

COVID 19 and Renters' Rights

MARCH 27, 2020



Lawyers' Committee
for Better Housing

Advocating for Chicago Tenants

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Nonprofit legal aid organization founded in Rogers Park in 1980
Founded in Rogers Park in 1980

Believes that all persons have a right to safe, decent, and affordable housing on a non-discriminatory basis

Furthers this goal by providing free legal services to Chicago's low-income and working class renter families

- Direct legal representation
- Individual and public advocacy
- Supportive services
- **Community outreach and education**

COVID 19 IMPACTS RENTERS



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Overview of Recent Response to COVID 19 Changes in Laws and Policies Impacting Renters

- Review Eviction Process: Current Law
- Review Recent Government Actions that Impact Eviction Law and Process
- Discuss Tenant Issues Outside Eviction Process
- Best Practices in a Changing and Uncertain Environment

Different Jurisdictions

Different Protections



Federal, State, County, and Municipal Laws

Which Rule Applies?

- When in conflict the general rule is that Federal law pre-empts State, County, and Local laws but only where the laws expand protections
- Responses to COVID 19 have been implemented at all levels of government with differing impact
- The next Chart Identifies some laws impacting renters

Relevant Laws



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FEDERAL	ILLINOIS	CHICAGO
Fair Housing Act (42 USC § 3601 et seq)	Illinois Eviction Act (735 ILCS 5/9-101 et seq)	Residential Landlord and Tenant Ordinance (Chicago Municipal Code, Chapter 5-12)
Violence Against Women Act (42 USC § 13925 et seq)	Rental Property Utility Services Act (765 ILCS 735/1)	Keep Chicago Renting Ordinance (Chicago Municipal Code, Chapter 5-14)
Protecting Tenants at Foreclosure Act (Public Law No: 115-174 (05/24/2018) Div. A, Title III, sec 304, Restored June 23, 2018)	Retaliatory Eviction Act (765 ILCS 720/1)	Single Room Occupancy Ordinance (Chicago Municipal Code, Chapter 5-15)
	Residential Tenants' Right to Repair Act (765 ILCS 742)	Chicago Bed Bug Ordinance (Chicago Municipal Code, Chapter 7-28)
	Security Deposit Acts (765 ILCS 710/715 et seq)	
	Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1102)	
	Safe Homes Act (765 ILCS 750/1)	

Overview of Eviction Court Process



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- TERMINATE TENANCY has been properly terminated by service of the “NOTICE TO TERMINATE”
- EVICTION COMPLAINT can be filed with court (Also known as an EVICTION FILING) Different reasons for case:
 - Single Action: Possession only
 - Joint Action: Possession plus rent
- SERVICE of Summons must be delivered to Tenant
- Complaint proceeds in court—resolves by dismissal, trial or settlement
- EVICTION ORDER (judgment of possession in favor of landlord) (can be “stayed” by court)
- ENFORCEMENT BY SHERIFF

COVID 19 Changes to Eviction Process



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- **Service of Notices-** At this time, there is no Chicago bar to service of rent demand (5 day) s and other termination notices. However, in buildings with federally backed mortgages, there may be additional protections preventing service of notice at this time

Eviction Filings

- **“Coronavirus Aid, Relief, and Economic Security Act” or the “CARES Act”**
- **US Senate Passed, Not Yet Law:** Multi-family properties that are ‘covered’ (mortgage backed which includes LIHTC buildings) cannot file nonpayment based evictions for 120 days, charge fees for non-payment, and cannot give 30-day non renewal notice until after the 120-day period. It doesn’t seem to matter whether or not the landlord gets the mortgage forbearance in Section 4023. (Senate bill, passed by 3.26, expected to pass Congress 3.27/3.28).
- Otherwise: Cook County still accepting filings

COVID 19 Changes to Eviction Process



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Current Eviction Proceedings

- Cook County Chief Judge General Order (see handout) : All civil matters not deemed an emergency by party agreement are postponed 30 days or the next bus day after 30 days. Emergency requests in civil matters will be permitted.
- Discovery in civil matters (if your case was set for trial) will continue as planned
- There are different general administrative orders for the Law Division and Chancery

