



RENTING REAL ESTATE: KEY LEGISLATIVE CHANGES IN RESPONSE TO THE COVID- 19 PANDEMIC

The Federal Law as of 01.04.2020 N 98-FZ "On amendments in certain legislative acts of Russian Federation on the issue of emergency prevention and response" provides for the possibility of receiving a deferral of rent payment and its reduction.

The Government clarified the procedure and conditions for granting a deferral (Decree of the Government of the Russian Federation of April 3, 2020 No. 439).

Conditions for granting a deferral:

- only lessees (organizations and individuals) who carry out activities in the sectors most affected by the spread of a new coronavirus infection are entitled to demand a deferment;
- deferral applies to rents for 2020 under rental agreements concluded before the introduction of high alert or emergency on the territory of the state constituent entities of the Russian Federation (hereinafter referred to as the "Subject");
- deferral is granted regardless of the type of ownership of the property: in relation to state, municipal or private property;
- deferral demands are mandatory only for commercial real estate.

Note: new provisions are not applicable to residential real estate.

Deferral procedure:

- the lessor is obliged to provide a deferment at the request of the lessee within 30 days from the date of the application;
- deferment must be made out in the form of an additional agreement to the rental agreement, and if

- the lessor evades, the lessee may go to court with a claim to force the conclusion of such an agreement (Article 445 of the Civil Code of the Russian Federation);
- deferment is granted for a period up to October 1, 2020, starting from the date of the introduction of the high alert or emergency on the territory of the Subject of the Russian Federation;
 - deferment is unconditional, ie the establishment by the lessor of additional payments to be paid by the lessee in connection with its provision is not allowed;
 - fines, interest for using borrowed money or other measures of lessee's liability during the period of deferment are not applied, even if such measures are provided for by the lease agreement.
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Term and size of deferment:

- deferment is granted for 100% of the rent during the period of the high alert or emergency on the territory of the Subject of the Russian Federation. However, after the cancellation of these regimes and until October 1, 2020, the delay will amount to 50% of the rent;
- deferment is not granted in respect of lessee's payments for use of utilities and (or) expenses for the maintenance of rented property, even if such payments are included in the rent under the rental agreement.

Exception: cases when the lessor himself is exempted from the payment of such services and expenses for the period of the high alert or emergency.

- the lessee will **pay the debt no earlier than January 1, 2021**, and no later than January 1, 2023 in stages, no more than once a month, in equal installments;
- the amount of monthly payments aimed at paying off debt cannot exceed half of the monthly rent under a rental agreement.

Please note: the Government of the Russian Federation, state authorities of the Subject of the Russian Federation, local governments may establish other conditions for granting a deferral in respect of real estate owned by the Subject or municipal property. However, such conditions should not lead to a deterioration of the above conditions for the tenant.

Please note: the parties to the rental agreement can also establish other conditions for granting a deferment, if this does not lead to a deterioration for the tenant of the conditions listed above.

Benefits for lessors granting deferment:

The Government of the Russian Federation recommended that the bodies of subject of the Russian Federation and municipalities provide owners of real estate who have granted a deferment with support measures regarding the payment of property tax for organizations, property of individuals, land tax, land rent for this property for a period for which a deferment is granted.

Rental Reduction Terms:

- the lessee has the right to demand a reduction in rent for the period of 2020 due to the impossibility of using property related to the adoption by the state authority of a decision on the introduction of a high alert or emergency;
- ***the lessor has the right, but is not obliged to reduce the amount of rent*** at the request of the lessee;
- during the period of the epidemic, the parties, as before, are entitled to change the amount of rent by

- agreement of the parties;
- the amount of the rent, in respect of which a deferment is granted, may also be reduced by agreement of the parties.
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