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EXECUTIVE ORDER

Amending and Extending Executive Order D 2020 223 Limiting Certain Evictions to Provide Relief to Coloradans Affected by COVID-19

Pursuant to the authority vested in the Governor of the State of Colorado and, in particular, pursuant to Article IV, Section 2, of the Colorado Constitution and the relevant portions of the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701, *et seq.*, I, Jared Polis, Governor of the State of Colorado, issue this Executive Order amending and extending Executive Order D 2020 223, which provides assistance to residential and commercial tenants at risk for eviction who were economically harmed by coronavirus disease 2019 (COVID-19) in Colorado.

I. Background and Purpose

On March 5, 2020, the Colorado Department of Public Health and Environment's (CDPHE) public health laboratory confirmed the first presumptive positive COVID-19 test result in Colorado. Since then, the number of confirmed cases has continued to climb, and we have evidence of community spread throughout the State. I verbally declared a disaster emergency on March 10, 2020, and on March 11, 2020, I issued the corresponding Executive Order D 2020 003, as amended by Executive Orders D 2020 018, D 2020 032, D 2020 058, D 2020 076, D 2020 109, D 2020 125, D 2020 152, D 2020 176, and D 2020 205. On March 25, 2020, I requested that the President of the United States declare a Major Disaster for the State of Colorado, pursuant to the Stafford Act. The President approved that request on March 28, 2020.

My administration, along with other State, local, and federal authorities, has taken a wide array of actions to mitigate the effects of the pandemic, prevent further spread, and protect against overwhelming our health care resources.

The virus that causes COVID-19 is spread primarily by close contact between people and through respiratory droplets when an infected person coughs or sneezes. It can also be spread through contact with contaminated surfaces. Public health experts recommend we practice social distancing, or maintaining a physical distance of six (6) feet or more from other people, as a way to slow the spread of COVID-19. Keeping people housed can help limit the spread of COVID-19 during a public health disaster.

The economic impacts of COVID-19 are significant, and threaten to undermine the economic stability of many Coloradans and local businesses. The risk of contamination posed by

COVID-19 necessitated closure of multiple businesses. Employers and employees in virtually all sectors of the economy have been hit the hardest. We must take action to shore up economic security, employment, community cohesion, and community recovery.

Transmission of the virus continues to threaten Coloradans' way of life and livelihoods. On April 26, 2020, I issued Executive Order D 2020 044 Safer at Home, as amended and extended by Executive Order D 2020 079. On July 1, 2020, I issued Executive Order D 2020 091 Safer at Home and in the Vast, Great Outdoors, as amended and extended by Executive Orders D 2020 091, D 2020 123, D 2020 142, D 2020 144, D 2020 170, and D 2020 199. To be Safer at Home, Coloradans impacted financially by COVID-19 must continue to have a home. We are doing everything we can to get Coloradans back to work but this process is gradual and must take into account the evolving public health conditions. Many Coloradans continue to experience substantial loss of income as a result of business closures and layoffs, hindering their ability to keep up with their residential and nonresidential rent payments through no fault of their own.

I have already taken steps to keep Coloradans housed. On June 13, 2020, I issued Executive Order D 2020 101, which provided tenants with thirty (30) days to make rental payments before facing eviction and instructed the Department of Local Affairs (DOLA) to create a model rental repayment agreement to assist individuals who were facing financial hardship due to COVID-19. On July 12, 2020, I issued Executive Order D 2020 134, which extended the provisions of Executive Order D 2020 101 and encouraged municipalities to eliminate housing-related restrictions to provide more access to housing. On August 10, 2020, I issued Executive Order D 2020 162, which extended the provisions of Executive Orders D 2020 101 and D 2020 134. On September 8, 2020, I issued Executive Order D 2020 185, which extended the provisions of Executive Orders D 2020 101, D 2020 134, and D 2020 162. On September 22, 2020, I issued Executive Order D 2020 202, which extended the provisions of Executive Orders D 2020 101, D 2020 134, D 2020 162, and D 2020 185, and required landlords to provide notice of the Centers for Disease Control and Prevention (CDC)'s Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19.

