

TENANTS' RIGHTS DURING COVID-19

**AN OVERVIEW OF EVICTION RULES, CDC EMERGENCY ORDERS,
AND THE CARES ACT**



David Guillory, Lone Star Legal Aid

BASIC TEXAS EVICTION RULES (ANY PROPERTY)

- **LANDLORD MUST FIRST PROVIDE TENANT A WRITTEN (3) DAY NOTICE TO VACATE (LESS TIME MAY BE OKAY IF WRITTEN IN THE LEASE)**
- **IF TENANT DOES NOT MOVE OUT AFTER RECEIVING NOTICE, THEN LANDLORD CAN FILE AN EVICTION SUIT (FORCIBLE ENTRY AND DETAINER)**
- **TENANT MUST BE IN BREACH OF THE LEASE; ONE OF THE MAIN BREACHES OR CAUSES FOR EVICTION IS NONPAYMENT OF RENT**

NOTICE TO VACATE

- **BEFORE A LANDLORD CAN START LEGAL EVICTION PROCEEDINGS, THEY MUST GIVE THE TENANT PROPER NOTICE IN WRITING. A WRITTEN NOTIFICATION THAT THE LANDLORD WOULD LIKE THE TENANT TO MOVE OUT BECAUSE THE TENANT HAS BROKEN THE LEASE IS CALLED A "NOTICE TO VACATE." TEXAS LAW IS VERY SPECIFIC ABOUT HOW THE NOTICE MUST BE GIVEN TO THE TENANT AND WHAT IT MUST CONTAIN.**
- **THE AMOUNT OF TIME THE TENANT HAS TO MOVE OUT OR FIX A CERTAIN PROBLEM BEFORE AN EVICTION SUIT IS FILED. THIS MUST BE AT LEAST 3 DAYS UNLESS THE LEASE SPECIFICALLY STATES OTHERWISE.**

HOW NOTICE MUST BE GIVEN TO TENANT

- **IN PERSON TO THE TENANT OR SOMEONE IN THE HOUSEHOLD WHO IS OVER THE AGE OF 16**
- **IN PERSON BY AFFIXING THE NOTICE TO THE INSIDE OF THE MAIN ENTRY DOOR**
- **BY REGULAR MAIL, CERTIFIED MAIL, OR REGISTERED MAIL, WITH RETURN RECEIPT**
- **IF THE RENTAL DOES NOT HAVE A MAILBOX AND IF THERE ARE THINGS THAT WOULD PREVENT THE LANDLORD FROM ATTACHING NOTICE TO THE INSIDE OF THE MAIN ENTRANCE (SUCH AS KEYLESS SECURITY SYSTEMS OR DANGEROUS ANIMALS), THEY MAY AFFIX IT TO THE OUTSIDE OF THE MAIN ENTRANCE ONCE IT HAS BEEN SEALED IN AN ENVELOPE WITH APPROPRIATE MARKINGS AND MAIL IT ON THE SAME DAY.**

PETITION FOR EVICTION

- **EVICTON SUIT SHOULD BE FILED IN THE PRECINCT WHERE THE PROPERTY IS LOCATED**
- **YOU WILL BE SERVED BY A CONSTABLE, IF UNABLE TO FIND YOU LANDLORD CAN USE ALTERNATIVE FORM OF SERVICE**
- **ONCE EVICTION HEARING IS SET, TENANT SHOULD GO TO THE COURT HEARING TO AVOID DEFAULT JUDGMENT**
- **IF COURT RULES IN FAVOR OF LANDLORD, TENANT WILL BE GIVEN FIVE (5) DAYS TO VACATE THE PROPERTY OR MAY APPEAL THE COURT'S DECISION**

