OFFICE OF THE GOVERNOR
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR

MIKE COONEY
LT. GOVERNOR

**TO:** Montanans; all officers and agencies of the State of Montana
**FROM:** Governor Steve Bullock
**DATE:** April 13, 2020
**RE:** Directive implementing Executive Orders 2-2020 and 3-2020 and providing additional guidance related to evictions and establishing relief funds for affected renters

Executive Orders 2-2020 and 3-2020 declare that a state of emergency exists in Montana due to the global outbreak of COVID-19 Novel Coronavirus.

During a state of emergency, § 10-3-104(2)(c), MCA, authorizes the Governor to "control ingress and egress to and from an incident or emergency or disaster area, the movement of persons within the area, and the occupancy of premises within the area." The Governor may "suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business . . . if the strict compliance with the provisions of any statute . . . would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster." Section 10-3-104(2)(a), MCA. Further, "all officers and agencies shall cooperate with and extend their services and facilities to the governor as the governor may request" in responding to the emergency. Section 10-3-305(2), MCA.

Montana's public health laws also authorize the Department of Public Health and Human Services (DPHHS), acting under the Governor's direction, to "prevent and mitigate conditions of public health importance" through, among other things, "isolation and quarantine" measures. Section 50-1-202, MCA; *see also* § 50-1-203, MCA. Montana law provides that these authorities will be utilized to respond to an "outbreak of disease," § 10-3-103(4), MCA, and to "limit the transmission of the communicable disease." *See, e.g.*, § 50-1-101(6), MCA.

In responding to the outbreak of COVID-19, I previously determined that it is essential to the health, safety, and welfare of the State of Montana during the ongoing state of emergency that, to the maximum extent possible, individuals stay at home or at their place of residence to prevent opportunities for the transmission of COVID-19. Effective March 28, 2020, I directed Montanans to stay in their homes to the maximum extent possible, with exceptions for essential travel and essential work, among others.

On March 31, 2020, to ensure Montanans have a home to stay in and to address the significant economic and financial toll inflicted on many who have faced layoffs, furloughs, loss of income, or other circumstances that have deprived them of their ability to afford to stay in their home, I issued a Directive temporarily suspending certain residential evictions, foreclosures, and disconnections from service for the duration of the March 26, 2020 Stay at Home Directive.

I extended both Directives on April 7, 2020, effective through April 24, 2020.

As specified in the March 31, 2020 Directive, nothing in that Directive or its subsequent extension relieves any individual of their obligation to pay rent or comply with any other obligation that an individual may have under a tenancy. The Directive does not deprive landlords of remedies for

noncompliance with the terms of a lease, but merely precludes residential evictions from occurring during the state of emergency for nonpayment of rent or related financial obligations.

This Directive is intended to provide further guidance related to evictions. It also authorizes the use of funds to provide relief to low-income renters who, due to the COVID-19 emergency, cannot afford to pay rent. This Directive is not intended to preclude additional funds that may become available later through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) or other federal disaster-relief legislation or programs.

Therefore, in accordance with the authority vested in me under the Constitution, Article VI, Sections 4 and 13, and the laws of the State of Montana, Title 10, Chapter 3 and Title 50, Chapter 1, MCA, and other applicable provisions of the Constitution and Montana law, I hereby direct the following measures be in place in the State of Montana, effective immediately through April 24, 2020:

**I. Limitation on Evictions, Foreclosures, and Disconnections from Service Remains in Effect**

- The provisions of the March 31, 2020 Directive temporarily halting certain evictions, foreclosures, and disconnections from service remain in effect through April 24, 2020, except as further articulated or amended in this Directive.

- As specified in the March 31, 2020 Directive, nothing in that Directive or its subsequent extension relieves any individual of the obligation to pay rent or comply with any other obligation that an individual may have under a tenancy.

**II. Low-Income Rent Assistance Authorized**

- The Montana Department of Commerce shall administer a program to provide rent assistance to low-income Montanans who have suffered substantial financial hardship as a result of COVID-19.