Eviction Orders

- No orders for an eviction or foreclosure will be entered or enforced during the 30-day period. (Cook County Clerk Chief Judge / Sheriff)
- **Currently set to expire on April 17, 2020**

LOOK UP YOUR CASE



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If you think your landlord may have filed a case against you:

- Most Counties in Illinois provide online dockets
- Cook County is at:
<http://www.cookcountyclerkofcourt.org/NewWebsite>

- Top bar: select “Court Case Lookup”

- Press “start search” button under heading for

Civil, Law, Chancery, and Domestic Relations/Child Support Search

Then: Select “Civil Division” from drop down

Select “Search By Name”

In blank box enter your last name then space then first

Select “Defendant”

Select “Start New Search”

If a case has been filed against you it will show up then click on that case number to see what has happened in the case

COVID 19 Changes to Eviction Process



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Enforcement of Eviction Orders-

Governor Pritzker's Emergency Order (see handout)

- “Section 2. Order ceasing evictions. Pursuant to the Illinois Emergency Management Agency Act, 20 ILCS 3305/7(2), (8), and (10), 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 for the duration of the Gubernatorial Disaster Proclamation. No provision contained in this Executive Order shall be construed as relieving any individual of the obligation to pay rent, to make mortgage payments, or to comply with any other obligation that an individual may have under tenancy or mortgage.”
- **Office of Cook County Sheriff, Tom Dart**--On March 14, the Sheriff put a halt to enforcement of evictions for 30 days.
- **Clerk of Court Cook County**-<http://www.cookcountycourt.org/Portals/0/Chief%20Judge/General%20Administrative%20Orders/GAO%202020-01.pdf?ver=2020-03-16-163631-480>
- All matters scheduled in court are postponed 30 days from the original court date unless that falls on a weekend (next business day)

COVID 19 Changes to Eviction Process



- What if I already agreed to move out during the period of “Shelter in Place”?
- Because of the pending “Shelter in Place” order it may be impossible to comply with an agreement to move out.
- If this is a court ordered agreement then you should notify the other side in writing
- Keep trying to locate a new place and pack

Statement About Rent Strike/ Rent Freeze/Mortgage Freeze



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- At this time, there is no rent forgiveness by any federal, Illinois State, Cook County or Chicago law
- Multiple organizing efforts are underway calling for the rights of tenants to be forgiven for rent and some calling for smaller landlords to be forgiven for mortgage payments
- Tenant advocates must be clear with tenants that without any law forgiving or waiving rents or mortgages for any period of time due to the health crisis, the current halt on eviction orders and enforcement of evictions does not halt the accrual of rent claims or the filing of eviction cases (with possible exceptions). As of now, claims for unpaid rent due to income loss can still be pursued once the courts open up again

Other Renter Issues



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- Lockouts
- Utility Shut Off/Payment
- Harassment
- Domestic Violence
- Returning Citizens
- Issues affecting tenants with disabilities

LOCKOUTS



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What is a Lockout?

- Changing Locks
- Plugging Locks
- Removing Doors
- Removing Windows
- Shutting Off Utilities
- Removing Property
- Making Apartment Uninhabitable

LOCKOUTS



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Step 1: Call Police: Must be present at the Premises

Step 2: Ask officer to arrest landlord for failing to end lockout. If landlord is unavailable ask for a Police Report or Misc. X Card.