Additionally, on August 26, 2020, I signed Executive Order B 2020 006 creating the Special Eviction Prevention Task Force (Task Force). This temporary Task Force was directed to consider causes of and propose solutions to housing instability arising from the impact of COVID-19. The Task Force created recommendations on how to address housing instability due to COVID-19 in Colorado and presented these recommendations to me on October 9, 2020.

On October 15, 2020, I issued Executive Order D 2020 223 which built on the actions my administration has already taken and implemented recommendations from the Task Force ensuring Coloradans have stable housing during this public health emergency.

This Executive Order amends and extends Executive Order D 2020 223, reaffirming and clarifying the CDC's national eviction moratorium and protecting residential and commercial tenants at risk for eviction who were economically harmed by COVID-19. We must take additional steps to provide relief to Colorado renters and small businesses.

II. Amendments

Section II of Executive Order D 2020 223 is amended to include the following:

H. For the purposes of this Executive Order, "financial hardship due to COVID-19" means an individual who meets all of the following criteria:

1. Is using best efforts to obtain government assistance for rent or housing;

2. Either (1) 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); (2) was not required to report any income in 2019 to the U.S. Internal Revenue Service; or (3) received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the federal CARES Act;

3. Is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary out-of-pocket medical expenses;

4. 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 nondiscretionary expenses; and

5. Would likely be rendered homeless or forced 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 if evicted.

I. I direct the Executive Director of DOLA to create a declaration form that uses the requirements outlined in Section II.H above. A tenant can demonstrate financial hardship due to COVID-19 by accurately completing and signing this form under penalty of perjury and providing it to their landlord. Additionally, the tenant may also provide the CDC's declaration form in lieu of DOLA's form to demonstrate financial hardship due to COVID-19.

J. No individual shall file or initiate actions for forcible entry and detainer (i.e. eviction) involving a premises based solely upon a tenant's default of a contractual obligation imposed by a rental agreement under C.R.S. § 13-40-101, *et seq*., if the tenant demonstrates financial hardship due to COVID-19.

K. No individual shall file or initiate actions for forcible entry and detainer (i.e. eviction) under C.R.S. § 13-40-101, *et seq*., involving a tenant in violation of C.R.S. § 13-40-104(c) following the expiration of the term of the agreement, month to month tenancies, or the termination of a tenancy at will or sufferance if the tenant demonstrates financial hardship due to COVID-19.

L. No individual shall file or initiate actions for forcible entry and detainer (i.e. eviction) under C.R.S. § 13-40-101, *et seq*., where the tenant did not commit a

substantial violation as defined by C.R.S. § 13-40-107.5 if the tenant demonstrates financial hardship due to COVID-19.

M. No individual shall remove or exclude a tenant from a premises or enter a premises to remove or exclude personal property of a tenant from the premises, including pursuant to a writ of restitution authorizing restoration of a plaintiff to possession of the premises under C.R.S. § 13-40-115 if the tenant demonstrates financial hardship due to COVID-19.

N. No individual shall execute or enforce a writ of restitution, possession judgment, or order under C.R.S. § 13-40-122 requiring a tenant to surrender or vacate a premises if the tenant demonstrates financial hardship due to COVID-19.

O. The limitations in Sections II.J. through II.N., above, do not apply to circumstances where a tenant poses an imminent and serious threat to another individual or causes significant damage to landlord's property. An individual testing positive for COVID-19 or an individual's potential exposure to COVID-19 is not considered to pose a serious threat to another individual or landlord's property and is not a substantial lease violation under C.R.S. § 13-40-107.5.

P. Except as provided in Sections II.J. through II.N., above, nothing in this Executive Order shall be construed as relieving any party of their duty to comply with any contractual obligations imposed on parties by a lease or rental agreement.

III. Duration

Executive Order D 2020 223, as amended and extended by this Executive Order, shall expire thirty (30) days from October 21, 2020, unless extended further by Executive Order. In all other respects, Executive Order D 2020 223 shall remain in full force and effect as originally promulgated.

GIVEN under my hand and the Executive Seal of the State of Colorado, this twenty-first day of October, 2020.

Jared Polis
Governor