

CAUSE NO. \_\_\_\_\_

\_\_\_\_\_

PLAINTIFF

v.

\_\_\_\_\_

DEFENDANT

§  
§  
§  
§  
§

IN THE JUSTICE COURT

PRECINCT \_\_\_\_ PLACE \_\_\_\_

HARRIS COUNTY, TEXAS

**VERIFICATION OF COMPLIANCE WITH SECTIONS 4023 and 4024 OF THE CARES ACT AND THE CDC ORDER**

My name is: \_\_\_\_\_  
*First Middle Last*

I am (check one)  the PLAINTIFF or  an AUTHORIZED AGENT of the Plaintiff in the eviction case described at the top of this page. I am capable of making this affidavit. The facts stated in the affidavit are within my personal knowledge and are true and correct.

**Verification:**

Plaintiff is seeking to recover possession of the following premises:

\_\_\_\_\_  
*Name of Apartment Complex (if any)*

\_\_\_\_\_  
*Street Address & Unit Number (if any) City County State Zip*

The premises (check one)  IS or  IS NOT a "covered dwelling" subject to Section 4024 of the CARES Act.

Plaintiff (check one)  IS or  IS NOT a "multifamily borrower" under forbearance subject to Section 4023 of the CARES Act.

Plaintiff (check one)  HAS or  HAS NOT provided the defendant with 30 days' notice to vacate under Section 4024(c) and 4023(e) of the CARES Act.

Defendant (check one)  HAS or  HAS NOT provided the plaintiff with a declaration stating they are a "covered person" under the Centers for Disease Control and Prevention's agency order, titled Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19 that took effect on September 4, 2020.\*

**COMPLETE ONE:**

**Sworn Oath / Notary:**

Signed on: \_\_\_\_\_  
*Signature Printed Name*

SWORN TO AND SUBSCRIBED BEFORE ME on \_\_\_\_\_  
**(circle)** Clerk of the Court / Notary Public, State of Texas

**Unsworn Declaration:**

My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_  
*First Middle Last*

and my address is \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
*Street City State Zip Country*

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed in \_\_\_\_\_ County, State of \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
*Signature*

\* An individual landlord proceeding with a nonpayment of rent eviction of a covered person despite receiving a Declaration can be fined up to \$100,000 and/or face up to one year in jail. An organization proceeding with a nonpayment of rent eviction of a covered person despite receiving a Declaration can be fined up to \$200,000.

**Centers for Disease Control and Prevention, Department of Health and Human Services Order Under Section 361 of the Public Health Service Act (42 U.S.C. 264) and 42 CFR 70.2: Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19**

“Available government assistance” means any governmental rental or housing payment benefits available to the individual or any household member.

“Available housing” means any available, unoccupied residential property, or other space for occupancy in any seasonal or temporary housing, that would not violate Federal, State, or local occupancy standards and that would not result in an overall increase of housing cost to such individual.

“Covered person”<sup>1</sup> means any tenant, lessee, or resident of a residential property who provides to their landlord, the owner of the residential property, or other person with a legal right to pursue eviction or a possessory action, a declaration under penalty of perjury indicating that:

(1) The individual has used best efforts to obtain all available government assistance for rent or housing;

(2) The individual either (i) expects to earn no more than \$99,000 in annual income for Calendar Year 2020 (or no more than \$198,000 if filing a joint tax return),<sup>2</sup> (ii) was not required to report any income in 2019 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act;

(3) the individual is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary<sup>3</sup> out-of-pocket medical expenses;

(4) the individual is using best efforts to make timely partial payments that are as close to the full payment as the individual’s circumstances may permit, taking into account other nondiscretionary expenses; and

(5) eviction would likely render the individual homeless—or force the individual to move into and live in close quarters in a new congregate or shared living setting—because the individual has no other available housing options.

“Evict” and “Eviction” means any action by a landlord, owner of a residential property, or other person with a legal right to pursue eviction or a possessory action, to remove or cause the removal of a covered person from a residential property. This does not include foreclosure on a home mortgage.

“Residential property” means any property leased for residential purposes, including any house, building, mobile home or land in a mobile home park, or similar dwelling leased for residential purposes, but shall not include any hotel, motel, or other guest house rented to a temporary guest or seasonal tenant as defined under the laws of the State, territorial, tribal, or local jurisdiction.

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<sup>1</sup> This definition is based on factors that are known to contribute to evictions and thus increase the need for individuals to move into close quarters in new congregate or shared living arrangements or experience homelessness. Individuals who suffer job loss, have limited financial resources, are low income, or have high out-of-pocket medical expenses are more likely to be evicted for nonpayment of rent than others not experiencing these factors. See Desmond, M., Gershenson, C., *Who gets evicted? Assessing individual, neighborhood, and network factors*, Social Science Research 62 (2017), 366-377, <http://dx.doi.org/10.1016/j.ssresearch.2016.08.017>, (identifying job loss as a possible predictor of eviction because renters who lose their jobs experience not only a sudden loss of income but also the loss of predictable future income). According to one survey, over one quarter (26%) of respondents also identified job loss as the primary cause of homelessness. See 2019 San Francisco Homeless Point-in-Time County & Survey, page 22, available at: [https://hsh.sfgov.org/wp-content/uploads/2020/01/2019HIRDReport\\_SanFrancisco\\_FinalDraft-1.pdf](https://hsh.sfgov.org/wp-content/uploads/2020/01/2019HIRDReport_SanFrancisco_FinalDraft-1.pdf).

