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EMAIL TO: All Sheriffs

FROM: Eddie Caldwell
Executive Vice President and General Counsel
North Carolina Sheriffs' Association

SENT: June 3, 2020

SUBJECT: Governor's Executive Order No. 142 --- Chief Justice's Order
Staying Eviction Proceedings in Court --- Effective May 30, 2020

On May 30, 2020, Governor Roy Cooper issued Executive Order No. 142, which places limitations on residential and commercial evictions due to the COVID-19 pandemic. A copy of Executive Order No. 142 is attached for your reference, in addition to a frequently asked questions document that was issued by the Governor.

The requirements of Executive Order No. 142 related to the stay of eviction proceedings are effective beginning May 30, 2020, and will remain in effect until June 20, 2020, unless replaced or rescinded by another Executive Order.

The Governor's Executive Order Regulates Landlords With a Stay of Certain Evictions

Section 1. of Executive Order No. 142 contains an "Evictions Moratorium," which regulates landlords and their ability to retake possession of residential and commercial rental properties through the courts.

The Executive Order prevents residential landlords from initiating or furthering eviction (i.e. summary ejection) proceedings against a residential tenant for: (1) nonpayment of rent; or (2) late rent payments. Executive Order No. 142 does not prevent a landlord from evicting a tenant due to health and safety concerns (such as drug or gang activity at a rental property), or upon the expiration of a lease that will not be renewed for an additional term.

Executive Order No. 142 also prevents a commercial landlord from evicting a commercial tenant for: (1) nonpayment of rent; or (2) late rent payments, if the landlord is aware that the nonpayment or late payment is being caused by the COVID-19 pandemic (such as due to a loss of business because of closures), or if the commercial tenant provides the landlord with documentation or other evidence that supports the nonpayment or late payment being caused by the COVID-19 pandemic.



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The Governor's Executive Order No. 142 does not address writs for possession of real property. While the number of evictions should remain low due to the Governor's Evictions Moratorium and the Chief Justice's Order of May 30, 2020, sheriffs may still have writs for possession of real property that have already been issued but that were unserved prior to the May 30 effective date of the Governor's Executive Order and the Chief Justice's Order.

Finally, while the last page of the Governor's frequently asked questions document states that the "Chief Justice's order halts eviction orders from being issued and bans local law enforcement from carrying out evictions," the Chief Justice's Order itself (summarized below) does NOT specifically ban local law enforcement from carrying out their duties that are mandated by General Statute. In addition, the language in the frequently asked questions document indicating law enforcement is banned from carrying out evictions conflicts with the provisions in Executive Order No. 142 that allows for evictions due to health or safety concerns, or upon the expiration of a lease that will not be renewed for an additional term.

The Order of the Chief Justice of the Supreme Court of North Carolina Regulates Eviction Proceedings in the Trial Courts

On May 30, 2020, Chief Justice Cheri Beasley entered an Order that stays ALL evictions in the trial courts until June 21, 2020. A copy of this Order is attached for your reference.

This means that landlords will not be able to pursue any eviction case in court during the stay. It also means no new eviction orders and writs for possession of real property will be entered by the courts during this period because the trial courts will not be hearing eviction cases.

The Chief Justice's Order is also broader than the Governor's Executive Order No. 142 because the Chief Justice's Order stays ALL eviction cases no matter what the basis of the eviction. The Governor's Executive Order only stays evictions based upon: (1) nonpayment of rent; or (2) late rent payments, but allows for evictions due to health or safety concerns or for leases that have expired and have not been renewed.

New Writs for Possession of Real Property

The Chief Justice's Order halts eviction proceedings in court through June 21, 2020. Therefore, there should be no new writs for possession of real property issued to a sheriff.

Pending Writs for Possession of Real Property

In some counties there may be pending writs for possession of real property that have been entered by the courts that remain unserved and that order sheriffs to execute the writ for possession of real property within the statutorily mandated deadline.

In addition to staying eviction proceedings in the trial courts, Emergency Directive 17 of the Chief Justice's Order states: "Sheriffs shall not be required to execute pending writs of possession of real property or make due return of such writs until 30 June 2020." It is unclear what is meant by the phrase "Sheriffs shall not be required" since G.S. § 42-36.2(a) does require sheriffs to execute writs for possession of real property that have been issued to the sheriff by the court. The Chief Justice's Order does not include a "Stay"; a "Recall" or any other court action on the already issued Writs for Possession of Real Property that would prevent the Writs from remaining in full force and effect.

