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LEGALARTLINK

Navigating FL Residential Eviction Order 20-94

Webinar 3 with Locust Projects' LegalARTLink Director Allyn Ginns Ayers

Wednesday, July 22 | 2PM ET

Via Zoom

EMPOWER YOUR CAREER.



ABOUT LEGALARTLINK

- Provides pro bono legal assistance and information to South Florida artists of all disciplines with the aim of empowering artists' careers.
- Locust Projects is currently waiving its membership requirement in order to assist artists through December 31, 2020.
- If you have a particular issue you are facing, please fill out the online form on the website or email:

legallink@locustprojects.org | [Click here for Artist Form](#)

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THE FINE PRINT

- The materials and information provided during this webinar are for informational purposes only. They are not intended to provide a legal opinion or constitute legal advice, which must be tailored to the facts of a particular situation.
- Due to the novelty of this situation and the rapid changes to public health policy at the local, state, and national levels, the information provided during this webinar may not contain the most up-to-date legal or other information.
- Use of and access to this webinar does not create an attorney-client relationship between you and the provider. You should consult an attorney for legal advice relating to any particular issue or problem.

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WEBINAR AGENDA

- Overview of evictions process
- Current, expiring, and expired emergency orders and policies relating to
 - Federal - CARES Act
 - Florida - Governor and Supreme Court Emergency Orders
 - Local - Courts and Miami-Dade Police Department
- Rent relief programs and available options

BACKGROUND

- COVID-19 has led to widespread unemployment and has put tenants in a difficult situation.
- CARES Act extra unemployment benefit is set to expire on July 31, absent congressional intervention
- Mass evictions are expected nationwide. Some estimates show as many as 1 in 5 American renters are at risk of eviction.
- As a short-term measure, the CARES Act, state governments, and local governing bodies have implemented temporary halts to evictions, however generally without rent relief.

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EVICTIIONS PROCESS IN FLORIDA

- Governed by Florida Residential Landlord and Tenant Act
- Landlord must follow process, file a lawsuit in county court, and obtain an order from a judge before evicting you
- No self help evictions! Without a court order, your landlord cannot:
 - Change the locks
 - Shut off utilities
 - Remove your property

EVICTIIONS PROCESS

Common Reasons for Eviction

- Failure to pay rent
- Holding over after lease ends/failure to vacate (tenant can be liable for double rent)
- Breach of lease agreement

EVICCTIONS PROCESS

- Notice (time varies — excludes weekends and holidays)
- File Complaint & Serve on Defendant
- Five days to respond excluding weekends and holidays
- If defending, must deposit rent with clerk
- Judgement
- Clerk issues writ of possession
- Eviction by sheriff

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EVICTIIONS PROCESS

Defenses

- Notice was defective, but landlord given opportunity to cure
- Waiver by accepting rent with knowledge of non-compliance
- Amount of rent in the notice was incorrect — motion to determine rent
- Eviction is retaliatory
- Landlord failed to maintain the property

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REGULATORY OVERVIEW



FEDERAL - CARES Act

STATE - Governor and FL Supreme Court Orders

LOCAL - County, City,
Courts

CARES ACT MORATORIUM

- CARES Act created a 120-day moratorium period preventing eviction of tenant for nonpayment of rent or imposing fees, penalties, or charges for late payment of rent
- Landlord may not issue notice to vacate until after the 120 days and cannot require tenant to vacate within 30 days from notice
- Only applies to renters in “COVERED PROPERTIES”
- Does not apply to evictions filed before March 27, 2020
- Moratorium period ends July 25, 2020

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CARES ACT – Covered Properties

- Covered federal housing programs, such as HUD, VA, affordable housing, etc.
- Property has a federally backed mortgage loan or federally backed multifamily mortgage loan
- At least one tenant in the building has a Section 8 voucher

IS YOUR RENTAL COVERED?