<sup>2</sup> According to one study, the national two-bedroom housing wage in 2020 was \$23.96 per hour (approximately, \$49,837 annually), meaning that an hourly wage of \$23.96 was needed to afford a modest two bedroom house without spending more than 30% of one’s income on rent. The hourly wage needed in Hawaii (the highest cost U.S. State for rent) was \$38.76 (approximately \$80,621 annually). See National Low-Income Housing Coalition, *Out of Reach: The High Cost of Housing 2020*, available at: <https://reports.nlihc.org/oor>. As further explained herein, because this Order is intended to serve the critical public health goal of preventing evicted individuals from potentially contributing to the interstate spread of COVID-19 through movement into close quarters in new congregate, shared housing settings, or through homelessness, the higher income thresholds listed here have been determined to better serve this goal.

<sup>3</sup> An extraordinary medical expense is any unreimbursed medical expense likely to exceed 7.5% of one’s adjusted gross income for the year.

“State” shall have the same definition as under 42 CFR 70.1, meaning “any of the 50 states, plus the District of Columbia.”

“U.S. territory” shall have the same definition as under 42 CFR 70.1, meaning “any territory (also known as possessions) of the United States, including American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.”

...

This Order is a temporary eviction moratorium to prevent the further spread of COVID–19. This Order does not relieve any individual of any obligation to pay rent, make a housing payment, or comply with any other obligation that the individual may have under a tenancy, lease, or similar contract. Nothing in this Order precludes the charging or collecting of fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

Nothing in this Order precludes evictions based on a tenant, lessee, or resident: (1) engaging in criminal activity while on the premises; (2) threatening the health or safety of other residents;<sup>4</sup> (3) damaging or posing an immediate and significant risk of damage to property; (4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or (5) violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties, or interest).

...

Therefore, under 42 CFR 70.2, subject to the limitations under the “Applicability” section, a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action shall not evict any covered person from any residential property in any State or U.S. territory in which there are documented cases of COVID–19 that provides a level of public-health protections below the requirements listed in this Order.

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#### *Criminal Penalties*

Under 18 U.S.C. 3559, 3571; 42 U.S.C. 271; and 42 CFR 70.18, a person violating this Order may be subject to a fine of no more than \$100,000 if the violation does not result in a death or one year in jail, or both, or a fine of no more than \$250,000 if the violation results in a death or one year in jail, or both, or as otherwise provided by law. An organization violating this Order may be subject to a fine of no more than \$200,000 per event if the violation does not result in a death or \$500,000 per event if the violation results in a death or as otherwise provided by law. The U.S. Department of Justice may initiate court proceedings as appropriate seeking imposition of these criminal penalties.

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#### *Effective Date*

This Order is effective upon publication in the Federal Register and will remain in effect, unless extended, modified, or rescinded, through December 31, 2020.

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<sup>4</sup> Individuals who might have COVID-19 are advised to stay home except to get medical care. Accordingly, individuals who might have COVID-19 and take reasonable precautions to not spread the disease should not be evicted on the ground that they may pose a health or safety threat to other residents. See *What to Do if You are Sick*, available at <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>

## CARES Act

SEC. 4023. FORBEARANCE OF RESIDENTIAL MORTGAGE LOAN PAYMENTS FOR MULTIFAMILY PROPERTIES WITH FEDERALLY BACKED LOANS. (a) IN GENERAL.—During the covered period, a multifamily borrower with a Federally backed multifamily mortgage loan experiencing a financial hardship due, directly or indirectly, to the COVID–19 emergency may request a forbearance under the terms set forth in this section.

(b) REQUEST FOR RELIEF.—A multifamily borrower with a Federally backed multifamily mortgage loan that was current on its payments as of February 1, 2020, may submit an oral or written request for forbearance under subsection (a) to the borrower’s servicer affirming that the multifamily borrower is experiencing a financial hardship during the COVID–19 emergency.

(c) FORBEARANCE PERIOD.—

(1) IN GENERAL.—Upon receipt of an oral or written request for forbearance from a multifamily borrower, a servicer shall—

(A) document the financial hardship;

(B) provide the forbearance for up to 30 days; and

(C) extend the forbearance for up to 2 additional 30 day periods upon the request of the

borrower provided that, the borrower’s request for an extension is made during the covered period, and, at least 15 days prior to the end of the forbearance period described under subparagraph (B).

(2) RIGHT TO DISCONTINUE.—A multifamily borrower shall have the option to discontinue the forbearance at any time.