A writ for possession of real property is a court order that must be served on the tenant by the sheriff within 5 days of the sheriff's receipt of the writ. G.S. § 42-36.2(a) provides that the sheriff shall execute the writ "no more than five days from the sheriff's receipt thereof" (emphasis added).

We are not aware of and have not found any legal authority for the Chief Justice to authorize or direct the sheriff to fail to follow: (1) a court ordered writ for possession of real property; or (2) mandatory duties imposed on the Office of Sheriff by our General Statutes. No such authority is contained in Article IV of the North Carolina State Constitution or in Chapter 7A of the General Statutes (governing the authority of our appellate courts).

The Sheriff's Legal Obligation

As is always the case where the actions of a sheriff could be viewed as failing to perform a duty mandated by our General Statutes, we recommend you consult with your own legal advisor or county attorney prior to making the decision to stop executing writs for possession of real property that have been ordered by the courts.

Notarization Waiver for Gun Permits Extended to June 29, 2020

The Chief Justice's May 30, 2020 Order impacts the concealed handgun permit and the pistol purchase permit application procedure.

The Order provides that documents filed in any court proceeding that are required to be submitted under oath can, while this Order is in effect, be submitted without an oath being taken before a notary public, clerk of court or other official authorized to administer oaths.

This provision applies as long as the document contains a statement in substantially the following language: "I (we) affirm, under the penalties for perjury, that the foregoing representation(s) is (are) true." And then the document with the statement must be signed by the person making the affirmation.

Therefore, this provision applies to AOC-SP-914, RELEASE OF PHYSICAL AND MENTAL HEALTH, SUBSTANCE ABUSE AND CONFIDENTIAL COURT RECORDS FOR CONCEALED HANDGUN PERMIT, and AOC-SP-917, RELEASE OF COURT ORDERS CONCERNING MENTAL HEALTH AND CAPACITY FOR PISTOL PURCHASE PERMIT, which are filed by the clerk of court in a Special Proceedings file.

This notarization waiver has been extended to June 29, 2020, but may be extended again.

Questions

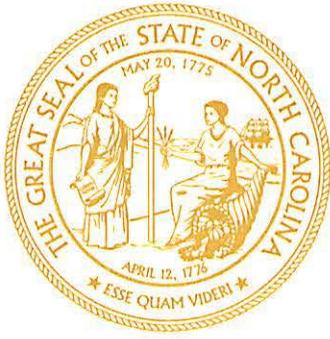
If you have any questions about the Governor's Executive Order No. 142 or the Chief Justice's May 30, 2020 Order, do not hesitate to contact Matthew Boyatt, NCSA Deputy General Counsel, at mboyatt@ncsheriffs.net or at 919-459-6467.

Thanks...Eddie C.



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North Carolina Sheriffs' Association
Proudly Serving the Sheriffs and Citizens of North Carolina since 1922



State of North Carolina

ROY COOPER
GOVERNOR

May 30, 2020

EXECUTIVE ORDER NO. 142

ASSISTING NORTH CAROLINIANS BY PLACING TEMPORARY PROHIBITIONS ON EVICTIONS AND EXTENDING THE PROHIBITION ON UTILITY SHUT-OFFS

WHEREAS, on March 10, 2020, the undersigned issued Executive Order No. 116 which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 ("COVID-19") public health emergency and provide for the health, safety, and welfare of residents and visitors located in North Carolina; and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States issued an emergency declaration for all states, tribes, territories, and the District of Columbia, retroactive to March 1, 2020, and the President declared that the COVID-19 pandemic in the United States constitutes a national emergency; and

WHEREAS, on March 25, 2020, the President approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, in responding to the COVID-19 pandemic, and for the purpose of protecting the health, safety, and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-125, 129-131, 133-136, and 138-141; and

WHEREAS, more than twenty-seven thousand people in North Carolina have had laboratory-confirmed cases of COVID-19, and hundreds of people in North Carolina have died from the disease; and

WHEREAS, hospital administrators and health care providers have expressed concerns that unless the spread of COVID-19 is limited, existing health care facilities may be insufficient to care for those who become sick; and

