

Community Associations May Begin Eviction Actions, Subject to Conditions, Under Revised Eviction Moratorium



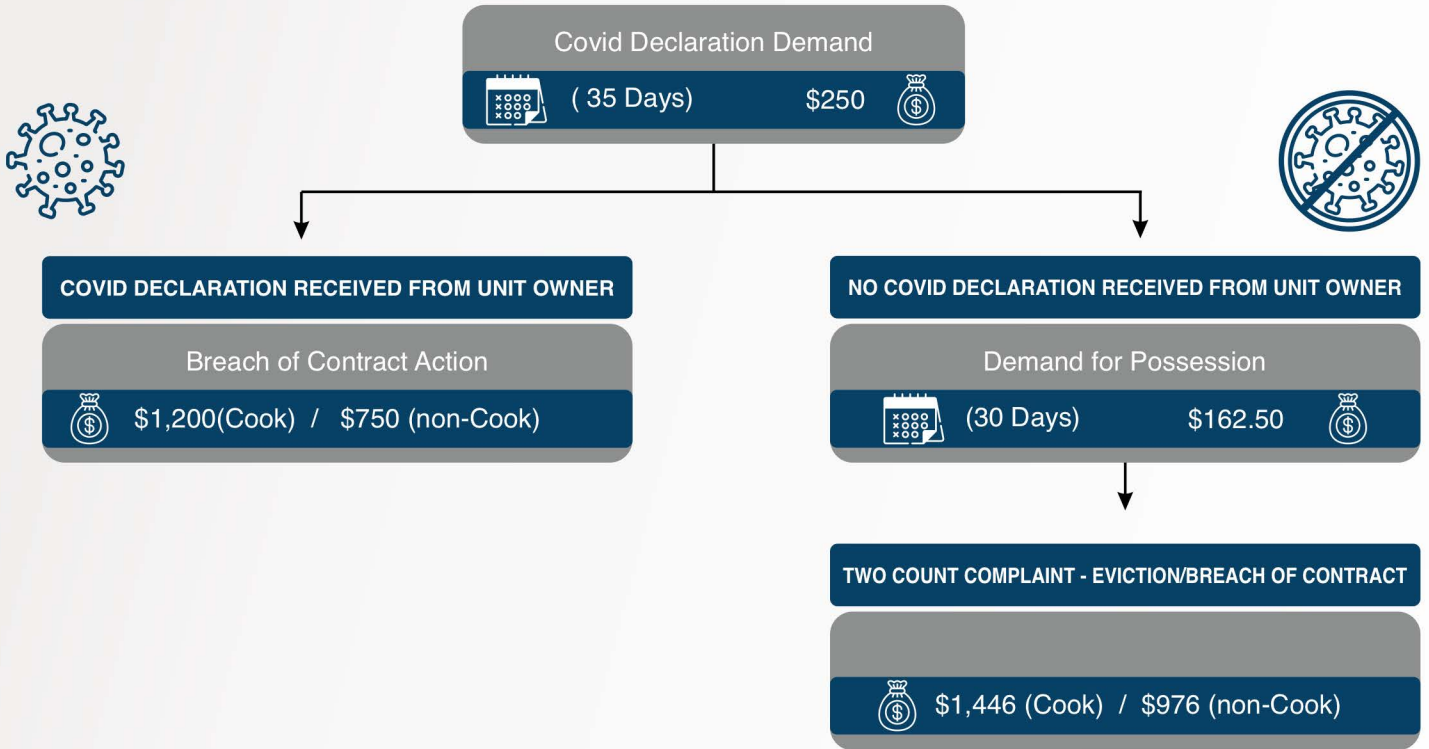
The commencement and pursuit of residential eviction actions has been on hold by Executive Order of Governor Pritzker since April 23, 2020. As expected, on November 13, 2020, the Governor again extended the disaster proclamation for another thirty (30) days. The eviction moratorium was also extended, but this time, with modifications meant to address those individuals who are able to pay rent and assessments, but who just are not doing so.

Executive Order 2020-72 (“Order”) prohibits the commencement of a residential eviction action against a “covered person.” A “covered person” is one who (1) expects to earn no more than \$99,000 in annual income (or \$198,00 if filing a joint return) in 2020 or who received an Economic Income Payment from the Federal government, (2) is unable to make full payment of rent or other housing payment due to a COVID-19 related hardship, (3) is making best efforts to timely make partial payments as close as possible to the full amount, and (4) eviction would likely render the individual homeless. Under penalty of perjury, tenants and/or owners must execute a Declaration to be considered a “covered person” protected by this Order. Before commencing the eviction action (issuing a demand for unpaid rent or common expenses), the party seeking to initiate the eviction action must provide a copy of the Declaration to the tenant or owner. A copy of the Declaration form may be found here: <https://df7qosnywqs6g.cloudfront.net/wp-content/uploads/2020/11/Tenants-Declaration-Form.pdf>. If no such Declaration is made, an eviction action can proceed as normal.

In addition to permitting residential eviction actions to be commenced against non-covered persons, the Executive Order permits enforcement of pre-pandemic orders of possession in limited circumstances. Specifically, an association may proceed with enforcement of its order of possession if it is found that the resident is an immediate or severe risk to the property. This means that condominium and townhome associations may be able to pursue enforcement of its order of possession with respect to vacant units, which are a potential risk to the property during the winter months due to lack of heat.

With this Order, associations may resume the normal collection process in certain circumstances. At Keough & Moody, our attorneys will be reviewing active files (specifically those without established payment arrangements) and providing Declaration forms to owners. If Declaration forms are not returned by a date certain, we will look to pursue the eviction process given appropriate direction from the Association. Similarly, we will review all files with outstanding orders of possession to determine whether grounds exist to seek enforcement of that order. We will continue to review all files on a case-by-case basis and make recommendations to the board, as to how to best move forward.

Our attorneys remain available to meet (via videoconference) or otherwise to discuss the action(s) that boards can and should take with respect to delinquencies or other association matters (meetings, elections, rule violations, etc.) during this unprecedented and difficult time. We will continue to keep you advised of new developments as they arise.

GENERAL PATH OF A NEW COLLECTION FILE

**GENERAL PATH FOR PENDING COLLECTION MATTERS SINCE
EVICTION MORATORIUM HAS BEGUN
(PRE 11/13/2020 EXECUTIVE ORDER)**