- The program will include Temporary Assistance for Needy Families (TANF) funds allocated to the Montana Board of Housing (MBOH) for emergency housing assistance, including rent and security deposit assistance to support TANF eligible households to stay in their homes or obtain housing.

- The program will also utilize other monies identified or received by the State, including but not limited to federal relief monies, subject to pending federal guidance, to provide rent assistance for other low-income Montanans who are not eligible for TANF.

- Eligible individuals must include low-income Montanans who because of the COVID-19 emergency or the response to that emergency now lack sufficient income or resources available to pay rent or a security deposit.

- Eligibility, available funding, and benefits through the program may be expanded, based on need, to include funds provided by the CARES Act or other sources, when available and subject to the direction of the Office of Budget and Program Planning.

- The program, including application, eligibility, and plan for provision of funds, shall be administered pursuant to guidance issued by the Department of Commerce no later than 5:00 p.m. on April 17, 2020, and shall be updated as needed.

- To provide for the program, to allow for the expenditure of available TANF funds, and to allow for grant payments, strict compliance with §§ 90-6-133(1)(b) and 90-6-134(1), MCA, and ARM 8.111.508(4) is suspended for the duration of the emergency, but only for the limited purposes of administering the program described in this Directive.

**III. Provision for Implementing Limitation on Residential Evictions**

- The temporary limitation on residential evictions described in section I of the March 31, 2020 Directive applies and shall be implemented when one of the following circumstances exist and is documented by the tenant to the landlord or property owner:
    - A tenant is required to be quarantined based on their diagnosis of COVID-19.
    - A tenant is required to self-quarantine based on a Directive of the Governor, the advice of a healthcare provider, or the advice or directive of a local or state public health authority, the directive of a law enforcement officer, or where the tenant has reason to believe that self-quarantine is in the best interest of public health and human safety due to an exposure or high-risk activity.
    - A tenant is over 65 or has any health condition that places him/her at enhanced risk for COVID-19.
    - A tenant suffered a substantial loss of income from COVID-19, including:
        - Job loss;
        - Reduction in compensation;
        - Closure of place of employment;
        - Obligation to be absent from work to care for home-bound school-aged child; or
        - Other pertinent circumstances.

- If a tenant, resident, or lessee suffers any of the above circumstances and seeks relief under section I of the March 31, 2020 Directive, they shall notify the landlord or property owner and upon request supply the landlord or property owner with any reasonably available supporting documentation of their need for relief and acknowledge that all contractual terms of the lease remain in effect.

- A landlord shall not interpret a health and safety provision of a contract to include COVID-19 as a reason for termination of a lease or rental agreement; nor shall a landlord terminate a lease or rental agreement solely based on information provided by the tenant to satisfy a notice requirement as provided above.

**IV. Preemption and Suspension**

- This Directive supersedes, suspends, or preempts any conflicting state or local statute, rule, ordinance, or order. Nothing in this Directive, however, shall be construed to prevent any local government from imposing more stringent restrictions on evictions and foreclosures to the extent otherwise permitted by law.

- Nothing in this Directive shall, in any way, restrict state or local authority to order any quarantine, isolation, and/or other public health measures that may require an individual to remain in any particular residence or dwelling for the duration of this Directive.

- Nothing in this Directive suspends, modifies, amends, or lessens the rights of obligations of any person except as specifically provided in this Directive.

- Nothing in this Directive prohibits proceedings to remove a person who enters onto residential property without any legal claim of possession or title to said property.

**Authorities: Sections 10-3-104, -103, -302, -305, and -313, MCA; §§ 50-1-103, -202, -203, and -204, MCA**; Executive Orders 2-2020 and 3-2020; Montana Constitution, Art. VI, Sections 4 and 13, MCA; and all other applicable provisions of state and federal law.

**Limitations**

- This Directive is effective immediately and is in effect through April 24, 2020.
- This Directive shall be implemented consistent with applicable law and subject to the availability of appropriations.
- If any provision of this Directive 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 Directive, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Directive are declared to be severable.
- This Directive is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the State of Montana, its departments, agencies, or entities, its officers, employees, or agents, or any other person.