WHEREAS, slowing and controlling community spread of COVID-19 is critical to ensuring that the state's healthcare facilities remain able to accommodate those who require medical assistance; and

WHEREAS, to mitigate further community spread of COVID-19 and to reduce the burden on the state's health care providers and facilities, it is necessary to limit person-to-person contact in workplaces and communities; and

WHEREAS, such limitations on person-to-person contact are reasonably necessary to address the public health risk posed by COVID-19; and

WHEREAS, due to the State of Emergency, many North Carolinians are working from home and staying at home; many businesses have seen a substantial decline in demand for the goods or services that they sell, causing some businesses to close or reduce the size of their workforce; and some businesses have been ordered closed to slow the spread of COVID-19; and

WHEREAS, any disruptions or dislocations that would require people to leave their homes increase the risk of spread of COVID-19; and

WHEREAS, the economic effects of the pandemic have broadly affected business owners, tenants, and employees across the state; and

WHEREAS, because of these and other economic effects from the COVID-19 pandemic, many North Carolinians are enduring financial hardship and financial insecurity; and

WHEREAS, on April 13, 2020 and May 1, 2020, Chief Justice Cheri Beasley of the North Carolina Supreme Court issued orders postponing court hearings, including eviction proceedings, until June 1, 2020; and

WHEREAS, in Executive Order No. 124, the undersigned and Attorney General Josh Stein provided further guidance on the Chief Justice's emergency order, as it relates to evictions, and strongly encouraged mortgage companies to take actions to alleviate the adverse impact caused by COVID-19 on mortgage borrowers who are unable to make timely payments; and

WHEREAS, when the Chief Justice's emergency orders allow court hearings to resume on June 1, 2020, residential tenants in North Carolina will be at risk of eviction; and

WHEREAS, residential evictions remove people from their homes, where they are safest during the COVID-19 pandemic, and thereby increase the risk that such people will contract and spread COVID-19; and

WHEREAS, many residential evictions leave people homeless, where they are at extreme risk of contracting and spreading COVID-19; and

WHEREAS, because many people are now performing their jobs and receiving schooling from their homes, residential evictions during the COVID-19 pandemic also threaten people's ability to maintain their livelihood and receive education; and

WHEREAS, for these and other reasons, it is reasonable and necessary that there be an additional twenty-one (21) day moratorium on residential evictions for reason of late payment or nonpayment, beginning on the date of this Executive Order; and

WHEREAS, commercial evictions disrupt and usually terminate the jobs of all the people in the commercial establishments where the eviction takes place; and

WHEREAS, North Carolina's unemployment rate has greatly increased during the COVID-19 pandemic, and it is reasonable and necessary to take actions that protect North Carolina jobs; and

WHEREAS, commercial evictions require significant amounts of unexpected travel, as commercial tenants move the equipment in the facilities they have leased, and this travel will unnecessarily expose people to risk of transmitting and spreading COVID-19; and

WHEREAS, the federal Paycheck Protection Program and other programs under the CARES Act, P.L. 116-136, have provided financial assistance to small businesses, but these programs provide only a limited amount of assistance, and some commercial tenants are likely to exhaust the financial assistance provided under this program; and

WHEREAS, Section 4024 of the CARES Act, P.L. 116-136, protects from eviction, through late August, tenants in properties with federally backed mortgage loans (including loans owned or securitized by Fannie Mae, Freddie Mac, or insured by HUD, the VA, or the USDA) and tenants in properties participating in various federal affordable housing programs, but some dwellings and some tenants are not covered by the protections in the CARES Act; and

WHEREAS, as a result, it is likely that, absent intervention, there will be a wave of commercial evictions in North Carolina; and

WHEREAS, for these and other reasons, it is reasonable and necessary that there be a twenty-one (21) day moratorium on commercial evictions for reason of late payment or nonpayment caused by the COVID-19 pandemic, beginning on the date of this Executive Order No. 142; and

WHEREAS, the moratoriums on evictions in this Executive Order do not forgive rent or excuse the obligation to pay rent, and instead, this Executive Order merely delays evictions and waives interest, late fees, and penalties that arise during the Order's effective period; and

WHEREAS, the economic effects of the pandemic have broadly affected utility customers across the state; and

WHEREAS, utility services are essential to the continued health and safety of residential utility customers, to the ability of workers and employers to engage in teleworking, and to the continued economic viability of business utility customers, even as the economic effects of the pandemic threaten customers' ability to pay for those utility services; and

