



Landman Beatty Lawyers wants to keep our clients and the general public informed as to how the Coronavirus, the disease it causes (COVID-19) and the most current government responses to them, may affect our clients, the general public and certain aspects of the Landlord – Tenant relationship in Indiana.

- Landman Beatty Lawyers is keeping regular *virtual* business hours, Monday through Friday from 8:30 a.m. to 5:00 p.m.
- We have taken action to reduce the number of people who are present and working in our office. We have attorneys and staff available via telephone, email and Zoom videoconferencing. We have implemented a remote workplace procedure so that we can provide a prompt response to questions and concerns. Landman Beatty Lawyers is working remotely to keep our employees, and you, safe and healthy.

## ANSWERS TO FAQs

### THE FEDERAL LEVEL

#### ***WHAT IS THE CARES ACT AND WHAT ARE ITS EFFECTS?***

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) was signed into law. The CARES Act includes a moratorium on evictions. A Landlord with a property covered by the Act may not initiate a legal action to recover possession from the tenant for *nonpayment of rent or other fees or charges* for 120 days from March 27, 2020 (***July 25, 2020***). “Covered Properties” are single family and multi-family properties with “covered dwellings” (generally those occupied by tenants with a lease) that: (1) are subject to the Violence Against Women Act (VAWA); (2) are in the Rural Housing Voucher program under Section 542 programs of the housing act of 1949; or (3) have a federally backed mortgage loan. Managing agents who work for Covered Property owners are subject to the same restrictions. **Landlords that receive forbearances of federally backed multifamily mortgage loans must respect identical renter protections for the duration of the forbearance.**

Landlords of Covered Properties may not send a notice to vacate to a tenant during the time of the moratorium (March 27, 2020 to July 25, 2020). After the 120 days have passed, (July 25, 2020), in order for Landlords of Covered Properties to then initiate an eviction, Landlords must send the tenant a 30 day notice to vacate that cannot require the tenant to move earlier than 30 days after the notice to vacate is given. As of March 27, 2020, Covered Properties cannot charge fees, penalties or other charges related to nonpayment while the moratorium is in effect. Property Managers should consult with corporate executive teams or owners regarding whether or not a particular property is a Covered Property.

### THE STATE LEVEL

#### ***WHAT ARE INDIANA’S EXECUTIVE ORDERS AND WHAT ARE THEIR EFFECTS?***

On March 19, 2020, Indiana Governor, Eric J. Holcomb, issued Executive Order 20-06. On April 6, 2020, Indiana Governor, Eric J. Holcomb, issued Executive Order 20-17. Stated simply, together the orders prohibit the filing of evictions in Indiana until the most recent one expires on May 5, 2020. Indiana courts remain open; however, court sessions will generally only be conducted virtually or by telephone whenever reasonably possible and any legal services requiring face-to-face encounters will generally be postponed unless the failure to meet in-person will have a significant adverse impact on the client’s financial or legal position. Judges and court staff are working, some remotely, and are attending to necessary business during this time.

#### **What about rent collection while this Executive Order is in effect?**

The Executive Order does not relieve tenants of their obligation to pay rent. The Executive Order does not change the terms and conditions of the lease. Landlords can accept *partial payments of rent* so long as they: (1) accept a partial payment from every tenant that offers one in order to remain in compliance with fair housing laws; and (2) sign a written agreement, for each partial payment being accepted, which will act as an addendum to the lease. Sample forms are attached. The particular form used should be based on whether or not a particular property is a “Covered Property” under the CARES Act. Accordingly, proper guidance (as described under “THE FEDERAL LEVEL” above) should be sought before using these forms. We do not recommend sending a notice that partial

***THE INFORMATION PROVIDED HEREIN IS GENERAL INFORMATION FOR THE PUBLIC. IT IS NOT INTENDED AS LEGAL ADVICE. SPECIFIC QUESTIONS RELATED TO THE INFORMATION PROVIDED HEREIN SHOULD BE DISCUSSED WITH LANDMAN BEATTY LAWYERS OR ANOTHER LEGAL ADVISOR ON A FACT SPECIFIC, CASE BY CASE, BASIS.***

payments will be accepted. Most residents will, more likely than not, continue to pay rent, in full. Each addendum (form) has a clear statement regarding what will happen once the public health crisis is over.