RIGHT TO APPEAL

- **EITHER PARTY HAS THE RIGHT TO APPEAL 5 (FIVE) DAYS FROM THE DATE OF THE JP COURT JUDGMENT**
- **IF YOU CANNOT AFFORD THE APPEAL BOND, YOU HAVE THE RIGHT TO FILE THE APPEAL WITH A PAUPER'S AFFIDAVIT**
- **IF THE JUDGMENT IS BASED ON NON-PAYMENT OF RENT, YOU HAVE 5 DAYS FROM THE DATE OF FILING THE PAUPER'S AFFIDAVIT TO DEPOSIT ONE MONTH'S RENT INTO THE JP COURT'S REGISTRY AND MUST PAY EACH SUBSEQUENT MONTHLY RENT INTO THE REGISTRY.**
- **IF YOU DO NOT DEPOSIT RENT, THE LANDLORD MAY ASK FOR A WRIT OF POSSESSION WHILE THE APPEAL IS PENDING**

WRIT OF POSSESSION

- A TENANT CAN ONLY BE PHYSICALLY FORCED OUT OF A PROPERTY AFTER THE ISSUANCE OF A WRIT OF POSSESSION
- A WRIT OF POSSESSION MAY ONLY BE ISSUED AFTER AN EVICTION JUDGMENT IS FINAL. A JUSTICE COURT JUDGMENT IS NOT FINAL UNTIL THE SIXTH (6TH) DAY AFTER THE JUDGMENT.
- THE LANDLORD MAY THEN ASK THE COURT TO ISSUE THE WRIT AND IT IS SERVED BY THE CONSTABLE. THE TENANT AND ALL OCCUPANTS HAVE 24 HOURS AFTER SERVICE OF THE WRIT TO LEAVE THE UNIT.

TEXAS SUPREME COURT IN RESPONSE TO COVID-19 (ALL COURTS)

- **ORDER SUSPENDS ALL EVICTIONS PROCEEDINGS**
- **NO TRIAL HEARING OR OTHER PROCEEDING MAY BE CONDUCTED UNTIL MAY 19, 2020.**
- **EVICTIONS CAN STILL PROCEED IN CASES INVOLVING THREATS OF HARM OR CRIMINAL CONDUCT**
- **EXECUTION OF WRITS (ORDER TO REMOVE A TENANT) ARE SUSPENDED UNTIL MAY 26, 2020**

THE CARES ACT IN RESPONSE TO COVID-19

- **ACT HALTS EVICTION FILINGS ON ANY PROPERTIES THAT HAS A FEDERALLY BACKED MORTGAGE FOR 120 DAYS (UNTIL AFTER JULY 25, 2020)**
- **APPLIES TO PROPERTIES THAT PARTICIPATE IN ANY QUALIFYING FEDERAL HOUSING PROGRAM (SUCH AS SECTION 8 OR HOUSING CHOICE VOUCHER)**
- **STOPS LANDLORDS FROM CHARGING LATE FEES**
- **COULD NOT ISSUE NOTICE TO VACATE UNTIL AFTER JULY 25, 2020 AND NOW MUST BE A 30 DAY NOTICE**
- **DOES NOT APPLY TO EVICTIONS FILED BEFORE MARCH 27, 2020 AND DOES NOT PROTECT TENANTS WHO VIOLATE THEIR LEASE FOR REASONS OTHER THAN NONPAYMENT OF RENT**

CARES ACT - AFTER MARCH 25TH, 2021

- **AFTER JULY 25, 2020, LANDLORDS CAN ISSUE NOTICES TO VACATE. BUT THEY MUST GIVE AT LEAST 30 DAYS' NOTICE THAT YOU HAVE TO LEAVE. THAT MEANS THAT FOR A COVERED PROPERTY, THE SOONEST YOUR LANDLORD COULD GIVE YOU A NOTICE TO VACATE FOR NONPAYMENT WOULD BE JULY 26, AND THE SOONEST THE NOTICE WOULD TELL YOU THAT YOU HAVE TO LEAVE IS AUGUST 25.**

CDC PROTECTIONS FOR RENTERS

- **TEMPORARY NATIONWIDE HALT ON RESIDENTIAL EVICTIONS**
- **THE CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC) HAS ISSUED AN AGENCY ORDER THAT HALTS EVICTIONS FOR NONPAYMENT OF RENT FOR RENTERS WHO MEET CERTAIN CRITERIA. THE ORDER WENT INTO EFFECT ON SEPTEMBER 4, 2020, AND WILL REMAIN IN EFFECT UNTIL JUNE 30, 2021. IT WAS ISSUED TO HELP PREVENT THE SPREAD OF COVID-19 WHICH, THE AGENCY ARGUES, COULD BE WORSENERD IF MANY PEOPLE ACROSS THE COUNTRY ARE EVICTED AND ARE FORCED TO LIVE IN GROUP SETTINGS, SUCH AS HOMELESS SHELTERS.**

WHO DOES THE CDC ORDER PROTECT?

