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Attorneys At Law

EXTENSION OF THE CDC ORDER AND THE CURRENT STATE OF COVID –19 LEGAL RESTRICTIONS **March 30, 2021**

As anticipated, the Centers for Disease Control (“CDC”) has extended its prior Order, which was set to expire on March 31, 2021, through June 30, 2021. As such, the prohibition on the physical removal of a tenant or resident who has submitted a “CDC Declaration” remains in effect through June 30, 2021 (unless extended again!). While the extension does not change other existing federal, state and local laws, we thought this would be a good opportunity to provide a quick reminder of where we stand in terms of legal actions for non-payment of rent. For a more detailed explanation of these laws, please refer to our prior Memoranda available at tqlawfirm.com or upon request.

- I. **CARES:** While this law technically expired in July 2020, you should consider continuing to provide a thirty (30) day notice to quit for non-payment of rent if you are a Covered Property, rather than fourteen (14) days’ notice required by state law in most circumstances. Although the CARES Act is unclear on how long this requirement remains in effect, we recommend you continue to provide this additional time to avoid any potential issues.
- II. **CDC Order:** In the event a resident provides you with a CDC Declaration form in a non-payment action, you may NOT physically evict the tenant until the expiration of the Order (now June 30, 2021). To be clear, this Order does NOT prevent you from proceeding with both the service of a notice to quit and the eviction action. It only prevents you from physically evicting the tenant at the conclusion of the case IF they have provided you with this form or the required eligibility information in some other format. Please note that we do have the ability to contest the veracity of the representations made by the tenant where appropriate.
- III. **Massachusetts Law:** Chapter 257 of the Acts of 2020 continues to provide that, in any action for non-payment of rent, you must:
 - (a) complete and attach the Notice of Rights form available at mass.gov/noticetoquit;
 - (b) serve the Notice of Rights with the Notice to Quit on the tenant; and
 - (c) upload the notice to quit and attachment to the state website at mass.gov/noticetoquit.



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This law also prevents a court from entering a judgment in a summary process action if: (a) the case is for non-payment of rent, (b) the non-payment was due to a COVID-19 related economic hardship; and (c) there is a pending application for rental assistance (such as RAFT). In addition, if a judgment has entered, the court is required to issue a stay of execution until the application for rental assistance is processed, which means that a tenant cannot be physically removed from the leased premises if the court finds each of the foregoing factors are true and the application is still pending.

- IV. Local Laws: Several cities and towns have enacted various additional requirements, including city specific notices of rights and purported prohibitions on physical evictions. These municipalities include Boston, Cambridge, Somerville, Framingham and Salem. Please contact our office for additional information on these local restrictions.
- V. New Resources: The Commonwealth has announced several new programs which may be available to assist residents with their rental arrears. In addition to the enhanced RAFT limits, which offers up to \$10,000 to qualified residents for past and future rent obligations, the new programs may actually offer significant additional funding for qualified residents, while also expanding eligibility requirements. Please feel free to contact our office for more information.

We understand the challenges and concerns raised by these ongoing restrictions and continue to work with our industry partners to oppose further extensions. Should you have any concerns or questions, please feel free to contact our office.

The foregoing is for informational purposes only and should not be considered legal advice. Please feel free to contact our office if you have any questions or need legal assistance.

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