Step 3: If officer is not helpful (1) Ask for Beat Sergeant or Watch Commander, (2) Inform of Special Police Order 93012 and (3) Report Officer to the IPRA (need badge # and name)

Step 4: Swear Out Arrest Warrant (at police precinct office)

Step 4: Refer to Attorney (Tenant may be able to sue LL)

LOCKOUTS



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Where the police refuse to assist a tenant in the midst of a lockout because they believe it to be outside of their authority, the tenant or advocate can refer them to the CPD Special Order

Special Order S04-01-03

[See Chicago Police Department at:](#)

[http://directives.chicagopolice.org/
directives/data/a7a57be2-12b780f4-
30412-b788-27ebe6c87d2d6a56.pdf](http://directives.chicagopolice.org/directives/data/a7a57be2-12b780f4-30412-b788-27ebe6c87d2d6a56.pdf)

[See LCBH website:](#)

[https://www.lcbh.org/issues/illegal-lo
ckouts](https://www.lcbh.org/issues/illegal-lockouts)

Utility Shut-Off and Harassment



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- Intentional Utility Shut-off by a landlord is a LOCKOUT
- Tenants can contact local police department and in Chicago refer to the the CPD Special Order
- Other forms of Harassment such as improper entry or repeated/unnecessary entry

Renter Remedies



- Right to file an Emergency Petition with Court:
 - Not ideal at this time, requires appearance in court reduced court staff may slow process
- Contact Police Department: Chicago Special Police Order
- Contact Local Legal Aid for help with Cease and Desist Letter to Notify landlord of illegal conduct/subject to fines/damages/ possible attorney fees

Utility Disconnection By Company



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Illinois Commerce Commission COVID-19

Response—Formalizes Gov's REQUEST to utilities

- Requests that utilities stop disconnections during public health emergency
- Requests that utilities late payment fees until 5.1 or until crisis has passed, and thereafter to work with tenants on credit/collections

Utility Responses to ICC request:

- ComEd: Issues a statement that they are **SUSPENDING** disconnections waiving late payments through May 1st
- Peoples Gas Issued a statement that they are waiving **new** late payment charges for customers through May 1. Grants may be available for some who qualify

Economic Assistance



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- Rental Arrears Assistance: Court-Based Relocation Assistance and Department of Human Services may have funds to assist with rent. Contact 311 in Chicago.
- Applying for Unemployment Insurance:
https://www2.illinois.gov/ides/Pages/COVID-19-and-Unemployment-Benefits.aspx?fbclid=IwAR3IHnhNCVyUXwFivaGy9RiMulaapx04pwG3UH5bfR-PmxrZYHEB_oYDis
- SNAP assistance:
 - https://www2.illinois.gov/ides/Pages/COVID-19-and-Unemployment-Benefits.aspx?fbclid=IwAR3IHnhNCVyUXwFivaGy9RiMulaapx04pwG3UH5bfR-PmxrZYHEB_oYDis

Issues Affecting Tenants Experiencing Domestic Violence



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- Call 1-877-TO END DV
- Per Governor Pritzker's Executive Order: Those experiencing D.V. are not mandated to shelter in place
 - "individuals whose residences are unsafe or become unsafe, such as victims of domestic violence, are permitted and urged to leave their home and stay at a safe alternative location. For purposes of this executive order, homes or residences include hotels, motels, shared rental units, shelters and similar facilities."

Returning Chicagoans Recently Released From Jail



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- Per Cook County sheriff's office, Cook County Jail has released several detainees deemed "highly vulnerable" to coronavirus
- Released prisoners may seek housing with family members
- Guest Policies: Private market/Subsidized Housing
- Private Market:
 - Look to the terms of the lease/house rules
 - Terms *typically but not always* may dictate that the premises be occupied by the tenant, dependents, and other authorized persons and may require written permission of the landlord. Guests may be limited to visits of no more than two weeks.
 - If lease term is breached on grounds of occupancy by unauthorized occupant, tenant is still entitled to 10 day notice for breach of lease (allows 10 days to cure the breach), and the landlord would need to file an eviction proceeding to evict the tenant on that ground
- CHA properties
 - Chicago Housing Authority does not impose restrictions on guests based on past convictions
 - Chicago Housing Authority imposes time limits on all guests. The lease allows for extensions. This seems to be a good route for someone who needs a medium amount of time (say 3 months), especially while the state is in emergency mode
 - Please contact Legal Aid Chicago for help for tenants facing termination in CHA properties
 - 312-341-1070



Please refer tenants in need of direct assistance to www.rentervention.com

For follow up questions on this presentation, please contact:

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