<https://nlihc.org/federal-moratoriums>

<https://florida.evictionprotection.org/>

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STATEWIDE ORDERS

- Governor DeSantis' Emergency Order(s)
- Florida Supreme Court Order(s)

FLORIDA SUPREME COURT

- On April 6, Florida Supreme Court issued AOSC 20-23, which suspended the requirement that clerks of court issue writs of possession
- Order was extended several times but expired on June 30, 2020
- Once an evictions case reaches judgment, clerk may now issue writs of possession

<https://www.floridasupremecourt.org/Emergency>

GOVERNOR DESANTIS ORDER

- On April 2, Governor DeSantis issued Executive Order 20-94 suspending residential evictions for nonpayment of rent due to COVID-19
- Explicitly does not offer rent relief
- Extended several times, last two the day before it was set to expire
- Currently set to expire 12:01 am on August 1

MIAMI-DADE COUNTY COURTS

- Landlords are required to file an affidavit stating whether their property falls under the CARES Act
- Summonses issued in commercial evictions and residential evictions for reasons other than solely nonpayment
- Little other movement

MIAMI-DADE POLICE DEPARTMENT

Notice Regarding Evictions

Emergency Rental Assistance Program

Hotel Isolation Program


Light Bill Assistance

 [Home](#) > [Coronavirus \(COVID-19\)](#) > Rental and Housing Assistance

Rental and Housing Assistance

Notice Regarding Evictions

The Miami-Dade Police Department has temporarily suspended all eviction activities until further notice.

In addition, Florida Gov. Ron DeSantis has extended the mortgage foreclosure and eviction relief [emergency order](#)  until Aug. 1, 2020.

Screen grab from [Miami-Dade County](#) website on July 21, 2020

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EVICTIIONS PROCESS

- Notice (time varies — excludes weekends and holidays) If CARES Act Property, can't serve notice
- File Complaint & Serve on Defendant Clerk not issuing summons for nonpayment cases & MDPD not serving
- Five days to respond excluding weekends and holidays
- If defending, must deposit rent with clerk
- Judgement No current movement on residential evictions for nonpayment
- Clerk issues writ of possession
- Eviction by sheriff MDPD not engaging in eviction activities

Governor DeSantis order prevents evictions for nonpayment

RENTAL ASSISTANCE PROGRAMS

- **Florida Housing Finance Corporation - Coronavirus Relief Fund**
 - Provided for in the CARES Act
 - Governor DeSantis authorized \$120 Million to be administered through local State Housing Initiatives Partnership Program (SHIP)
 - Available to assist with monthly rent, mortgage payments, and emergency repairs for costs between March 1 and December 30, 2020
 - Income requirement of less than 120% area median income

RENTAL ASSISTANCE PROGRAMS

- **Florida Housing Finance Corporation - Coronavirus Relief Fund**

[FHFC Main Page](#)

[Income Eligibility](#)

[FHFC Coronavirus Relief Fund - FAQs](#)

**Starting July 20, information line is open M-F 9am to 7pm
1-888-362-7885**

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RENTAL ASSISTANCE PROGRAMS

- **Miami-Dade County Emergency Rental Assistance Program (ERAP)**
 - County program providing one-time benefit for one month's rent (based on size of unit and monthly rent payment)
 - Must earn no more than 80% of County Area Median Income
 - Not receive other rental assistance (Section 8 voucher, public housing, VA, etc.)
 - Documentation showing financial hardship from COVID
 - Deadline to apply is Friday, July 24 at 5 pm

RENTAL ASSISTANCE PROGRAMS

- **Miami-Dade County Emergency Rental Assistance Program (ERAP)**

[ERAP Main Page](#)

[FAQs](#)

[Income Limits](#)

[Online Application](#)

RENTAL ASSISTANCE PROGRAMS

Legal Services of Greater Miami

Don't Get Kicked Out

Florida Eviction Protection

Community Justice Project

Q&A

**Please ask questions in the chat
or email them to legallink@locustprojects.org**