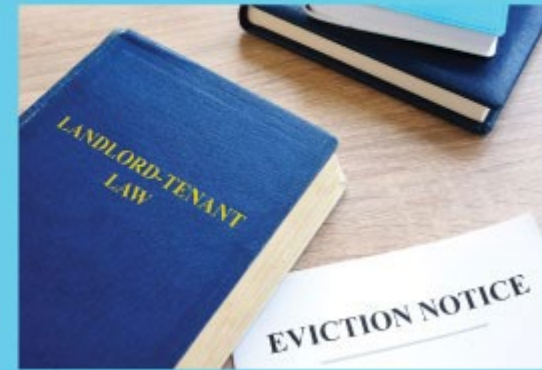




FAA Eviction Update Webinar

August 3
at 3:30 p.m.



FLORIDA COVID-19 EVICTION UPDATE

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DISCLAIMER:

The information presented in this webinar is for informational purposes only and is not intended to be legal advice. For specific legal advice regarding your company's policies and procedures, please consult your attorney.





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Advocacy in Action

Throughout the COVID-19 crisis, FAA has been advocating on the apartment industry's behalf:

- Served on a state Eviction Mitigation Task Force that was hosted by DBPR.
- Met with local governments to discuss rent relief programs.
 - Local rent relief funds list: <https://www.faahq.org/news/resident-resources-during-covid-19>
- Met with the Florida Supreme Court to discuss administrative orders related to the eviction process.
- Provided numerous statements to reporters and wrote an industry focused op-ed regarding the challenges housing providers are facing.
- Conducted multiple industry surveys to gather data needed for advocacy efforts.
- Convened a coalition of housing industry stakeholders to meet with the Governor's office to discuss Florida's eviction moratorium.
 - **Last week a subsequent order which allows evictions to be filed was issued.**



Today's Guest Speakers



Harry Heist
Heist, Weisse & Wolk P.A.



Ryan McCain
Barfield, McCain P.A.



New Executive Order Limits Eviction Protections

- On July 29, Governor DeSantis issued Executive Order 20-180, which provides a limited extension of the original eviction moratorium that was issued in Executive Order 20-94.
- **Executive Order 20-180 included important revisions, which will allow evictions, even cases for nonpayment of rent, to be filed and processed by the courts.**
- The new order merely suspends the "final action at the conclusion of an eviction proceeding" until September 1, 2020 for cases that arise from nonpayment of rent by a tenant who has been adversely affected by the COVID-19 emergency.
- According to the order, "adversely affected" by the COVID-19 emergency means a loss of employment, diminished wages or business income, or other monetary loss realized during the Florida State of Emergency and directly impacting the ability of a residential tenant to make rent payments. This new language also clarifies that the judicial system can issue writs of possession for eviction proceedings unrelated to nonpayment of rent.



Evaluate Your Policies and Procedures

Did you sign any social services forms?

- It is critical to verify if you have agreed to wait for past-due rent from a social services agency, local rent relief fund, or other source.

Did you enter into any verbal agreements with residents?

- Everything from this point forward should be in writing and in compliance with eviction notice requirements.

Did you enter into a payment plan with a resident and are there outstanding repairs?

- Your payment plan and any rent that has been paid should not conflict with the rent owed on the notice. If the tenant is not in default of the payment plan, it could limit your ability to serve notice.
- Outstanding repairs should be addressed.

Have you carefully reviewed your three-day notice prior to sending it to the resident?

- Proof the notice carefully to avoid making a mistake that could require you to reissue a new three-day notice.



Eviction Mitigation Techniques

It all boils down to one word: COMMUNICATION:

- Talk to your resident about their situation and their plans.

Is the resident interested in signing an agreement to vacate?

- This can be beneficial for the resident because an eviction will not appear on their record.

Cash for keys can be an effective mitigation technique during this time.

- The eviction process is a lengthy and costly process. A cash for keys agreement can motivate a resident to vacate in a specified number of days.



Eviction Mitigation Techniques

Don't forget about the LMR or the Security Deposit.

- As long as you and the resident have an agreement in writing, this money can be used for this purpose.

Is the resident already out of the apartment?

- Always check the property before filing an eviction. Many residents have been vacating early if they are significantly behind on their rent.

Now that I have exhausted eviction mitigation measures, how should I proceed?

- Proceed with caution.



Three-Day Notice Best Practices

- If you have given a three-day notice between April 2nd and now, **redo the notice.** Keep in mind, CARES Act covered properties are required to use a 30-day notice.
- Take your time and ensure the names, date, expiration date, address, amounts, and certificate of service are correct.
- If the notice is not hand-delivered, take a photo of the notice on the door after you post it.
- If you have safety concerns, consider getting a process server involved.
- Verify the rent listed on the notice is actually “past due” and check for electronic payments.
- Late fees are highly discouraged at this time as they could be deemed excessive by a judge.



CARES Act Notice Requirements

- The CARES Act eviction moratorium expired July 26, 2020.
- Don't forget that the CARES Act imposed specific notice requirements.
- Rent past due through July requires a 30-day notice for ALL CARES Act covered properties.
- What about August rent and beyond?
 - Clarity is needed. NAA is lobbying members of Congress to address this issue in the next phase of COVID-19 relief legislation at the federal level.
 - Until clarity is provided, proceed with caution.



Eviction Best Practices

Once the resident's notice period expires, you may proceed with the eviction:

- Step 1: Do a final check of the property.
- Step 2: Contact your eviction attorney to file the eviction.

Keep in mind, it is possible that the court will move slower than normal due to COVID-19 concerns and limited operations.

Expect judges to set far more hearings for contested cases than normal due to COVID-19.

Remember you can stop an eviction by entering into a stipulation.



Apartment Political Action Committee

- 2020 is an important Election year.
- APAC allows the industry to build lasting relationships with lawmakers before and after they are elected.
- During the 2018 cycle, 92% of APAC supported candidates were elected.
- APAC supports both Republicans and Democrats in Florida.

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Questions?

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