WHEREAS, on March 19, 2020, the North Carolina Utilities Commission ("Utilities Commission" or "Commission") issued an Order Suspending Utility Disconnections for Non-Payment, Allowing Reconnection, and Waiving Certain Fees; and

WHEREAS, the Utilities Commission's March 19, 2020 Order applied to only some of the utilities that are necessary for the continued well-being of North Carolina residents and the continued viability of North Carolina businesses; and

WHEREAS, in Executive Order No. 124, the undersigned enacted, for all utilities, prohibitions and restrictions similar to and consistent with the Utilities Commission's March 19, 2020 Order; and

WHEREAS, the undersigned has determined that it is reasonable and necessary to extend the utility customer protections in Executive Order No. 124 for an additional sixty (60) days from the date of this Executive Order; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(7), the undersigned is authorized and empowered to utilize the services, equipment, supplies, and facilities of political subdivisions, and their officers and personnel are required to cooperate with and extend such services and facilities to the undersigned upon request; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of State agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), during a Gubernatorially declared State of Emergency, the undersigned has the power to “give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Article”; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(3), the undersigned may take steps to assure that measures, including the installation of public utilities, are taken when necessary to qualify for temporary housing assistance from the federal government when that assistance is required to protect the public health, welfare, and safety; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(2), the undersigned, with the concurrence of the Council of State, may establish a system of economic controls over all resources, materials, and services, including shelter and rents; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(3), the undersigned, with the concurrence of the Council of State, may regulate and control the maintenance, extension, and operation of public utility services and facilities; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4), the undersigned, with the concurrence of the Council of State, may waive a provision of any regulation or ordinance of a State agency or political subdivision which restricts the immediate relief of human suffering; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(5), the undersigned, with the concurrence of the Council of State, may perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) further authorizes and empowers the undersigned to delegate Gubernatorial vested authority under the Emergency Management Act and to provide for the sub-delegation of that authority; and

WHEREAS, under the terms of N.C. Gen. Stat. § 166A-19.70(a), utilities are considered critical infrastructure for the State of North Carolina; and

WHEREAS, the undersigned has sought and obtained concurrence from the Council of State consistent with the Governor’s emergency powers authority in N.C. Gen. Stat. § 166A-19.30.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Evictions Moratorium.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

A. **Definitions.** In this Executive Order:

1. “Residential Lease” means a lease of a dwelling unit in the State of North Carolina to which the North Carolina Residential Rental Agreements Act, N.C. Gen. Stat. §§ 42-38 to 42-46, applies.
2. “Residential Tenant” means the tenant in a Residential Lease.
3. “Residential Landlord” means the owner of, and any rental management company, rental agency, or any other person having the actual or apparent authority of an agent over, any unit in a Residential Lease.
4. “Commercial Lease” means a lease of any real property that is leased to an individual, business, or organization that does commerce in the State of North Carolina; provided, however, that “Commercial Lease” does not include: Residential Leases (as that term is defined in this Executive Order); operations of hotels, motels, or similar lodging

subject to regulation by the Commission for Public Health; and vacation rentals entered into under Chapter 42A of the General Statutes.

5. "Commercial Tenant" means the tenant in a Commercial Lease.
6. "Commercial Landlord" means the owner of, and any rental management company, rental agency, or any other person having the actual or apparent authority of an agent over, the real property in a Commercial Lease.
7. An action is "for reason of late payment or nonpayment" if the legal basis for that action was, in whole or in part, the tenant's late payment or nonpayment of rent.
8. An effect is "caused by the COVID-19 pandemic" if it is caused, in whole or in part, directly or indirectly, by the COVID-19 pandemic. This includes, without limitation, not only the medical effects of the COVID-19 pandemic, but also the disruptions to the economy that have arisen since the beginning of the COVID-19 pandemic and the economic effects of business closures and other public health restrictions instituted because of the COVID-19 pandemic.
9. The "Effective Period" of this Section is defined in Subsection (B)(1) below.

B. Residential Evictions.

1. No Evictions for Late Payment or Nonpayment.
 - a. Residential Landlords shall not, for reason of late payment or nonpayment, initiate or take any action to further summary ejection or other eviction proceedings against a Residential Tenant.
 - b. All Residential Landlords are prohibited from requiring Residential Tenants to vacate their dwelling units for reason of late payment or nonpayment.
 - c. All leases are modified to disallow evicting, or otherwise terminating the possession of, Residential Tenants for reason of late payment or nonpayment during the Effective Period of this Section.

