

EVICTION MORATORIUM UPDATE:

SEATTLE CITY COUNCIL BILLS 119784, 119787 & 119788

KEY TAKEAWAYS

Mayor Durkan's order declaring a civil emergency in response to the COVID-19 pandemic (the "Order") currently prohibits residential tenant evictions until June 4, 2020. To expand protections against eviction for residential tenants, the Seattle City Council, in a series of related bills adopted in recent days, have further codified:

- A new defense to residential eviction for tenants facing eviction during the effective period, or within six months after the termination of, the Order due to inability to pay rent due to financial hardship (City Council Bill 119874);
- The ability for tenants who are unable to pay rent in full during this same period to pay overdue rent in installments (City Council Bill 119788); and
- A prohibition on landlords from taking any adverse actions, including denying rental applications, based on the prospective or existing tenants' eviction history during this same period (City Council Bill 119787).

When coupled with City Council Bill 119726 from February, which generally prohibits residential evictions of low-to-moderate income tenants from December 1 to March 1, these new measures make it incredibly difficult for landlords to evict low-to-moderate income tenants until March 2021.

New Defense to Evictions

Qualifying tenants who face eviction within six months after the termination of the Order may use Seattle Municipal Code §22.206.160.C.9.a as a defense to an eviction lawsuit. Residential tenants may qualify for this new defense to eviction if they meet all the following criteria:

- Tenant faces eviction during, or within six months after the termination of, the Order;
- Tenant has submitted a declaration or self-certification stating they are unable to pay rent due to a financial hardship; and
- The reason for the eviction is one of the following:
 - The tenant fails to comply with notice to pay rent or vacate for rent due during, or within six months after the termination of, the Order; or
 - The tenant regularly fails to pay rent resulting in four or more pay-or-vacate notices in a 12-month period

Landlords who provide notices to terminate tenancy within six months of the termination of the Order must include the following statements:

- *"If you cannot pay rent, during or within 6 months after the end of the Mayor's moratorium on evictions, your inability to pay is a defense to eviction that you may raise in court."*

- "City law entitles you to pay overdue rent in installments. If your landlord does not accept payment according to the installment schedule, you may raise this as a defense to eviction in court."
 - Failure to include these statements in notices will provide an additional defense for tenants against eviction.

Installment Payments for Past Due Rent During The Applicable Period

Residential tenants who fail to pay rent during the effective period, or within six months after the termination of, the Order may elect to repay the rent in installments according to the following schedule:

- 1 month or less of overdue rent – repaid in three consecutive, equal monthly payments
- Over one month up to two months of overdue rent – repaid in five consecutive, equal monthly payments
- 2 or more months of overdue rent – repaid in six consecutive, equal monthly payments
- Tenants may propose an alternative repayment schedule. If the landlord agrees, the parties must document and sign the alternative schedule in writing, which will amend any existing rental agreement
 - Failure to accept repayment of rent as provided above will provide an additional defense for tenants against eviction

The ordinance further provides that no late fees, interest, or other charges resulting from late rent can accrue until twelve months after the termination of the Order. Further, landlords cannot recover attorneys' fees and court costs against qualifying tenants in eviction actions, "unless otherwise allowed by law". However, courts are discouraged from awarding fees and costs to landlords during this period, even if allowed by law.

Restrictions on the Ability to Consider Tenant's Eviction History

Landlords must include a written notice on all applications for rental properties which conveys the following information:

- The landlord is prohibited from taking an adverse action against a tenant based on eviction history occurring during or within six months after the end of the civil emergency proclaimed by Mayor Durkan on March 3, 2020, and that the Seattle Office for Civil Rights is the department that will enforce any violations of this ordinance

Landlords may not take any adverse action against prospective or existing tenants, or members of their households, based on eviction history during, or within six months after the termination of, the Order

- An exception exists if the tenant constitutes an imminent threat to the health or safety of others
- If a landlord is provided with a tenant's eviction history, there is a rebuttable presumption that any adverse action taken against tenant, including denying a rental application, is based on prohibited eviction history

Tenant eviction history during, or within six months after the termination of, the Order is considered good cause for an order of limited dissemination to prevent tenant eviction history from appearing in tenant screening reports.

Note from the Authors: *The installment payment and late fee accrual timeframes may be amended in the final law.*

Please do not hesitate to contact us with any questions or concerns you may have.

Best regards,



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