Executive Order 2020-72

(COVID-19 EXECUTIVE ORDER NO.68)

November 13, 2020

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EXECUTIVE ORDER IN RESPONSE TO COVID-19
(COVID-19 EXECUTIVE ORDER NO.68)

WHEREAS, Coronavirus Disease 2019 (COVID-19), a novel severe acute respiratory illness, has rapidly spread throughout Illinois and continues to necessitate updated and more stringent guidance from federal, state, and local public health officials and significant measures to respond to the increasing public health disaster; and,

WHEREAS, COVID-19 can spread among people through respiratory transmissions, asymptomatic people can transmit the virus, and there is currently no effective treatment or vaccine; and,

WHEREAS, for the preservation of public health and safety throughout the entire State of Illinois, and to ensure that our healthcare delivery system is capable of serving those who are sick, I have found it necessary to take additional measures consistent with public health guidance to slow and stop the spread of COVID-19; and,

WHEREAS, COVID-19 has resulted in significant economic impact, including loss of income and wages, that threatens to undermine the financial security of many Illinoisans; and,

WHEREAS, residential eviction actions are governed by Article IX of the Illinois Code of Civil Procedure, 735 ILCS 5/9-101 et seq.; and,

WHEREAS, in the midst of the ongoing public health crisis, residential evictions are contrary to the interest of preserving public health by ensuring that individuals remain in their homes as much as possible; and,

WHEREAS, public health guidance advises that minimizing physical interactions between people who do not reside in the same household is critical to slowing the spread of COVID-19; and,

WHEREAS, access to housing helps prevent spread of COVID-19 because individuals with housing are able to minimize physical contact with those outside their households; and,

WHEREAS, temporarily halting eviction proceedings avoids numerous interactions associated with being evicted, including with law enforcement officers, courtroom personnel, landlords, movers, and friends and family who must agree to provide temporary housing, as well as, for those who are forced into homelessness, the interactions associated with seeking and taking refuge in a shelter; and,

WHEREAS, preventing spread by temporarily halting eviction proceedings thus also prevents spread of COVID-19 in the broader community; and,

WHEREAS, on March 20, 2020, I issued Executive Order 2020-10, in which I ordered all state, county, and local law enforcement officers to cease from enforcing eviction orders for residential properties; and,

WHEREAS, on April 23, 2020, I issued Executive Order 2020-30, in part, because the ongoing public health emergency required further action to prevent the commencement of residential eviction proceedings; and,

WHEREAS, on April 30, 2020, I issued Executive Order 2020-33, which amended Executive Order 2020-30, to continue the prohibition on enforcement of residential eviction actions; and,

WHEREAS, the prohibitions on commencement of residential eviction actions and the enforcement of residential eviction orders in Executive Order 2020-33 have been extended by subsequent Executive Orders; and,

WHEREAS, on November 13, 2020, considering the continuing, and, in fact, increasing spread of COVID-19 and the ongoing health and economic impacts that that will be felt over the coming month by people across the State, I declared all counties in the State of Illinois as a disaster area; and,

WHEREAS, the number of new COVID-19 cases in the State has surged over the past several weeks, and the virus continues to infect thousands of individuals and claim the lives of too many Illinoisans each day; and,

WHEREAS, the State and the Illinois Department of Public Health have developed a mitigation plan to trigger additional precautions when regions meet certain risk levels; and,

WHEREAS, as of November 13, 2020, all regions of the State have triggered these additional mitigation strategies; and,

WHEREAS, while the precautions taken by Illinoisans previously slowed the growth of COVID-19 cases and deaths in the State, the number of cases in the State is now again growing exponentially; and,

WHEREAS, recognizing the continued need for action to prevent the spread of COVID-19, this Executive Order extends the prohibition on the commencement and enforcement of evictions with additional safeguards intended to balance the rights of tenants and landlords throughout the State;

THEREFORE, by the powers vested in me as the Governor of the State of Illinois, pursuant to the Illinois Constitution and Sections 7(1), 7(2), 7(8), 7(10), and 7(12) of the Illinois Emergency Management Agency Act, 20 ILCS 3305, and consistent with the powers set forth in the State's public health laws, I hereby order the following, effective November 13, 2020:

Section 1. For purposes of this Executive Order, the following terms are defined as set forth below:

a. "Covered Person" means any tenant, lessee, sub-lessee, or resident of a residential property who provides to their landlord, the owner of the residential property, or other person or entity with a legal right to pursue an eviction or possessory action, a Declaration under penalty of perjury indicating that:

   1. the individual either (i) expects to earn no more than $99,000 in annual income for Calendar Year 2020 (or no more than $198,000 if filing a joint tax return), (ii) was not required to report any income in 2019 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment pursuant to Section 2001 of the CARES Act;

   2. the individual is unable to make a full rent or housing payment due to a COVID-19 related hardship including, but not limited to, substantial loss of income, loss of compensable hours of work or wages, or an increase in out-of-pocket expenses directly related to the COVID-19 pandemic;

   3. the individual is using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other Non-Discretionary Expenses; and

   4. eviction would likely render the individual homeless—or force the individual to move into and live in close quarters in a new congregate or shared living setting—because the individual has no other available housing options.

b. "Declaration" means the form declaration made available by the Illinois Housing Development Authority (or a similar declaration under penalty of perjury) that tenants, lessees, sub-lessees, or residents of residential properties who are covered by this Executive Order may use to invoke the protections of this Executive Order. Each landlord, owner of a residential property, or other person or entity with a legal right to pursue an eviction or possessory action must provide each tenant, lessee, sub-lessee, and resident with a Declaration prior to commencement of any residential eviction proceeding including, but not limited to, prior to the issuance of a notice of termination of tenancy.

c. "Non-Discretionary Expenses" include, but are not limited to, food, utilities, phone and internet access, school supplies, cold-weather clothing, medical expenses, child care, and transportation costs, including car payments and insurance.

Section 2. A person or entity may not commence a residential eviction action pursuant to or arising under 735 ILCS 5/9-101 et seq. against a Covered Person unless that person poses a direct threat to the health and safety of other tenants or an immediate and severe risk to property.

Section 3. All state, county, and local law enforcement officers in the State of Illinois are instructed to cease enforcement of orders of eviction for residential premises, unless the tenant, lessee, sub-lessee, or resident of the residential property has been found to pose a direct threat to the health and safety of other tenants or an immediate and severe risk to property.

Section 4. Nothing in this Executive Order shall be construed as relieving any individual of the obligation to pay rent or comply with any other obligation that an individual may have pursuant to a

lease or rental agreement.

Section 5. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Issued by the Governor November 13, 2020
Filed by the Secretary of State November 13, 2020