These restrictions and modifications shall continue for twenty-one (21) days after the date of entry of this Executive Order. This time period (the "Effective Period") may be extended by a subsequent Executive Order issued by the undersigned with the concurrence of the Council of State.

For example, if this Executive Order is issued on May 30, the Effective Period of this Section will be May 30 through June 20, inclusive, unless there is an Executive Order extending this Section.

2. Late fees and penalties. Residential Landlords shall not assess upon their Residential Tenants interest, late fees, or other penalties for late payment or nonpayment of rent due during the Effective Period. If a Residential Tenant had existing interest, fees, or other penalties when this Executive Order came into effect, all accumulation of additional interest, fees, or other penalties is paused during the Effective Period.
3. Extra time to pay off rent due in the Effective Period. Residential Tenants shall be provided the opportunity to make reasonable payment arrangements to pay off, over at least a six (6) month period, any rent that became due in the Effective Period and was not paid during the Effective Period. No interest, late fees or other penalties shall be charged on these arrearages. The six-month payoff period shall be calculated from the expiration of the Effective Period.

C. **Commercial Evictions.**

1. During the Effective Period of this Section, as defined in Subsection (B)(1) above:
 - a. **Restriction on Commercial Evictions.** Commercial Landlords shall not, for reason of late payment or nonpayment caused by the COVID-19 pandemic, perform a self-help eviction of a Commercial Tenant, require Commercial Tenants to vacate their facilities, terminate any Commercial Tenant's lease, or take any action, judicial or otherwise, to terminate a Commercial Tenant's possession.
 - b. This restriction on commercial evictions shall apply only if one or both of the following conditions are met:
 - i. The landlord is aware that the Commercial Tenant's late payment or nonpayment is caused by the COVID-19 pandemic; or
 - ii. The Commercial Tenant provides the landlord with documentation or other evidence that the late payment or nonpayment is caused by the COVID-19 pandemic.
 2. **Duty to Inquire.** During the Effective Period of this Section, before performing a self-help eviction of a Commercial Tenant, terminating any Commercial Tenant's lease, or taking any action to terminate a Commercial Tenant's possession for reason of late payment or nonpayment, Commercial Landlords shall inquire whether the late payment or nonpayment is caused by the COVID-19 pandemic and give the Commercial Tenant seventy-two (72) hours to respond. If the landlord does not comply with the provisions of this Subsection (C)(2), the landlord's action is voidable by the tenant.
 3. **Late Fees and Penalties.** Commercial Landlords shall not assess upon their Commercial Tenants interest, late fees, or other penalties for late payment or nonpayment of rent due during the Effective Period. If a Commercial Tenant had existing interest, fees, or other penalties when this Executive Order came into effect, all accumulation of additional interest, fees, or other penalties is paused during the Effective Period.
 4. **Extra Time to Pay Off Rent Due in the Effective Period.** Commercial Tenants shall be provided the opportunity to make reasonable payment arrangements to pay off, over at least a six (6) month period, any rent that became due in the Effective Period and was not paid during the Effective Period. No interest, late fees or other penalties shall be charged on these arrearages. The six-month payoff period shall be calculated from the expiration of the Effective Period.
- D. **Rent Remains Due.** Except for the interest, late fees and penalties expressly waived above, nothing in this Executive Order shall be construed as waiving tenants' obligation to pay rent or perform any other obligations which an individual may have under a tenancy.
- E. **Evictions for Other Reasons.** Nothing in this Executive Order affects evictions for reasons other than late payment or nonpayment. However, all landlords are strongly encouraged to work with tenants to the best of their abilities to avoid evictions in light of the COVID-19 State of Emergency.
- F. **Payment Assistance.** NCDHHS shall publicize payment assistance programs to aid landlords and tenants in the payment of their bills.
- G. **Foreclosure Proceedings.** The undersigned strongly encourages all lenders to work with property owners to the best of their abilities to provide loan payment flexibility that enables property owners to avoid foreclosures, in light of the COVID-19 State of Emergency.

