commercial tenant eviction proceedings in most Florida counties. However, some Florida Judicial Circuits suspended all tenant eviction proceedings (both residential and commercial): Florida's Sixth Judicial Circuit (Pasco County and Pinellas County) and Florida's Seventeenth Judicial Circuit (Broward County).

There remains a question as to whether Governor Ron DeSantis has the authority to suspend Florida Statutes that allow landlords to evict tenants for not paying rent. Regardless, the wave of orders addressing tenant evictions at the federal, state, and local level have added to the complexity of evicting tenants.

At the federal level, the CARES Act, which was enacted on March 26, put a moratorium in place on foreclosures of federally-backed mortgage loans on residential property, which include loans that are insured, guaranteed,

purchased, or securitized by Fannie Mae or Freddie Mac, the Federal Housing Administration, the Department of Veterans Affairs, and the Department of Agriculture, among others. The moratorium is in effect for a period of not less than 60 days beginning on March 18, 2020.

This portion of the CARES Act also provides a right to eligible borrowers of such federally-backed mortgage loans to seek forbearance, which shall be granted by the servicer for a period of at least 180 days and may be extended. Borrowers must affirm that they are experiencing financial hardship due to COVID-19.

Further, the CARES Act provides for a 120-day moratorium on eviction filings by landlords of a "covered dwelling". A covered dwelling is generally a dwelling that is occupied by a residential tenant on real property that participates in certain federal housing programs (such as the Violence Against Women Act) or is subject to a federally-backed mortgage loan.

During the 120-day period, which began on March 26, 2020, landlords may not initiate or make any filings with any court to recover possession for the nonpayment of rent or other monetary defaults. Additionally, landlords may not charge fees or penalties related to the nonpayment of rent. Finally, landlords may not require tenants to vacate the premises without providing at least 30 days' notice, which may not be issued until after the expiration of the 120-day period.

Please contact an attorney with any questions on whether and how a landlord can evict a tenant.