



Housing Practice Tip (8.11.20 – updated)

Minnesota's Updated Eviction Moratorium: Executive Order 20-79

On July 13, Governor Walz issued an Executive Order (“EO”) extending the COVID-19 Peacetime Emergency ([EO 20-78](#)), thereby extending the eviction moratorium on residential properties in Minnesota until at least August 12.

One day later, Governor Walz issued a new EO regarding evictions (EO [20-79](#)), which is **effective starting August 4**. The new EO rescinds the previous executive orders suspending evictions (EO [20-14](#) and EO [20-73](#)), but renews the exceptions to the eviction moratorium listed in these orders, while at the same time setting forth additional exceptions. The additional exceptions dial back the moratorium slightly. Below are highlights of some of the most important changes EO 20-79 enacts.¹

What is prohibited:

The moratorium prohibits landlords from filing evictions where a **residential** tenant remains in the unit after:

- Notice of termination of lease,
- Notice of nonrenewal of a lease,
- Material violation of lease,
- Termination of the redemption period for a residential foreclosure, or
- Nonpayment of rent.

The Exceptions:

EO 20-79 renews the following exceptions to the eviction moratorium first provided in EO 20-14 and 20-73:

- Violations of Minn. Stat. 504B.171, subd. 1 (providing for an eviction when certain unlawful activities take place on the property), and
- Seriously endangering the safety of other residents OR seriously endangering the safety of others in common areas or on the curtilage of the premises.

EO 20-79 sets for the following new exceptions to the eviction moratorium:

- Holding over after receiving proper notice to vacate where the property owner or a family member of the property owner intends to move into the property within 7 days after the tenant vacates, and

¹ For a discussion of the exceptions under EO 20-14, see VLN April Tip of the Month, available at: <https://www.vlnmn.org/wp-content/uploads/2020/04/Tip-of-the-Month-April-2020-Eviction-Moratoriums-During-the-2020-COVID-19-Pandemic-3.pdf><https://www.vlnmn.org/wp-content/uploads/2020/04/Tip-of-the-Month-April-2020-Eviction-Moratoriums-During-the-2020-COVID-19-Pandemic-3.pdf>.



- Materially violating a residential lease by causing significant property damage on the premises, including the common area and curtilage of the premises.

Some issues which might arise under these new exceptions. First, it is not clear on what a landlord must do to prove that the property owner or family member wants to move into a unit. Additionally, the EO is silent as to how long the property owner or family member must stay in the property.

With regard to property damage, “significant property damage” is not a legal term of art nor is there a clear definition of what rises to “significant.” One can assume it will be up to the parties to properly plead and rebut what “significant property damage” entails.

Seven-Day Notice:

EO 20-79 requires a 7-day written notice, or longer if required by the lease, prior to filing an eviction for any of the grounds permitted in the new EO.

Writs Issued Prior to March 25:

EO 20-79 permits the enforcement of writs issued as the result of an eviction judgement entered prior to 5:00 pm on March 24.

While courts have not been uniform as to the procedure used by landlords to request and execute such writs, Hennepin county is requiring landlords to go through the process to request an alias writ. Even with an alias writ, however, a tenant is not required to receive notice prior to finding a writ on their door.

Violation a Misdemeanor:

While not new, filing eviction actions in violation of this and previous EOs is a misdemeanor, and the Minnesota Attorney General’s office is continuing to monitor landlord compliance. Complaints regarding landlord violation of any of the EO’s can be submitted online to the Attorney General’s office [here](#).

Rent Increases:

Rent still required. Nothing in the previous EOs nor in the current EO modifies a tenant’s requirement to pay rent.

Rent increases may be prohibited under the EOs. Unless a lease contains specific provisions for rent increases, any increase in rent requires the ending of the current lease and renewing it with a new lease for a higher amount of rent. This would require the landlord to non-renew a lease; one of the prohibitions of the EO. Right now, however, there is not case law on this issue. Tenants facing a rent increase have three options: to leave, to pay the increased rent, or to pay their current rent and face potential eviction for failure to pay the increased amount at the time the eviction moratorium ends.

Rent increases greater than 20% would likely be viewed as price gouging under [EO 20-10](#). Rental payments are considered an essential good or service under the order. This EO prohibits price increases of greater than 20% unless the increase is “substantially attributable to a significant additional costs outside the control of the person.”



Financial Resources for Landlords and Tenants:

Hennepin County currently has \$15million that is ready and waiting to help tenants with rent. Criteria and the application can be found [here](http://www.hennepin.us/rent-help) (www.hennepin.us/rent-help).

Ramsey County also have \$15 million in funding available for tenants to use for rental assistance. Tenants can call 651-226-4884 for information on Ramsey County funds. VLN also partners closely with Neighborhood House in Ramsey County. Neighborhood House has funding for tenants who otherwise don't qualify for funding from Ramsey County. Neighborhood House can be contacted via phone: 651-789-2550, or online: www.neighb.org

Also announced last week was ***\$100 million of rental assistance***. The \$100 million will be delivered to local organizations who apply for the right to distribute the money. State officials expect that renters will be able to begin the application process for rental assistance in early August. Information about eligibility can be found [here](#).

Tenants needing immediate rental assistance can also start with the information [here](http://www.mnhousing.gov/sites/np/renters) (www.mnhousing.gov/sites/np/renters).