H. **Tenants Should Notify Landlords and Pay Rent if Possible.** During the Effective Period, rent is still due and will accrue. Therefore, the undersigned strongly encourages any Residential Tenant or Commercial Tenant who is or will be unable to pay the full rent due under a rental agreement or lease to notify the landlord as soon as reasonably possible and to make rental payments to the extent the tenant is financially able to do so. Failure of a Residential Tenant or Commercial Tenant to act as encouraged by this Subsection does not exclude the tenant from the protections of this Executive Order.

Section 2. Extension of Assistance for North Carolina Utility Customers.

For the reasons and pursuant to the authority set forth above and in Executive Order No. 124, the undersigned orders as follows:

- A. Section 1 of Executive Order No. 124 shall remain in effect until 11:59 pm on July 29, 2020.
- B. Utility Service Providers shall reasonably inform their customers of this extension. Section 1(F) of Executive Order No. 124 shall apply to that notification.
- C. Section 1(C) of Executive Order No. 124 is amended as follows:

“Late fees and payment arrangements. A Utility Service Provider shall not bill or collect any fee, charge, penalty, or interest for a late or otherwise untimely payment that becomes due from the date of this Executive Order. Customers shall be provided the opportunity to make reasonable payment arrangements to pay off over at least a six (6) month period any arrearages accumulated during the effective period of this Executive Order, of Section 2 of this Executive Order, and of any other order extending this Executive Order and 180 days thereafter. In the event a utility service provider and customer are unable to agree on the duration of an extended repayment plan, the default repayment period shall be six (6) months. The six (6) month payoff period shall be calculated from the date of termination of this Section of this Executive Order or, if other applicable Executive Orders extend the protections of this Section, from the date of the termination of the last Executive Order that extends such protections; provided, however, that Utility Service Providers subject to the Utilities Commission’s March 19, 2020 Order shall remain subject to the terms of that order any Utilities Commission order that may be in effect after this Executive Order expires. No interest or late fee shall be charged on arrearages. No provision in this Executive Order shall be construed as relieving a customer of their obligation to pay bills for receipt of any service covered by this Executive Order.”

- D. Section 1(G) of Executive Order No. 124 is amended and restated as follows:

“Duration. This Section shall remain in effect for one hundred (120) days, until 11:59 pm on July 29, 2020, unless rescinded or superseded by another applicable Executive Order; provided, however, that after that date, the provisions of this Section shall continue to apply to arrearages that accumulated while this Executive Order was in effect.”

- E. Section 1(J) of Executive Order No. 124 is amended as follows:

“Implementation and enforcement. The undersigned directs that the North Carolina Utilities Commission monitor responses and provide assistance and guidance to Utility Service Providers, including to the extent possible Utility Service Providers not under the Commission's regulatory jurisdiction, in implementing the provisions of this Section of this Executive Order. Utility Service Providers shall report implementation information ~~weekly~~ monthly to the North Carolina Utilities Commission, including the following: (1) number of accounts by type (e.g., residential or business account) for which service termination was forborne, (2) number of reconnections by type of account, (3) amount of late fees and other penalties not collected, (4) number of accounts on an extended repayment plan, (5) customer notification information, and any other information determined by the Utilities Commission. The Utilities Commission and the Attorney General shall have the authority to enforce the provisions of this Executive Order through any methods provided by current law. The Utilities Commission, and to the extent necessary for any Utility Service

Providers not within the Utilities Commission’s jurisdiction, the Attorney General may waive provisions in their discretion and order an effective alternative. The Commission shall provide a ~~weekly~~ monthly report to the Governor’s Office on implementation of this Executive Order.”

Section 3. No Private Right of Action Against the State or Against Officers.

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any emergency management worker (as defined in N.C. Gen. Stat. § 166A-19.60).

Section 4. Supremacy Clause.

This Executive Order is not intended to supplant or preempt any federal law, including, but not limited to the protections afforded to tenants under the CARES Act, P.L. 116-136.

Section 5. Savings Clause.

If any provision of this Executive Order or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Section 6. Distribution.

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 7. Enforcement.

- A. Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the provisions of this Executive Order shall be enforced by state and local law enforcement officers.
- B. A violation of this Executive Order may be subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d), and is punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A.
- C. This Executive Order limits only evictions for reason of late payment or nonpayment. This Executive Order does not affect or restrict access to court orders that limit, for other reasons, a person’s access to a location.

Section 8. Effective Date.

