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LVL EVICTIONS NEWSLETTER

2nd UPDATE ... CDC / NV COVID-19 Declaration

**How does the CDC or NV COVID-19 Declaration
effect Nevada Evictions?**

CDC = Center for Disease Control and Prevention

Newsletter Update

We have good and bad news (depending upon how you look at it) on the CDC / NV COVID-19 Declaration. This clarification comes from the Court rulings, speaking to Deputy Attorney Generals, speaking to Court Eviction Clerks. We will try to explain what Tenants are protected from and NOT protected from within the Nevada Declaration of Emergency Directive 036, effective 12/15/2020 until 03/31/2021.

We will make every effort to update you on any changes that the Courts or Government officials have made regarding these new protection orders.

Unfortunately we do NOT have a Crystal Ball to determine what a Tenant will or will not do, but we encourage each Landlord to make the best decisions possible.

Directive 036 Explanation Simplified.

SECTION-1 = Landlord Defined. Landlords are defined as Owners, Brokers, Property Managers, Agents, etc. Any person, authorized by the Owner of the property, and authorized to execute a lease and conduct property management services on behalf of the Owner.

SECTION-2 = Covered Person Defined. Any Tenant and Occupant authorized by a Lease to occupy the property (NRS 118A.170 or NRS 118B.0185).

--- **(1) LOSS/DECREASE of INCOME/HOURS.** person who is unable (due to COVID-19) to pay the full rent amount due to substantial loss of household income, significant loss of compensable hours of work or wages, a lay-off, or extraordinary out-of-pocket medical expenses;

--- **(2) CROWDED LIVING.** person who is likely to become homeless or be forced to move into a crowded or shared living situation if evicted; and

--- **(3) INDIVIDUAL DECLARES.** The individual, declaring Covered Person status:

----- **(a) 2020 INDIVIDUAL and JOINT INCOME LIMIT.** Expects to earn no more than **\$99,000** in annual income (2020 calendar year) < OR > no more than **\$198,000** if filing jointly.

----- **(b) 2019 INCOME NOT REQUIRED TO BE REPORTED TO IRS.** Was NOT required to report any income in 2019 to the IRS; or

----- **(c) RECEIVED STIMULUS CHECK.** Received an Stimulus check (Economic Impact Payment) pursuant to Section 2201, CARES Act.

SECTION-3 = EXISTING Eviction Hearings and ORDERS on HOLD. Effective 12/15/2020 until 03/31/2021, or until removed/revoked, any Covered Person ("Covered Evictions") are stayed until 03/31/2021, except for the following:

--- **(1)** NRS 40.250 = 30-Day No Cause evictions.

--- **(2)** NRS 40.251 (1)(a)(3) = 5-Day Tenancy-At-Will evictions.

--- **(3)** NRS 40.251 (1)(b)(2) = 30-Day Term Letter evictions.

--- **(4)** NRS 40.251 (1)(c)(1) = Mobile Home lot evictions.

--- **(5)** NRS 40.251 (1)(d) = Recreational Vehicle (RV) lot evictions.

NOTE: SECTION-3 is subject change based upon the interpretation and decision by the Justice Courts, District Court and NV Supreme Court.

SECTION-4 = FUTURE Notices, Evictions and Lockouts STOPPED after CDC/NV COVID-19 Declaration Served. Effective 12/15/2020 until 03/31/2021, or until removed/revoked, any Landlord served with a CDC/NV COVID-19 Declaration is

PROHIBITED (MUST STOP) from starting any eviction actions (notices, eviction filings and lockouts) against that tenant (Covered Person).

NOTE-1 : If your tenant has **NOT** provided the Landlord with a CDC/NV COVID-19 Declaration, by email, fax, text message, etc. then Landlord may proceed with the eviction process until a CDC/NV COVID-19 Declaration is presented to Landlord.

NOTE-2 : Any Landlord continuing with the eviction process AFTER receipt of the CDC/NV COVID-19 Declaration may be sanctioned (penalized up to \$2,500/offense) by the Court.

NOTE-3 : The Attorney General's Office may pursue criminal actions against any Owner, Broker, Property Manager, Agent and Company violating Directive 036.

Brokers need to be extra careful as their Broker's, PM's and Agent's licenses are authorized by the NV Real Estate Division (a department of the NV Government).

SECTION-5 = Landlord's Right to CHALLENGE of Tenant's CDC/NV COVID-19 Declaration. Any Landlord has the right to challenge the tenant's CDC/NV COVID-19 Declaration status.

--- **(1) LANDLORD CHALLENGE TENANT CDC PROCESS.**

----- **(a) EVICTION NOTICE(s).** Serve tenant with a normal eviction notice (7-Day Rent, 30-Day NC, 30-Day Term Letter, 5-Day Lease Violation, etc.) and any 2nd notices required, served in accordance with NRS 40.280.

