State of Nevada

Executive Department

DECLARATION OF EMERGENCY

DIRECTIVE 043

WHEREAS, on March 12, 2020, I, Steve Sisolak, Governor of the State of Nevada, issued a Declaration of Emergency to facilitate the State's response to the COVID-19 pandemic; and

WHEREAS, on March 13, 2020, Donald J. Trump, President of the United States, declared a nationwide emergency pursuant to Sec. 501(6) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"); and

WHEREAS, the World Health Organization advises that the novel coronavirus that causes COVID-19 virus is highly contagious, and spreads through respiratory transmission, and direct and indirect contact with infected persons and surfaces; and

WHEREAS, the World Health Organization advises that transmission occurs through both droplet and airborne transmission, where droplet transmission occurs when a person is in close proximity to someone who is infected with COVID-19; and

WHEREAS, the World Health Organization advises that contact transmission occurs by direct contact with infected people or indirect contact with surfaces contaminated by the novel coronavirus; and

WHEREAS, close proximity to other persons is currently contraindicated by public health and medical best practices to combat COVID-19; and

WHEREAS, efforts to treat, prevent, or reduce the spread of COVID-19 may make it medically necessary and reasonable to require individuals to remain in isolation or quarantine at their places of residence; and

WHEREAS, on March 14, 2020, I formed a COVID-19 Medical Advisory Team to provide medical guidance and scientifically based recommendations on measures Nevada could implement to better contain and mitigate the spread of COVID-19; and

WHEREAS, the United States Centers for Disease Control and Prevention ("CDC") of the United States Department of Health and Human Services ("DHS") has determined that "[i]n the context of a pandemic, eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to

prevent the spread of communicable disease." Federal Register Document Number 2020-19654 ("CDC Eviction Order"), 85 FR 55292-55297 at 55294; and

WHEREAS, the CDC has further stated that "[e]viction moratoria facilitate self-isolation by people who become ill or who are at risk for severe illness from COVID-19 due to an underlying medical condition. They also allow State and local authorities to more easily implement stay-at-home and social distancing directives to mitigate the community spread of COVID-19. Furthermore, housing stability helps protect public health because homelessness increases the likelihood of individuals moving into close quarters in congregate settings, such as homeless shelters, which then puts individuals at higher risk to COVID-19." CDC Eviction Order at 85 FR 55294.

WHEREAS, on March 18, 2020, the United States Department of Housing and Urban Development ("HUD"), in an effort to provide immediate relief to renters and homeowners, temporarily suspended all foreclosures and evictions for all FHA-insured Single-Family mortgages for an initial period of 60 days; and

WHEREAS, the suspension of foreclosures and evictions for all FHA-insured Single-Family mortgages was further extended by HUD on May 14, 2020, June 17, 2020, and August 27, 2020 (https://www.hud.gov/program_offices/administration/hudclips/letters/mortgagee); and

WHEREAS, on March 25, 2020, the United States Congress passed an aid-package ("the CARES Act," https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf), that is intended to provide substantial economic assistance to businesses, individuals, and families throughout the nation, and a temporary suspension of eviction and foreclosure actions or proceedings will give Nevadans and businesses facing financial hardship resulting from the COVID-19 pandemic a grace period to obtain financial assistance made available through this extensive aid-package, as well as others, while allowing them to maintain essential stability in housing and business establishments; and

WHEREAS, to avoid serious health, safety, welfare, and financial consequences that may result from the eviction of Nevadans from their places of residence during this emergency, it has been reasonable and necessary to suspend unlawful detainer actions related to residential real property in Nevada; and

WHEREAS, on March 29, 2020, I issued Directive 008, to ensure the safety of Nevadans and businesses by temporarily halting eviction proceedings except for those stemming from threats to public health, public safety, criminal activity, or significant damage to property; and

WHEREAS, on June 25, 2020, I issued Directive 025, which amended Directive 008 to provide a phased approach to lifting the prohibitions contained within Directive 008, with full resumption of eviction proceedings to commence on September 1, 2020; and

WHEREAS, on August 31, 2020, I issued Directive 031, which terminated Directives 008 and 025 and delayed full resumption of evictions based upon service of the initiation of a nonpayment of rent summary eviction action by service of a pay or quit notice pursuant to NRS 40.253 until October 15, 2020; and

WHEREAS, on September 4, 2020, the CDC national order staying execution of nonpayment of rent eviction judgments against tenants meeting certain criteria for nonpayment of rent for eligible tenants went into effect (Federal Register Document Number 2020-19654 https://www.federalregister.gov/documents/2020/09/04/2020-19654/temporary-halt-in-residential evictions-to-prevent-the-further-spread-of-covid-19; https://www.cdc.gov/coronavirus/2019-ncov/covid-eviction-declaration.html); and