This Executive Order is effective as of the beginning of the calendar day on which it is entered.

Section 1 of this Executive Order shall remain in effect for the time period stated in Subsection 1(B)(1), except that Subsections 1(B)(3) and 1(C)(4) shall remain in effect for six (6) months beyond the time period stated in Subsection 1(B)(1).

Section 2 of this Executive Order shall remain in effect until the date listed in Subsection 2(A) of this Executive Order, except that Subsection 1(C) of Executive Order No. 124, as amended by Section 2(C) of this Executive Order, shall remain in effect for six (6) months beyond the date listed in Subsection 2(A) of this Executive Order.

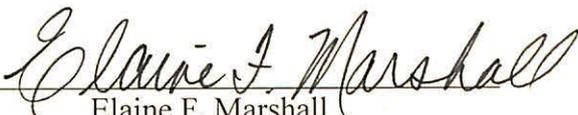
An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 30th day of May in the year of our Lord two thousand and twenty.



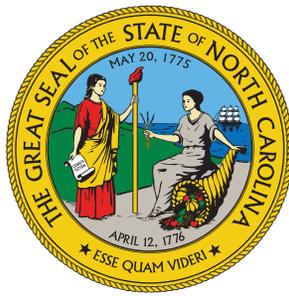
Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





Frequently Asked Questions for Executive Order 142 May 30, 2020

This Frequently Asked Questions (“FAQ”) document provides guidance for the implementation of Executive Order No. 142 (“Order”). On Saturday, May 30, 2020, Governor Roy Cooper issued an Executive Order that assists North Carolinians by prohibiting utility shut-offs and late fees, urging utility reconnection and implementing a moratorium on evictions. This Order provides relief to North Carolinians harmed financially by COVID-19 and helps to slow the spread of COVID-19 by preventing homelessness due to eviction and ensuring that people have access to essential utilities. The Order also provides protections to struggling businesses by preventing evictions of commercial entities. Below are frequently asked questions and their answers. In addition, check with your local government to determine whether additional restrictions exist in your area to limit the spread of COVID-19.

What does Executive Order No. 142 do?

Executive Order No. 142 puts in place a moratorium on evictions for residential and commercial tenants and provides relief for individuals who are unable to pay their utility bills during the COVID-19 pandemic.

The Order’s evictions moratorium:

- Is effective immediately and lasts for 3 weeks;
- Prevents residential landlords from initiating or furthering summary ejection or other eviction proceedings against a residential tenant for nonpayment or late payment of rent;
- Prevents commercial landlords from using “self-help” eviction procedures or terminating a lease for their commercial tenants, if the legal basis for the termination is for a late payment or nonpayment of rent that was caused by the COVID19 pandemic;
- Prevents residential and commercial landlords from assessing late fees, interest, or other penalties for late or nonpayment;
- Prevents the accumulation of additional interest, fees, or other penalties for existing late fees during the effective period of the order;
- Requires residential and commercial landlords to give tenants six months, after the executive order ends, to pay outstanding rent that became due during the effective period of the order;
- States explicitly that residential and commercial tenants are still responsible for paying their rent; and

- Makes clear that evictions for reasons other than late payment or nonpayment, such as evictions related to health and safety, can take place.

The Order's utility shutoff moratorium:

- Continues effective immediately and lasts 60 days;
- Prohibits utility disconnections for all customers;
- Prohibits billing or collection of late fees, penalties, and other charges for failure to pay;
- Continues to provide that once the executive order ends, utilities must give customers the chance to set up a repayment plan for charges that became due during the effective period of the order, and sets the default term to six months for cases when the utility and customer cannot agree on the terms of a repayment plan; and
- States explicitly that customers are ultimately responsible for the cost of the utilities that they use.

Why are these consumer protections needed?

North Carolinians are facing significant job loss and lack of wages as a result of COVID-19. Jobs may be slow to return, keeping North Carolinians under financial strain even as more businesses reopen. In fact, according to a [recent University of Chicago study](#), 42 percent of coronavirus-related job losses aren't expected to come back.

North Carolinians need a home and access to utilities to stay safe. In Phase 2, North Carolina is under a "Safer at Home" advisory. Evictions [are linked to](#) a large increase in the risk of homelessness. [According to the CDC](#), individuals experiencing homelessness are at risk for COVID-19 infection. In order to practice proper hygiene to mitigate the risk of acquiring and spreading COVID-19, North Carolinians need access to running water. Access to other utilities helps individuals remain safely at home and stay informed on the latest news and information related to the COVID-19 pandemic.

