



## CDC ORDER REGARDING EVICTIONS

The Centers for Disease Control and Prevention (CDC) of the Department of Health and Human Services issued an Order under Section 361 of the Public Health Service Act to temporarily halt residential evictions to prevent the further spread of COVID-19. The CDC's action is set to take effect Friday, **September 4, 2020**. Pursuant to the Order, a landlord, owner of a residential property, or other person with a legal right to pursue eviction (collectively, "Landlord"), may not evict any "Covered Person" from any residential property for **nonpayment of rent**, during the effective period of the Order, which is expected to expire on December 31, 2020. It is important to note, there are a limited set of circumstances in which the Landlord cannot pursue an eviction action. **The CDC's order does not halt all eviction proceedings, but only those for non-payment of rent and in which a tenant provides a Renter's Declaration.**

Pursuant to the Order, a "Covered Person" is defined as "any tenant, lessee, or resident of a residential property who provides to their [Landlord] a *Declaration* under penalty of perjury." The sample **Renter's Declaration** provided by the CDC is attached to this notice.

In summary, the tenant must provide a **Declaration** under penalty of perjury indicating the following:

1. The tenant has used best efforts to obtain all available government assistance for rent or housing;
2. The tenant either (i) expects to earn no more than \$99,000.00 in annual income for Calendar Year 2020 (or no more than \$198,00 if filing a joint tax return); (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 tenant 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 out-of-pocket medical expenses;
4. The tenant is using best efforts to make timely partial payments that are as close to the full payment as the tenant's circumstances may permit, taking into account other nondiscretionary expenses; and
5. Eviction would likely render the tenant homeless or force the tenant 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.

If a Landlord receives the Renter's Declaration, any action to pursue eviction or other repossession of the premises must stop.

It is important to note the CDC Order **ONLY** applies to evictions for non-payment of rent and does not affect the filing of evictions for other breaches of the lease. For example, criminal activity, threatening the health or safety of other residents, and damaging the rental unit or other areas of the rental community. The Order also does not prohibit the Landlord from sending a timely non-renewal letter in advance of an expiring lease and subsequently filing an eviction action if the tenant fails to vacate or surrender the rental premises at the end of the lease term.

The CDC's Order also does not prohibit a Landlord and tenant from entering into mediation in order to establish the terms upon which the tenant will continue to reside in the leased premises, including negotiation of payment terms to ensure consistent cash flow and reduced delinquencies for the Landlord. Landman Beatty welcomes an opportunity to facilitate this mediation process.

Landman Beatty Lawyers will continue to keep its clients updated as this latest Order is interpreted by our Courts. We will provide updates as additional information is learned. Please contact our office with questions regarding the CDC's Order and available mediation options.

For additional information and updates please visit our website at [www.landmanbeatty.com](http://www.landmanbeatty.com)

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