----- **(b) CHALLENGE NOTICE.** Serve tenant with a notice of Landlord's Intent to Challenge Tenant's Covered Person Declaration, served in accordance with NRS 40.280.

----- **(c) FILE EVICTION WITH CHALLENGE EVIDENCE.** Landlord MUST submit with the Complaint all evidence showing why tenant should be disqualified from Covered Person status. Good idea to obtain written proof that contradicts SECTION-2.

NOTE : Landlord runs the risk of being sanctioned (penalized up to \$2,500/offense) by the Court for filing a frivolous challenge.

NOTE-2 : Tenant has the right to provide proof of eligibility by:

----- **(N2-a)** Filing a Tenant Answer with the Court;

----- **(N2-b)** Testifying in Court, by in-person, over the phone, or any other manner authorized by Court.

SECTION-6 = Landlord's Right to ask Court for Exemption due to FORECLOSURE THREAT. Any Landlord has the right to ask the Court for an Exemption to Directive 036 due to a Foreclosure Threat.

--- **(1) LANDLORD EXEMPTION FORECLOSURE PROCESS.**

----- **(a) EVICTION NOTICE(s)**. Serve tenant with a normal eviction notice (7-Day Rent, 30-Day NC, 30-Day Term Letter, 5-Day Lease Violation, etc.) and any 2nd notices required, served in accordance with NRS 40.280.

----- **(b) EXEMPTION NOTICE**. Serve tenant with a notice of Landlord's Intent to request an Exemption from Directive 036 due to Threat of Foreclosure, served in accordance with NRS 40.280.

----- **(c) FILE EVICTION WITH EXEMPTION EVIDENCE**. Landlord MUST submit with the Complaint all evidence showing why Landlord should be exempt from Directive 036 due to Foreclosure threat. Good idea to provide Bank/Mortgage Company Foreclosure notices/letters.

NOTE: Again, Landlord runs the risk of being sanctioned (penalized up to \$2,500/offense) by the Court for filing a frivolous exemption.

SECTION-7 = EXISTING Lockouts (with CDC/NV COVID-19 Received) on HOLD. Effective 12/15/2020 until 03/31/2021, or until removed/revoked, any lockout (not covered by SECTION-3) is stayed (on hold) until 03/31/2021.

SECTION-8 = EXISTING Lockouts (NO CDC/NV COVID-19 Received) CONTINUE. Effective 12/15/2020 until 03/31/2021, or until removed/revoked, any lockout with NO CDC/NV COVID-19 Declaration received will CONTINUE.

SECTION-11 = SMALL CLAIMS COURT/RENT OBLIGATION. Tenant is REQUIRED to pay all rent, late fees, interest, penalties, damages, fees, etc. under the Lease. Landlord has the right to pursue Tenant in Small Claims Court or by any other legal means to collect a debt.

SECTIONS-9, -10, -12, and -13 are legal provisions for reference.

FAQs (Frequently Asked Questions)

What happens if my Tenant/Occupant does NOT give me a CDC / NV COVID-19 Declaration?

You continue with the eviction process, until you receive a CDC / NV COVID-19 Declaration.

What happens if I continue with the eviction after receiving a CDC / NV COVID-19 Declaration?

You can be sanctioned (penalized up to \$2,500/offense) by the Court.

In addition, the Attorney General's Office may pursue criminal actions against any Owner, Broker, Property Manager, Agent and Company violating Directive 036.

Does the CDC / NV COVID-19 Declaration protect the Tenant from all evictions as long as they live at my property?

Yes. Your tenant only needs to serve one (1) CDC / NV COVID-19 Declaration to protect him/her from all evictions while living at the property, until the eviction moratorium ends.

CDC Declaration.

CDC Order [2020-19654](#), National Eviction Order that STOPS { to HALT } all Rent Evictions, in all 50 States, until 12/31/2020 Link.

Order is under Section 361 of the Public Health Service Act (42 U.S.C. 264) and 42 CFR 70.2

[CDC Order 2020-19654, 09/04/2020, Federal CDC Rent Eviction Moratorium](#)

CDC Attachment A form for Tenants/Occupants Link

[CDC Attachment A Halt Rent Evictions Until 12/31/2020](#)

NV COVID-19 Declaration.

NV COVID-19 Directive 036, halting notices, staying evictions and staying lockouts for Covered Persons.

[Nevada Declaration of Emergency Directive 036, effective 12/15/2020](#)

NV COVID-19 Declaration for Tenants.

[NV COVID-19 Declaration form](#)

NV Lease Addendum for Rent Owed to Landlord.

[NV Lease Addendum, Promissory Note for Landlords and Tenants](#)

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