Does this mean I don't have to pay my rent and utility bills?

No. All customers are still responsible for paying their utility bills, and all tenants are still responsible for paying their rent.

How long will I have to pay overdue rent and utility bills?

The order requires landlords to give tenants 6 months to pay overdue rent that becomes due while the executive order is in effect. Utilities must give their customers at least 6 months to pay overdue utility bills that become due from March 31, 2020 to July 29, 2020.

How long will this order last?

The evictions section of this order will be in effect for 3 weeks, while the utility shutoff section will be in effect for 60 additional days, through July 29, 2020. At its signing, this order immediately extends and amends Executive Order No. 124.

How does this interact with Chief Justice Beasley's order related to evictions?

Executive Order No. 124 prevents landlords from beginning eviction proceedings, while the Chief Justice's order halts eviction orders from being issued and bans local law enforcement from carrying out evictions.

Does this Executive Order affect residential and commercial evictions?

Yes. Both residential and commercial landlords must abide by the order.

**ORDER OF THE CHIEF JUSTICE
OF THE SUPREME COURT OF NORTH CAROLINA**

Since 13 March 2020, in response to the COVID-19 global pandemic, I have issued a series of emergency directives necessary to ensure the continuation of critical court system functions while protecting the health and safety of all who work in or visit North Carolina's county courthouses.

Today, Governor Roy Cooper issued Executive Order 142 prohibiting landlords from taking any action in furtherance of a summary ejectment or eviction of a residential or commercial tenant for reason of non-payment.

There are now more than 9,000 pending evictions in our state court system. Hearing these matters would require landlords to act in furtherance of an eviction in violation of Governor Cooper's order.

Additionally, the Coronavirus Aid Relief and Economic Security Act (the "CARES Act" or the "Act") was passed by the United States Congress and signed into law on 27 March 2020. The Act included a moratorium on residential evictions for covered properties as defined by the Act for a period of 120 days from the effective date of the Act. The CARES Act did not provide a procedure for local courts to determine whether a property is covered under the Act and promulgation of additional rules of procedure governing such determination appears to be left to the states.

Therefore, additional emergency directives are now necessary to ensure the continuing operation of essential court functions.

Accordingly, I hereby determine and declare under N.C.G.S. § 7A-39(b)(2) that catastrophic conditions resulting from the COVID-19 outbreak have existed and continue to exist in all counties of this state.

EMERGENCY DIRECTIVE 17

All evictions pending in the trial divisions, whether summary ejectment or otherwise, are hereby stayed until 21 June 2020. Sheriffs shall not be required to execute pending writs of possession of real property or make due return of such writs until 30 June 2020.

EMERGENCY DIRECTIVE 18

In all summary ejectment proceedings filed pursuant to Article 3, Chapter 42 of the North Carolina General Statutes on or after 27 March 2020, no writ of possession for real property shall issue unless a finding is made that the property which is the subject of the complaint is not a covered property as defined by Section 4024(a)(1) of the CARES Act.

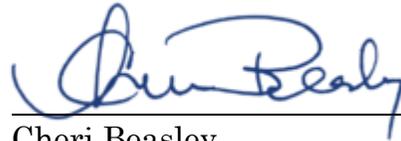
The Administrative Office of the Courts is directed to promulgate a form affidavit to be completed by plaintiffs in any such actions. For any summary ejectment or residential eviction action instituted on or after 27 March 2020 and before 1 June 2020, such affidavit shall be completed and submitted before final judgment by a magistrate is entered. For any summary ejectment action instituted on or after 1 June 2020, such affidavit shall accompany the filing of the complaint such that a copy of the affidavit will accompany the summons and complaint when served on the defendant.

EMERGENCY DIRECTIVE 19

There is hereby established a voluntary mediation program for summary ejectment actions. The Dispute Resolution Commission is directed to submit proposed rules governing such program to the Supreme Court for adoption no later than 7 June 2020.

Additional emergency orders or directives under N.C.G.S. § 7A-39(b) may be entered as necessary to support the continuing operation of essential court functions.

Issued this the 30th day of May, 2020.



Cheri Beasley
Chief Justice
Supreme Court of North Carolina