

COVID-19

CORONAVIRUS: GUIDANCE REGARDING COMMERCIAL AND RESIDENTIAL EVICTIONS THROUGH MAY 1, 2020

March 18, 2020

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Foulston has produced a series of issue alerts as we continue to monitor the evolving COVID-19 situation and provide additional guidance. Please find all updates and our latest resources available [here](#).

Because of the ongoing COVID-19 pandemic, many Kansans are concerned about being able to pay mortgage or rent payments due to lost wages or income. On March 17, 2020, in an effort to mitigate the economic impact of COVID-19 on Kansans, Gov. Laura Kelly issued Executive Order No. 20-06 directing and ordering “all financial institutions operating in Kansas to temporarily suspend the initiating of any mortgage foreclosure efforts or judicial proceedings *and any commercial or residential eviction efforts or judicial proceedings* [emphasis added] until May 1, 2020.” On March 18, 2020, President Trump announced at a White House press briefing that “The Department of Housing and Urban Development is providing immediate relief to renters and homeowners by suspending all foreclosures and evictions until the end of April.”

While Gov. Kelly’s executive order appears to only apply to financial institutions, and President Trump’s press briefing only addresses the actions and efforts of HUD, media reports have been implying, or misread as implying, that *all* commercial and residential eviction efforts are on hold until May. This has led to confusion among landlords, tenants, and even some Kansas courts. At least one Kansas District Court Judge has interpreted Gov. Kelly’s executive order as a moratorium order applicable to all evictions in the state of Kansas. It is our reading of both President Trump’s announcement and Executive Order No. 20-06 that they do not suspend or prohibit evictions of commercial or residential tenants in Kansas, other than by HUD or financial institutions.

We anticipate that many Kansas tenants may attempt to rely on President Trump’s announcement or Executive Order No. 20-06 to delay rental payments or ask for rent concessions. We recommend that all landlords review their leases and prepare to receive communications from tenants regarding late or missed rental payments allegedly related to economic hardships resulting from the ongoing COVID-19 pandemic.

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FOR MORE INFORMATION

If you have questions or want more information regarding how COVID-19 may affect your commercial leases or other commercial real estate projects, contact your legal counsel. If you do not have regular counsel for such matters, Foulston Siefkin LLP would welcome the opportunity to work with you to meet your specific business needs. Foulston's commercial real estate lawyers and litigators maintain a high level of expertise regarding federal, state, and local regulations affecting the real estate industry. At the same time, our commercial real estate practice group's relationship with Foulston's other practice groups, including the construction, taxation, general business, labor and employment, and commercial litigation groups, enhances our ability to consider the legal ramifications of these situations. For more information, contact **F. Robert Smith** at 316.291.9779 or rsmith@foulston.com, or **Scott Nehrbass** at 913.253.2144 or snehrbass@foulston.com. For more information on the firm, please visit our website at www.foulston.com.

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RESOURCES

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