(d) RENTER PROTECTIONS DURING FORBEARANCE PERIOD.—A multifamily borrower that receives a forbearance under this section may not, for the duration of the forbearance—

(1) evict or initiate the eviction of a tenant from a dwelling unit located in or on the applicable property solely for nonpayment of rent or other fees or charges; or

(2) charge any late fees, penalties, or other charges to a tenant described in paragraph (1) for late payment of rent.

(e) NOTICE.—A multifamily borrower that receives a forbearance under this section—

(1) may not require a tenant to vacate a dwelling unit located in or on the applicable property before the date that H. R. 748–212 is 30 days after the date on which the borrower provides the tenant with a notice to vacate; and

(2) may not issue a notice to vacate under paragraph (1) until after the expiration of the forbearance. (f) DEFINITIONS.—In this section:

(1) APPLICABLE PROPERTY.—The term “applicable property”, with respect to a Federally backed multifamily mortgage loan, means the residential multifamily property against which the mortgage loan is secured by a lien.

(2) FEDERALLY BACKED MULTIFAMILY MORTGAGE LOAN.— The term “Federally backed multifamily mortgage loan” includes any loan (other than temporary financing such as a construction loan) that—

(A) is secured by a first or subordinate lien on residential multifamily real property designed principally for the occupancy of 5 or more families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and

(B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

(3) MULTIFAMILY BORROWER.—the term “multifamily borrower” means a borrower of a residential mortgage loan that is secured by a lien against a property comprising 5 or more dwelling units.

(4) COVID–19 EMERGENCY.—The term “COVID–19 emergency” means the national emergency concerning the novel coronavirus disease (COVID–19) outbreak declared by the President on March 13, 2020 under the National Emergencies Act (50 U.S.C. 1601 et seq.).

(5) COVERED PERIOD.—The term “covered period” means the period beginning on the date of enactment of this Act and ending on the sooner of—

(A) the termination date of the national emergency concerning the novel coronavirus disease (COVID–19) outbreak declared by the President on March 13, 2020 under the National Emergencies Act (50 U.S.C. 1601 et seq.); or

(B) December 31, 2020.

SEC. 4024. TEMPORARY MORATORIUM ON EVICTION FILINGS. (a) DEFINITIONS.—In this section:

(1) COVERED DWELLING.—The term “covered dwelling” means a dwelling that—

(A) is occupied by a tenant— (i) pursuant to a residential lease; or (ii) without a lease or with a lease terminable under State law; and

(B) is on or in a covered property.

(2) COVERED PROPERTY.—The term “covered property” means any property that— H. R. 748—213

(A) participates in—

(i) a covered housing program (as defined in section 41411(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12491(a))); or

(ii) the rural housing voucher program under section 542 of the Housing Act of 1949 (42 U.S.C. 1490r); or

(B) has a— (i) Federally backed mortgage loan; or (ii) Federally backed multifamily mortgage loan.

(3) DWELLING.—The term “dwelling”—

(A) has the meaning given the term in section 802 of the Fair Housing Act (42 U.S.C. 3602); and

(B) includes houses and dwellings described in section 803(b) of such Act (42 U.S.C. 3603(b)).

(4) FEDERALLY BACKED MORTGAGE LOAN.—The term “Federally backed mortgage loan” includes any loan (other than temporary financing such as a construction loan) that—

(A) is secured by a first or subordinate lien on residential real property (including individual units of condominiums and cooperatives) designed principally for the occupancy of from 1 to 4 families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and

(B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

(5) FEDERALLY BACKED MULTIFAMILY MORTGAGE LOAN.— The term “Federally backed multifamily mortgage loan” includes any loan (other than temporary financing such as a construction loan) that—

(A) is secured by a first or subordinate lien on residential multifamily real property designed principally for the occupancy of 5 or more families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and

(B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

(b) MORATORIUM.—During the 120-day period beginning on the date of enactment of this Act, the lessor of a covered dwelling may not—

(1) make, or cause to be made, any filing with the court of jurisdiction to initiate a legal action to recover possession H. R. 748—214 of the covered dwelling from the tenant for nonpayment of rent or other fees or charges; or

(2) charge fees, penalties, or other charges to the tenant related to such nonpayment of rent.

(c) NOTICE.—The lessor of a covered dwelling unit—

(1) may not require the tenant to vacate the covered dwelling unit before the date that is 30 days after the date on which the lessor provides the tenant with a notice to vacate; and

(2) may not issue a notice to vacate under paragraph (1) until after the expiration of the period described in subsection (b).

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Landlords can go to the TDCHA website at <https://www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm> and click on "HTC Property Inventory (XLSX)" under Additional Guidance and Resources to search a database to determine if their property is subject to the LIHTC restrictions.

Landlords can go to the NLIHC website at [https://nlihc.org/federal-moratoriums?ct=t%28update\\_041720%29](https://nlihc.org/federal-moratoriums?ct=t%28update_041720%29) to check their property against a multi-family housing database.