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California Governor's Executive Order N-80-20 Regarding Commercial Evictions

Governor Gavin Newsom issued Executive Order N-80-20 on September 23, 2020, extending Executive Order N-28-20 through March 31, 2021, with respect to commercial evictions only. The governor's original order N-28-20 removes preemption and statutory restrictions on local governments with respect to commercial evictions, thereby allowing local governments to impose commercial eviction moratoriums and restrictions for commercial tenants who are unable to pay their rent because of COVID-19.

The governor's order only addresses commercial evictions because [AB 3308 fully addressed residential evictions through March 2021](#). Because the governor's order does not itself establish a statewide commercial eviction moratorium, commercial landlords and tenants should refer to their local government's eviction protections. We expect local governments to adopt coronavirus commercial eviction protections, as permitted by the governor's order, in the coming days.

San Francisco Mayor's Supplement to the Commercial Eviction Moratorium

On September 29, 2020, San Francisco Mayor London Breed issued the Twenty-Eighth Supplement to Mayoral Proclamation Declaring the Existence of a Local Emergency, dated February 25, 2020. The latest proclamation extends the existing commercial eviction moratorium to November 30, 2020, and prohibits evictions for late rent payments due from March 17, 2020, through November 30, 2020. The proclamation also clarifies that no missed rent is due until the expiration of the commercial eviction moratorium. The moratorium may be extended by the mayor for two months at a time, but not beyond the expiration of the governor's executive order.

The latest proclamation also narrows the application of the commercial eviction protections. Formula retail tenants (as defined by Section 303.1 of the San Francisco Planning Code), that is, tenants with 11 or more retail stores in the world, are not eligible for protection under the commercial eviction moratorium.

Also, landlords that own less than 25,000 square feet of rentable space in a building can seek exemption from the ordinance. Such landlords may evict a tenant due to nonpayment of rent if the landlord can demonstrate that the inability to evict would create a significant financial hardship for the landlord.

Aaron Peskin of the San Francisco Board of Supervisors said, "The Mayor's approach has been remarkably successful for San Francisco at large, and now it's incumbent upon us to do everything we can to ensure small businesses survive this pandemic. For me and my colleagues who are fighting to revive our neighborhood commercial corridors, we now have some breathing room to ensure that everyone recovers."

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