- **TO QUALIFY FOR THE PROTECTIONS OF THIS ORDER, A TENANT, LESSEE, OR RESIDENT OF A RESIDENTIAL PROPERTY MUST PROVIDE A COMPLETED AND SIGNED COPY OF A DECLARATION WITH THE ELEMENTS LISTED IN THE DEFINITION OF “COVERED PERSON” TO THEIR LANDLORD, OWNER OF THE RESIDENTIAL PROPERTY WHERE THEY LIVE, OR OTHER PERSON WHO HAS A RIGHT TO HAVE THEM EVICTED OR REMOVED FROM WHERE THEY LIVE.**
- **ORDERR IS IN EFFECT UNTIL JUNE 30, 2021**

THE TEXAS RENT RELIEF PROGRAM

- **TEXAS RENT RELIEF PROGRAM WAS CREATED BY THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (TDHCA) IN ORDER TO PROVIDE TEXAS TENANTS WITH FINANCIAL ASSISTANCE FOR RENT AND UTILITY BILLS (INCLUDING PAST DUE RENT AND UTILITIES). STARTED ON FEBRUARY 15, 2021.**
- **PAYS UP TO 15 MONTHS OF UTILITY PAYMENTS AND RENT PAYMENTS - PAST-DUE, CURRENT AND FUTURE**
- **REQUIRES COOPERATION OF LANDLORD AND TENANT**

COMMON TENANT QUESTIONS DURING COVID-19

RELATED TO TENANCY AND EVICTIONS

SEE [TEXASLAWHELP.COM](https://www.texaslawhelp.com)



DO I STILL HAVE TO PAY RENT?

- **YES. THE EMERGENCY ORDERS AND THE CARES ACT ONLY TEMPORARILY STOPS EVICTIONS. YOU ARE STILL OBLIGATED TO PAY YOUR RENT PER YOUR LEASE AGREEMENT**

CAN MY LANDLORD REMOVE ME FROM MY APARTMENT?

- **NO, THE LANDLORD MUST FOLLOW THE LEGAL PROCESS TO REMOVE A TENANT.**
- **IF A LANDLORD ISSUES A NOTICE TO VACATE, FILES AND WINS AN EVICTION LAWSUIT AND WAITS 6 DAYS, SHE CAN GET FROM THE COURT A WRIT OF POSSESSION**

CAN MY LANDLORD STILL FILE AN EVICTION AGAINST ME ?

- **YES. MOST COURTS ARE ACCEPTING FILINGS, SO YOUR LANDLORD MAY FILE AN EVICTION EVEN IF THE CASE IS NOT SET FOR TRIAL YET, UNLESS PROHIBITED BY THE CARES ACT. HOWEVER, COURTS WILL NOT HEAR THE CASE UNTIL THE EMERGENCY ORDERS EXPIRE.**

CAN I BE EVICTED FOR GETTING SICK?

- **NO. YOUR LANDLORD CANNOT ASK YOU ABOUT YOUR ILLNESSES OR DISABILITIES OR TREAT YOU ANY DIFFERENT FROM ANYONE ELSE DUE TO AN ILLNESS, INCLUDING COVID-19**



LONE STAR LEGAL AID

- **CALL OUR INTAKE LINE- (800) 733-8394**
- **APPLY ONLINE AT WWW.LONESTARLEGAL.ORG**
- **TEXAS LAW HELP- TEXASLAWHELP.ORG (HELPFUL LEGAL INFORMATION AND FORMS)**
- **EMAIL ME: DAVID GUILLORY – DGUILLORY@LONESTARLEGAL.ORG**