WHEREAS, on October 15, 2020, all Nevada prohibitions against eviction proceedings expired while the CDC's Eviction Order remained in effect; and

WHEREAS, the State of Nevada and some of its political subdivisions utilized CARES Act funding to create COVID-19 rental assistance programs; and

WHEREAS, Senate Bill 1 ("SB1") of the 32nd Special Session of the Nevada Legislature authorized the Supreme Court of Nevada to develop and implement an expedited program of alternative dispute resolution for eviction proceedings; and

WHEREAS, on July 31, 2020, during legislative testimony on SB1, testimony was offered that, according to the State Treasurer's Office, the State could experience approximately 135,000 evictions. Similarly, a Guinn Center Report presented during the hearing projected that approximately 142,000 households may be affected by evictions. (Senate Daily Journal of the Thirty-second Special Session, 2020 at p. 26, available at https://www.leg.state.nv.us/App/NELIS/REL/32nd2020Special/Bill/7139/Meetings); and

WHEREAS, pursuant to SB1, the Supreme Court of Nevada adopted rules ADKT 562, ADKT 564, ADKT 566, and ADKT 567 related to mediation of residential summary evictions, which became effective on October 15, 2020 (http://caseinfo.nvsupremecourt.us/document/view.do?csNameID=59751&csID=59751&delinkID=784829&onBaseDocumentNumber=20-32070); and

WHEREAS, on December 14, 2020, I issued Directive 036, which extended the State prohibition on certain evictions for certain persons until March 31, 2021; and

WHEREAS, on March 29, 2021, the CDC Eviction Order was extended to expire on June 30, 2021; and

WHEREAS, the HUD moratorium on foreclosures and evictions for all FHA-insured Single-Family mortgages was extended to expire on June 30, 2021; and

WHEREAS, as of March 26, 2021, Nevada has one of the highest unemployment rates in the nation, at 8.3%; and

WHEREAS, the public health considerations that precipitated CDC Order and Directive 036 remain a serious threat to public safety; and

WHEREAS, many Nevadans have been and continue to be directly or indirectly impacted by the economic impact of the COVID-19 pandemic, and as a result, have been unable to stay current on rental payments for their places of residence; and

WHEREAS, on December 11, 2020, the COVID-19 Medical Advisory Team convened to consider the impact the resumption of evictions would have on Nevada's COVID-19 infection rate; and

WHEREAS, the COVID-19 Medical Advisory Team noted the "Administrator for Housing Commission stated latest figures show NV range of households at risk of eviction is 74,000-147,000," and if the "CDC order lifted would be an additional 25,700-51,300. . ." (Minutes of December 11, 2020 COVID-19 Medical Advisory Team meeting, hereinafter referenced as "MAT Minutes"); and

WHEREAS, the COVID 19 Medical Advisory Team experts stated that "[h]ousing is public health issue. Homeless shelters are packed, not conducive to halting or slowing virus transmission," and "significant evidence shows spikes in housing eviction would only contribute to additional risk and spread of the virus within the community. ..." (MAT Minutes at 3); and

WHEREAS, the COVID-19 Medical Advisory Team experts additionally stated, "[i]f the question is [whether] evictions lead to increase transmission or not, than *[sic]* answer is clear, they do" (MAT Minutes at 3); and

WHEREAS, the COVID-19 Medical Advisory Team unanimously recommended that I issue "an executive order to enact a moratorium on evictions to address the COVID-19 public health emergency and reduce increased community transmission caused by displacement and homelessness in Nevada. . ." (Governor's COVID-19 Medical Advisory Team Recommendation Summary (December 11th, 2020)); and

WHEREAS, the Congress of the United States has recently passed the American Rescue Plan Act of 2021 ("ARP Act"), which was signed into law on March 11, 2021 by President Joseph R. Biden, to provide additional pandemic relief to individuals and to states, including appropriations for rent relief; and

WHEREAS, there is a need for immediate action in Nevada to avoid eviction harms and uncertainty for all actors within the rental market; and

WHEREAS, Nevada's rental assistance programs for residential tenants and landlords have not fully disbursed all available funds and additional funding for those programs will be provided by the ARP Act; and

WHEREAS, based on the advice of the experts on the COVID-19 Medical Advisory Team and guidance from the Centers for Disease Control, the State of Nevada has an urgent imperative to temporarily limit evictions to lower the COVID-19 infection rate; and

WHEREAS, the State of Nevada has a compelling public interest in protecting the health and safety of its residents by reducing the COVID-19 infection rate to save lives and avoid exceeding the capacity of our healthcare system; and

