

What South Carolina Vacation Rental Companies Need to Know About COVID-19

By [John Carroll](#)

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On March 11, 2020, the World Health Organization (WHO) declared the COVID-2019, a new strain of coronavirus, a worldwide pandemic. In addition, President Donald Trump placed barriers on some travelers from Europe and other high-risk areas from entering the United States. Travelers all over the globe are beginning to cancel trips worldwide. Investors already know the outbreak is causing a sluggish economy, and reduced travel will inevitably strain vacation rental companies, property managers, and real estate professionals.

Rental property investors and Brokers-in-Charge for most vacation rental companies will want to understand what their duties and obligations are in the event a tenant demands reimbursement of deposits. Confusion among the industry is understandable, as the South Carolina Vacation Rental Act is unique in many respects: it has strong tenant protections relating to some issues, however also provides strong landlord and property manager protections as well.

Confusion on this issue tends to occur year after year. For example, during hurricane or disaster events, the [South Carolina Vacation Rental Act](#) provides that tenants must comply with mandatory evacuation orders implemented by state or local authorities, but is silent as to whether landlords or property managers must reimburse deposits. As with hurricane events, the South Carolina Vacation Rental Act does not require landlords or property managers to reimburse deposits due to viral outbreaks such as COVID-2019. Nor does the act provide tenants with any default protections in the event of general *Force Majeure* events unless otherwise protected by the specific vacation rental agreement which the tenant is a party to.

Although the South Carolina Vacation Rental Act provides certain default rules in the absence of language found in a vacation rental agreement, the specific language of a vacation rental agreement will control a Landlord's obligation to refund deposits. Landlords should expect that some tenants will point to an agreement's *Force Majeure* clause as a reason to be refunded earnest money. Burr & Forman attorneys are currently conducting a multi-state review of the feasibility of COVID-2019 related *Force Majeure* claims in regards to a variety of commercial industries. Additional information in regards to *Force Majeure* claims and protections will be made available in the near future.

Landlords should be aware that vacation rental agreements are typically governed by state statutes. Information regarding tenant rights is freely accessible online, but such information is typically not vetted by licensed South Carolina attorneys. Accordingly, tenants may believe they have certain rights applicable to a vacation rental agreement governed by the laws of one state, but not governed by the laws of South Carolina. Travel insurance sold to tenants may impact a landlord's obligations as well. Burr Forman McNair recommends that Landlords have counsel review deposit obligations and travel insurance provisions prior to releasing or refusing to perform any duties described in a vacation rental agreement.

Many vacation rental agreements in South Carolina contain indemnification provisions. In the event a management agreement or rental agreement requires a landlord to be responsible for the cleanliness of a

rental unit, landlords and property managers should take precautions to reduce the likelihood of tenant civil actions claiming that a Landlord's negligence gave rise to COVID-2019 related damages. The federal government recommends monitoring the [U.S. Centers for Disease Control and Prevention \(CDC\)](https://www.cdc.gov) for current information on the virus and guidelines for controlling transmission. Landlords and property managers are advised to communicate CDC guidelines to all staff and contractors performing services on behalf of an owner or vacation rental company.

Burr Forman McNair has extensive experience in preparing and interpreting management agreements and rental agreements. Burr Forman McNair routinely advises vacation rental property managers and expects to do so throughout the COVID-2019 outbreak and summer vacation season.

If you have questions about how COVID-19 may impact your business, please contact the Burr attorney with whom you regularly work.

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