

Insights: Alerts

North Carolina Pauses Certain Evictions, Utility Shut-Offs, and Late Fees

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Please note: The below information may require updating, including additional clarification, as the COVID-19 pandemic continues to develop. Please monitor our main [COVID-19 Task Force page](#) and/or your email for updates.

On May 30, 2020, North Carolina Governor Roy Cooper issued [Executive Order No. 142](#) extending prohibitions preventing landlords from evicting residential tenants, evicting commercial tenants for payment defaults caused by the pandemic, pausing rent payment obligations, and waiving certain late fees and penalties in certain circumstances. The Executive Order currently applies through the “Effective Period,” between May 30, 2020, through June 20, 2020, but may be extended by subsequent order. The key provisions of the Executive Order include:

- Landlords may not take any action to evict residential tenants based on late or non-payment of rent during the Effective Period.
- Landlords may not perform self-help evictions, terminate leases, or otherwise take any action to evict a commercial tenant based on late or non-payment of rent, if the failure to pay is “caused by the pandemic.” The phrase “caused by the pandemic” means that a delay or failure to pay is “caused, in whole or in part, directly or indirectly, by the COVID-19 pandemic,” including both medical and economic impacts.
- Before performing any self-help eviction, a commercial landlord must inquire into whether any late or non-payment of rent is caused by the pandemic, and must give the tenant 72 hours to respond.
- The Executive Order expressly does not prohibit “evictions for reasons other than late payment or nonpayment” of rent.
- Landlords may not assess interest, late fees, or other penalties for late or non-payment of rent that becomes due during the Effective Period.
- Accumulation of any additional interest, fees, or penalties is paused during the Effective Period.
- Residential and commercial tenants shall be provided at least 6 additional months (beginning at the end of the Effective Period) to pay rent that became due during the Effective Period, and such tenants cannot be charged late fees, interest, or other penalties on these arrearages.
- The Executive Order does not apply to leases held by “hotels, motels, or similar lodging” or to “vacation rentals entered into under Chapter 42A of the General Statutes.”

- The Executive Order “strongly encourages” but does not require tenants who are “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.”
- The Executive Order also extends a prior executive order’s protection against late fees and penalties for untimely utility bill payments, encourages lenders to work with property owners to provide flexibility in payments and avoid foreclosures, and directs the Department of Health and Human Services to publicize assistance programs for landlords and tenants.

The Executive Order is explicit, however, that “[e]xcept for the interest, late fees and penalties expressly waived above, nothing in this Executive Order shall be construed as waiving tenants’ obligations to pay rent or perform any other obligations which an individual may have under a tenancy.”

While the Executive Order does not prohibit evictions for reasons other than late payment or non-payment of rent, the North Carolina Supreme Court Chief Justice Cheri Beasley issued an Order on the same day pausing all evictions currently pending in the trial division until June 21, 2020. Chief Justice Beasley’s Order also directs that sheriffs will not be required to execute pending writs of possession until June 30, 2020.

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