



July 30, 2020

RE: COVID-19- Important Update/Advisory Related to Eviction Activities - Governor Issues Amended Executive Order with LIMITED EXTENSION of Eviction Moratorium - Immediate Review and Action Required

Dear Valued Client:

In keeping with previous advisories, we are writing to you to provide new and important information related to the Coronavirus (COVID-19) effects on your business activities, specifically related to non-payment eviction filings.

As you are aware, on June 30, 2020, Florida Governor, Ron DeSantis, issued Executive Order 20-159 extending the eviction moratorium through August 1, 2020. **However, yesterday evening, July 29, 2020, the Governor issued Executive Order 20-180, which amended the original Executive Order and provided a limited extension of eviction moratorium, prohibiting only the “final action at the conclusion of an eviction proceeding under Florida law solely when the proceeding arises from non-payment of rent by a residential tenant adversely affected by the COVID-19 emergency” relating to non-payment until 12:01 a.m. on September 1, 2020.** Per the Executive Order, “adversely affected by the COVID-19 emergency means loss of employment, diminished wages or business income, or other monetary loss realized during the Florida State of Emergency directly impacting the ability of a residential tenant to make rent payments.” (Emphasis added). The Executive Order also clarifies that evictions unrelated to non-payment of rent are not suspended or otherwise affected.

While the media appears to be largely reporting the Executive Order as a general extension of the moratorium, that is inaccurate. The Executive Order allows evictions to be initiated but prohibits an eviction from being finalized *if* the residential tenant can establish a COVID-19 hardship. It is unclear whether the courts will interpret “final action” to mean the Final Judgment or a Writ of Possession. It also appears that the Executive Order is immediately effective, removing the original moratorium expiration of August 1, 2020, and as such you may now begin issuing 3-day or 30-day Notices to Pay or Vacate. However, in the abundance of caution, we recommend you not deliver such notices until after the previous Executive Order expires on August 1, 2020.

In sum, evictions for non-payment may now be initiated after the issuance and expiration of the appropriate statutory 3-day or 30-day Notice to Pay or Vacate, but the Court may not finalize the eviction IF a tenant can establish a COVID-19 hardship *realized during the Florida State of Emergency* (which began on March 1, 2020), defined as:

- Loss of employment;
- Diminished wages or business income; or
- Other monetary loss.

As always, we wish you continued success and prosperity in all of your endeavors.

Warm Regards,
Your Friends and Legal Support Team at Barfield, McCain

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STATE OF FLORIDA

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NUMBER 20-180

(Limited Extension of Mortgage Foreclosure and Eviction Relief)

WHEREAS, Executive Order 20-94, as extended by Executive Orders 20-121, 20-137 and 20-159, expires on August 1, 2020, unless extended; and

WHEREAS, Executive Order 20-94, as extended, requires amendment to ensure that mortgage foreclosure and eviction relief is limited to single-family mortgagors and residential tenants adversely affected by the COVID-19 emergency.

NOW, THEREFORE, I, RON DESANTIS, as Governor of Florida, by virtue of the authority vested in me by Article IV, Section (1)(a) of the Florida Constitution, Chapter 252, Florida Statutes, and all other applicable laws, promulgate the following Executive Order to take immediate effect:

Section 1. Section 1 of Executive Order 20-94 is amended to read, as follows:

A. I hereby suspend and toll any statute providing for final action at the conclusion of a mortgage foreclosure proceeding under Florida law solely when the proceeding arises from non-payment of mortgage by a single-family mortgagor adversely affected by the COVID-19 emergency.

B. For purposes of this section, adversely affected by the COVID-19 emergency means loss of employment, diminished wages or business income, or other monetary loss realized during the Florida State of Emergency directly impacting the ability of a single-family mortgagor to make mortgage payments.

C. Nothing in this Executive Order shall be construed to suspend or otherwise affect foreclosure proceedings unrelated to non-payment of mortgage.

Section 2. Section 2 of Executive Order 20-94 is amended to read, as follows:

A. I hereby suspend and toll any statute providing for final action at the conclusion of an eviction proceeding under Florida law solely when the proceeding arises from non-payment of rent by a residential tenant adversely affected by the COVID-19 emergency.

B. For purposes of this section, adversely affected by the COVID-19 emergency means loss of employment, diminished wages or business income, or other monetary loss realized during the Florida State of Emergency directly impacting the ability of a residential tenant to make rent payments.

C. Nothing in this Executive Order shall be construed to suspend or otherwise affect eviction proceedings unrelated to non-payment of rent.

Section 3. Section 3 of Executive Order 20-94 is amended to read, as follows: Nothing in this Executive Order shall be construed as relieving an individual from his or her obligation to make mortgage payments or rent payments. All payments, including tolled payments, are due when an individual is no longer adversely affected by the COVID-19 emergency.

Section 4. I hereby extend Executive Order 20-94, as extended by Executive Orders 20-121, 20-137 and 20-159, and as amended herein, until 12:01 a.m. on September 1, 2020.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, at Tallahassee, this 29th day of July, 2020.



RON DESANTIS, GOVERNOR

ATTEST:

Laurel McKee
SECRETARY OF STATE



FILED

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DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA