

COVID-19: PENNSYLVANIA NOTICE REQUIREMENTS IN EVICTION PROCEEDINGS SUSPENDED THROUGH JULY 10

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Real Estate Alert

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On May 7, 2020, Governor Tom Wolf signed an executive order that stays the notice requirements for certain foreclosure actions and for eviction proceedings. While directed expressly at residential evictions, this order also appears to suspend until July 10, 2020, the ability of a commercial landlord to commence an eviction proceeding if the commercial tenant has not waived in the lease its right to receive a notice under the Pennsylvania Landlord and Tenant Act.

The Pennsylvania Landlord and Tenant Act of 1951, 68 P.S. §250.101 et. seq., requires a landlord to provide a written notice—commonly referred to as a Notice to Quit—to a tenant prior to commencing an eviction proceeding unless in the lease the tenant has waived its right to receive that notice. The governor's executive order stays this notice requirement until July 10, 2020, thereby tolling a commercial landlord's ability to commence an eviction proceeding if the tenant has not waived in the lease its right to receive a Notice to Quit. In a news conference on May 7, 2020, Attorney General Josh Shapiro explained that “the practical effect of the governor's order is to press pause on evictions until July 10, 2020, at which time the normal process can resume.”

The order does not affect a tenant's obligation to pay rent in accordance with the terms of the lease. The governor and the attorney general explained in the news conference that the purpose of the order is to prevent the social interaction and spread of COVID-19 that could be caused by foreclosures or evictions, not to forgive payments, which could be due later with interest and/or late fees.

Although the recitals in the order explaining its purpose refer only to displacement of individuals from their homes, the order does not distinguish between residential or commercial tenants and makes no mention of any basis for delaying commercial evictions. When asked by a reporter if the eviction stay order applies to “businesses,” Attorney General Shapiro responded that “it would depend on the specific situation, [but] generally speaking, yes,...the eviction...process cannot begin to occur until July 10.”

As a result, it appears to be the case that a commercial tenant that has not waived in the lease its right to receive a Notice to Quit under Section 501 of the Landlord and Tenant Act of 1951 could take the position in an eviction action that this stay applies to it and to any Notice to Quit under Section 501 that it receives prior to July 10, 2020, and that such notice is not deemed to be delivered to the tenant until July 10, 2020.

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