



August 9, 2021

UPDATE # 41

Extension of the CDC Eviction Moratorium and What It Means for You

Friends:

On August 3, 2021, the Centers for Disease Control and Prevention (“CDC”) extended the CDC Eviction Moratorium until October 3, 2021. The new Order is practically identical to prior versions of the Order except for two items. First, the moratorium is only intended to protect persons from eviction in counties that are experiencing “substantial or high levels of community transmission” of Covid-19. Second, and more importantly, the Order states that the moratorium does not apply where courts previously held that the Order was not enforceable.

On July 23, 2021, the Sixth Circuit (the federal court that hears cases for states including Tennessee) held that the CDC did not have the authority to issue the moratorium in the first place. Based on that ruling, Tennessee courts have held that the original CDC Order was not enforceable. Because the original Order is not enforceable, the new Order is also not enforceable.

It is our recommendation that landlords move forward with evictions as normal. However, we would like to remind you that the Emergency Rental Assistance Program has funding to assist your tenants in getting caught up on their back rent. If you should elect to receive emergency rental assistance on behalf of tenants, the rules of the program that limit your ability to evict still apply. The Emergency Rental Assistance Program eviction restrictions are separate from the CDC moratorium.

If you have additional questions, please let us know.

Very Truly Yours,

Michael J. King

Dwight E. Tarwater¹
Thomas A. Bickers¹
John W. Elder^{1,2,3}
Michael J. King^{1,4}
Taylor A. Williams¹
Catherine W. Anglin¹
Lindsey M. Collins¹
Kendell M. Garrett¹
Thomas H. Jarvis¹
Kelsey C. Osborne^{1,5}
Kathryn V. Haaquist¹

Donald F. Paine
(1939 - 2013)

¹ Licensed in Tennessee

² Licensed in Illinois

³ Licensed in New York

⁴ Licensed in North Carolina

⁵ Licensed in Texas