WHEREAS, NRS 414.060 outlines powers and duties delegated to the Governor during the existence of a state of emergency, including without limitation, directing and controlling the conduct of the general public and the movement and cessation of movement of pedestrians and vehicular traffic during, before and after exercises or an emergency or disaster, public meetings or gatherings; and

WHEREAS, Article 5, Section 1 of the Nevada Constitution provides: "The supreme executive power of this State, shall be vested in a Chief Magistrate who shall be Governor of the State of Nevada;"

NOW THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of Nevada and the United States, and pursuant to the March 12, 2020 Emergency Declaration,

IT IS HEREBY ORDERED THAT:

SECTION 1: The provisions of previous Directives are hereby superseded only by the explicit provisions of this Directive. Any provisions not addressed by this Directive shall remain in force as provided by previous Directives or regulations promulgated pursuant to the March 12, 2020 Declaration of Emergency.

SECTION 2: Section 2 of Directive 036 is hereby amended to read as follows:

For the purposes of this Directive, a "Covered Person" is a tenant as defined by NRS 118A.170 or NRS 118B.0185, who:

1. Is unable, due to circumstances related to the COVID-19 pandemic, to pay the full rent due to substantial loss of household income, significant loss of compensable hours of work or wages, a lay-off, or extraordinary out-of-pocket medical expenses;
2. Is likely to become homeless or be forced to move into a congregate or shared living situation if evicted; and
3. The individual:
   a. Earned no more than $99,000 in annual income for Calendar Year 2020 or expects to earn no more than $99,000 in Calendar Year 2021 (or no more than $198,000 if filing a joint tax return);
   b. Was not required to report any income in 2019 or 2020 to the U.S. Internal Revenue Service; or
   c. Received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act or a Recovery Rebate (stimulus check) pursuant to Section 9601 of the ARP Act.

SECTION 3: For purposes of this Directive, the term "Covered Eviction" has the meaning ascribed to it in Section 3 of Directive 036.

SECTION 4: In addition to the provisions in Directive 036, if a landlord serves a notice pursuant to NRS 40.280, a notice to vacate, notice to quit or pay, or any other notice to a tenant related to removal of the tenant or surrender of the premises related to a Covered Eviction, the landlord must include with the notice an informational statement ("Informational Statement") on a form prescribed by the Nevada Housing Division of the Department of Business & Industry. The Informational Statement must include the following:

- A statement that the eviction moratoria pursuant to the CDC Order and the State's emergency directives provide protection from eviction to certain persons in certain residential evictions;
- A statement that the protections of the moratoria are not automatic, and that the tenant must respond to the notice and must take action in order to avoid eviction, unless the tenant has already provided a Covered Person Declaration or CDC declaration to his or her landlord;
- A description of who is a Covered Person, as defined in Directive 036;
- A statement that a tenant who qualifies as a Covered Person has the option to present a Covered Person Declaration, and a copy of a Covered Person Declaration form; and
- Information regarding rental assistance programs in the tenant's county and information on how to access such programs.

The Informational Statement must be printed in at least size 12 font, provided in a clear and conspicuous manner, and must be printed and provided in both English and Spanish.

SECTION 5: A tenant who has already provided a Covered Person Declaration or a CDC declaration to his or her landlord pursuant to Directive 036 or the CDC Order is not required to provide a new declaration in order to be protected under this Directive.

SECTION 6: Section 4 of Directive 036 is hereby amended to add the following:

This Section does not stay eviction mediation proceedings pursuant to the program established by the Nevada Supreme Court for cases that were pending in a court prior to the effective date of this Directive. This Section does not stay or prohibit any process or application for rental relief or assistance.

SECTION 7: Should any section of this Directive conflict with any provision of the CARES Act, the ARP Act, or any successor legislation, the provisions of the CARES Act, ARP Act, or successor legislation, shall prevail.

SECTION 8: The provisions of this Directive shall be severable. If any clause, provision, section, sentence, or other portion of this Directive is found to be inapplicable, invalid, void, unconstitutional, or unlawful, such invalidation shall not affect any other provision of this Directive that can be given effect without the invalid portion.

SECTION 9: Section 13 of Directive 036 is hereby amended to strike "March 31, 2021" and replace it with "May 31, 2021."

SECTION 10: The provisions of this Directive shall remain in effect until May 31, 2021 at 11:59 p.m., unless sooner amended or terminated by a subsequent Directive promulgated pursuant to the March 12, 2020 Declaration of Emergency to facilitate the State's response to the COVID-19 pandemic, or upon dissolution or termination of the Declaration of Emergency.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Nevada to be affixed this 31st day of March, in the year two thousand twenty-one.

Governor of the State of Nevada

Barbara K Cegavske

Secretary of State

Deputy Secretary of State