

# Governor Evers Orders Suspension of Evictions and Foreclosures for 60 Days During COVID-19 Crisis

Article

March 30, 2020

On March 27, 2020, Governor Evers issued Emergency Order #15, which temporarily bans evictions and foreclosure actions over the next 60 days. Landlords and financial institutions must take note of the various restrictions imposed by Emergency Order #15.

## **Provisions Affecting Landlords**

First, a landlord's ability to serve notice terminating a tenancy is limited. Landlords may not serve a notice terminating tenancy on the basis of a tenant's failure to pay rent. Additionally, a landlord's ability to serve a notice terminating tenancy for any other reason is also severely restricted. Landlords may not serve notice terminating tenancy for any other reason, unless the notice is accompanied with an affidavit evidencing a reasonable belief that the failure to commence an eviction action will result in an imminent threat of serious physical harm to another person. This affidavit must provide the basis for such reasonable belief.

Second, landlords are restricted from commencing a civil action seeking eviction except in limited circumstances. A landlord may only commence a civil action seeking eviction if: 1) the eviction is not based on failure to pay rent; and 2) the judicial action is accompanied with an affidavit evidencing a reasonable belief that the failure to commence an eviction action will result in an imminent threat of serious physical harm to another person.

Third, a landlord may not deliver a writ of restitution to the sheriff unless the eviction order was not based on failure to pay rent and it is accompanied with affidavit evidencing a reasonable belief that the failure to commence an eviction action will result in an imminent threat of serious physical harm to another person. Likewise, a sheriff may not act on an eviction order unless those conditions are met.

However, if the tenant is holding over on the property, in violation of Wisconsin Statute § 704.25, the Emergency Order does not bar a landlord's right to seek relief against the hold-over tenant.

## **PROFESSIONALS**

Sherry D. Coley  
Partner

Tiffany E. Woelfel  
Partner

## **RELATED SERVICES**

Real Estate, Zoning & Public  
Finance

### **Financial Institutions and Mortgagees**

Likewise, the Emergency Order limits the rights of financial institutions and other mortgagees. A mortgagee is prohibited from commencing a civil action to foreclose upon real estate. Mortgagees are prohibited from requesting or scheduling a sheriff's sale of the mortgage premise. Likewise, a sheriff may not conduct sheriff's sales of mortgaged premises, nor may sheriffs act on any order of foreclosure or execute any writ of assistance related to foreclosure. However, mortgagees may still foreclose against abandoned property under Wisconsin Statute § 846.102.

### **Order Does Not Relieve Obligation to Pay Rent or Mortgage**

The Emergency Order is clear that nothing in the order should be construed as relieving an individual of their obligations to make rent and mortgage payments. Nor does the order relieve an individual of any other obligation it may have under a tenancy or mortgage.

The Emergency Order is effective as of March 27, 2020, and shall remain in effect until May 26, 2020 (60 days).

Landlords and mortgagees will want to think creatively, both in working with their borrowers during this time and in order to protect their rights, as Emergency Order #15 is in effect. During this time, communication and collaboration will be key. Proactive steps to begin working together will lead to a mutually agreeable path through these trying times.

Governor  
Evers  
Orders  
Suspension  
of Evictions  
and  
Foreclosures  
for 60 Days  
During  
COVID-19  
Crisis