



January 4, 2021

UPDATE #29

Eviction Moratorium Continues

Friends:

As the new year begins, some things remain the same. In late December, Congress and the President extended the eviction moratorium through the end of January. Unlike the prior CDC moratorium, Congress allocated funds to assist with the payment of rent. Further complicating matters, the Tennessee Supreme Court reacted to the significant increase in statewide Covid-19 cases by suspending all in-person court proceedings through the end of January. This update addresses both issues.

Tennessee Supreme Court Suspends In-Person Court Proceedings

In late December, the Tennessee Supreme Court suspended all in-court proceedings from December 28, 2020 through close of business on January 29, 2021. In addition, all jury trials are suspended through the end of February. There are limited exceptions to the suspension including: (1) Proceedings related to petitions for temporary injunctive relief, (2) Proceedings related to relief from abuse, including but not limited to orders of protection, and (3) Other exceptions as approved by the Chief Justice of the Tennessee Supreme Court.

Most evictions, including those based upon non-payment of rent, are suspended by the Supreme Court order. While not specifically addressed in the order, evictions based on violence or threats of violence may fall within the exceptions listed by the Court. If you have an eviction that rises to the level of a three day emergency eviction, please contact our office to discuss the case and determine whether we can proceed with a hearing.

In many counties, the last eviction hearing was held in mid-December. As a result, most courts have a considerable backlog of cases. Even if you have an eviction for a tenant who has fallen behind on rent, I recommend you file a detainer warrant now in order to get a place in the line. The longer you wait – the longer you will be delayed in obtaining a court date once the courts restart in-person proceedings.

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Extension of Federal Eviction Moratorium

As a 2020 parting gift to all landlords, Congress extended the CDC Eviction Moratorium. Unlike the initial moratorium, the extension provided some relief to both tenants and landlords. The significant provisions include:

- Extension of the CDC eviction moratorium through January 31, 2021.
- Allocation of \$25 billion dollars for rental assistance. States will be allocated rental assistance money based on population.
- Funds can be used for up to nine months of unpaid rent and three months of rent going forward. Funds may also be used for utility payments.
- Tenants are eligible if:
 - Their household income is below 80 percent of area median income;
 - They demonstrate a risk of becoming homelessness or housing instability; and
 - They have one or more household members who qualify for unemployment benefits or experienced financial hardship due to the pandemic.
- The application process requires renters to apply for assistance. Landlords can also apply for rental assistance on behalf of residents if the residents are informed and consent.
- Payments can be sent directly to the landlord.

The Act specifically provides two ways to measure whether a tenant qualifies for assistance. The household income can be measured by using the resident's 2020 household income. In the alternative, household income can be measured by examining household income for the month that application is made. In other words, a resident with income that falls below 80 percent of area median income for the month they are applying are eligible for assistance even if their annual income rises above the 80 percent threshold. For those qualifying based on their current monthly income, they will need to recertify their eligibility every three months.

We expect details on the specifics of the application process to be announced shortly. Once we receive the information, our office will provide another update. It is our expectation that the funds will be distributed by local agencies as was done with CARES Act funds.

A couple of reminders regarding the CDC moratorium. (1) The moratorium does not apply unless the tenant provides you a CDC declaration. (2) The moratorium does not prohibit filing evictions for nonpayment. (3) The moratorium does not apply to evictions based on conduct.

If you have any questions, please feel free to contact our office.

Very Truly Yours,

Mike

Michael J. King