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Key provisions of the CDC's temporary halt in evictions - by Tanya Larrabee and Trang Pham

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Tanya Larrabee
Sherin and Lodgen

On September 1st, 2020, the Centers for Disease Control and Prevention (CDC) issued an Order under the Public Health Service Act Section 361 to temporarily halt residential evictions nationwide through December 31st, 2020, to prevent the further spread of COVID-19.

Under the order, a landlord, residential property owner, or other person with a legal right to pursue eviction action, cannot evict any tenant, lessee, or resident of a residential property from the property. The order applies to all state, local, territorial, or tribal area in which there is no moratorium on residential evictions that provides the same or greater level of protection than this order.

The order does not relieve any tenant of its obligation to pay rent, make a housing payment, or comply with any other obligation under a tenancy, lease, or similar contract. The Order also does not preclude a landlord's ability to charge or collect fees, penalties, or interest as a result of the failure to pay rent or other housing payment in a timely manner. Tenants are still required to pay rent and follow all the other terms of their lease, and may still be evicted for reasons other than not making a housing payment.

To invoke the CDC's order, tenants must sign and provide an executed copy of a declaration form (or a similar declaration under penalty of perjury) attesting to their current circumstances and inability to pay, to the party attempting to enforce an eviction. A sample declaration form is attached to the CDC Order and requires that the tenant seeking relief from eviction attest that the tenant:

- (1) Expects to earn no more than \$99,000 in annual income for Calendar Year 2020 (or no more than \$198,000 if filing a joint tax return);
- (2) Is unable to pay the full rent due to substantial loss of household income or extraordinary out-of-pocket medical expenses; and
- (3) Will likely have no other option if evicted other than homelessness or living with more people in close proximity.

The order, which does not include any provisions for rental and unemployment assistance, is being met with mixed responses. While many housing advocates welcome the action by the CDC, rental property owners are expressing concerns that the order would negatively affect the stability of the rental housing sector. “An eviction moratorium will ultimately harm the very people it aims to help by making it impossible for housing providers, particularly small owners, to meet their financial obligations and continue to provide shelter to their residents,” said Doug Bibby, president of the National Multifamily Housing Council.

Tanya Larrabee is an attorney and Trang Pham is a law clerk at the law firm Sherin and Lodgen, Boston, Mass.

New England Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540