**Are current eviction orders being enforced?**

Current eviction orders will not be enforced during the pending Executive Order and the tenants will not be removed. However, action can be taken to prevent the current orders from expiring and becoming unenforceable by requesting an extension with the court. And, some courts are issuing such orders on their own. Please notify our office of any eviction orders that are still in need of enforcement so we can respond or take action to avoid the necessity of refiling the eviction later. If a pending order pertains to ongoing substantial property damage, or if there is a danger to others if the order is not enforced, please contact our office for advice and direction.

**If an eviction case has been filed and there has not been a hearing for possession when will the case have a hearing and when can I get an order for possession?**

If the court hearing has not occurred and there is no eviction order to date, the hearing date that was set at the time the eviction was filed may be changed or it may remain the same. For now, for Landman Beatty Lawyer clients, please consult **The Eviction Portal™ (Powered By: Landman Beatty Lawyers)** for the hearing date, call us or email us with questions. We will also inform you via email if a hearing date changes, whenever possible. There have been multiple changes to hearing dates by the courts during this public health crisis. Please be patient with us and the courts as we continue to update our records.

**When can new evictions be filed?**

No new evictions can be filed in Indiana, for any type of property until, for now at least, May 5, 2020. If the most recent Executive Order is extended, that date will, of course, likely also be extended. However, the federal eviction moratorium under the CARES Act, for nonpayment cases, will take precedence, and be in effect, until at least July 25, 2020 for “Covered Properties”.

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

**CARES Act (Covered Properties) Addendum**

**Proposed partial payment addendum language:**

Name of Property/Landlord: \_\_\_\_\_

Address of leased property: \_\_\_\_\_

Date of Agreement: \_\_\_\_\_

Amount of payment accepted: \_\_\_\_\_

Landlord and Tenant agree that Tenant's payment accepted on this date is a partial payment.

The terms of the Lease have not changed regarding the tenant's obligations of rent and base charges under the Lease entered into between Landlord and Tenant for payment of rent, utilities, or any other financial obligation in the lease or any addenda between the parties. Landlord does not waive, by acceptance of the partial payment, the enforcement of any obligation under the Lease. This addendum does not change the terms and conditions of the Lease. This addendum is signed as a measure to recognize the effects of a current public health crisis (COVID-19) and to comply with government intervention and order(s) which are, or may be, in effect.

The leased property is subject to the federal CARES Act in addition to the State of Indiana Executive Order 20-06. All fees, penalties and other charges related to nonpayment of rent cannot be charged until after the latter of: (1) 120 days after March 27, 2020; or (2) a later date if the CARES Act extends the prohibition of such charges.

Not later than the expiration of the protections and restrictions provided under the CARES Act or July 25, 2020, whichever is later, Tenant shall pay, in full, the then current rent obligation owed under the Lease. This addendum is enforceable at the expiration of protections and restrictions found in the federal CARES Act and the State of Indiana Executive Orders 20-06 and 20-17 and any amendments thereto.

\_\_\_\_\_ Landlord/Agent

\_\_\_\_\_ All tenants' signatures

**Proposed partial payment addendum language:**

Name of Property/Landlord: \_\_\_\_\_

Address of leased property: \_\_\_\_\_

Date of Agreement: \_\_\_\_\_

Amount of payment accepted: \_\_\_\_\_

Landlord and Tenant agree that Tenant's payment accepted on this date is a partial payment.

The terms of the Lease have not changed regarding the tenant's obligations under the Lease entered into between Landlord and Tenant for payment of rent, late fees, utilities, or any other financial obligation in the lease or any addenda between the parties. Landlord does not waive, by acceptance of the partial payment, the enforcement of any obligation under the Lease. This addendum does not change the terms and conditions of the Lease. This addendum is signed as a measure to recognize the effects of a current public health crisis (COVID-19) and to comply with government intervention and order(s) which are, or may be, in effect.

Not later than the expiration of the protections and restrictions provided under the State of Indiana Executive Order 20-17 or May 5, 2020, whichever is later, Tenant shall pay, in full, the then current rent obligation owed under the Lease. This addendum is enforceable at the expiration of protections and restrictions found in the State of Indiana Executive Order 20-17 and any future amendments thereto.

\_\_\_\_\_ Landlord/Agent

\_\_\_\_\_ All tenants' signatures