

**THE ELEVENTH JUDICIAL CIRCUIT,
MIAMI-DADE COUNTY, FLORIDA**

CASE NO. 20-1

(Court Administration)

ADMINISTRATIVE ORDER

NO. 20-10

**IN RE: EVICTIONS UNDER THE
"CORONAVIRUS AID, RELIEF,
AND ECONOMIC SECURITY
ACT" (THE CARES ACT)**

WHEREAS, the World Health Organization has declared the Coronavirus Disease 2019 (COVID-19) a pandemic, the Governor of Florida has declared that a state of emergency exists, and the Surgeon General and State Health Officer have declared a public health emergency exists, and the Florida State Courts have taken steps to mitigate the effects of COVID-19 on legal proceedings and participants in those legal proceedings; and

WHEREAS, on April 2, 2020, the Governor of Florida issued Governor's Executive Order No. 20-94, which in part suspends and tolls "any statute providing for an eviction cause of action under Florida law solely as it relates to non-payment of rent by residential tenants due to the COVID-19 emergency for 45 days from the date of this Executive Order, including any extensions," but does not suspend and toll evictions for other reasons; and

WHEREAS, on March 27, 2020, the President signed the "Coronavirus Aid, Relief, and Economic Security Act" (the CARES Act), and section 4024 of the CARES Act imposes an eviction moratorium for tenants living in covered properties, which are certain properties with a federal subsidy or where the landlord has a federally backed mortgage (FHA, VA, USDA, Fannie Mae, or Freddie Mac), including mortgages later purchased or securitized by those agencies; and

WHEREAS, section 4024(b) of the CARES Act, titled "MORATORIUM" provides, in part that "[d]uring the 120-day period beginning on the date of enactment of this Act, the lessor of a covered dwelling may not . . . make, or cause to be made, any filing with the court of jurisdiction to initiate a legal action to recover possession of the covered dwelling from the tenant for nonpayment of rent or other fees or charges"; and

WHEREAS, 120 days from the enactment of the CARES Act on March 27, 2020 is July 25, 2020; and

WHEREAS, section 4024(c) of the CARES Act, titled “NOTICE,” provides that “[t]he 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 section (b)”;

WHEREAS, 30 days after July 25, 2020 is August 23, 2020;

NOW, THEREFORE, pursuant to the authority vested in me, as Chief Judge of the Eleventh Judicial Circuit of Florida, under Florida Rule of Judicial Administration 2.215, it is hereby ORDERED:

1. In order for the Court to comply with the CARES Act requirement regarding evictions, and in order for the Court to receive competent evidence on whether the CARES Act applies to a property, consistent with a Court’s ability to question witnesses,¹ the Court adopts the following requirements only as to residential eviction cases for nonpayment of rent or other fees or charges.
2. **All Plaintiffs in residential eviction cases for nonpayment of rent or other fees or charges, filed on or after March 27, 2020, shall file a declaration under penalty of perjury verifying whether or not the property which the eviction case is seeking to recover possession of has a Federally backed mortgage loan, a Federally backed multifamily mortgage loan, or is otherwise a “covered dwelling” under section 4024 of the CARES Act.**
3. No judgment, including a default judgment, shall be issued in an eviction case in favor of the Plaintiff until a declaration under penalty of perjury verifying that the property the eviction case is seeking to recover possession of is not a “covered dwelling” under the CARES Act is filed with the Court.
4. The sworn declaration under penalty of perjury verifying that the property the eviction case is seeking to recover possession of is not a “covered dwelling” under the CARES Act may be filed at any time between the time of filing the plaintiff’s petition until filing of a motion for judgment.
5. Attached to this order is a sample declaration under penalty of perjury verifying that the property the eviction case is seeking to recover possession of is not a “covered dwelling” under the CARES Act.

1. See K.R. v. State, 45 Fla. L. Weekly D42 (Fla. 3d DCA Jan. 2, 2020); Y.V. v. Dep’t of Children & Families, 271 So. 3d 1160, 1161 (Fla. 3d DCA 2019); Lee v. State, 264 So. 3d 225, 226 (Fla. 1st DCA 2018), reh’g denied (Feb. 26, 2019).

6. This Administrative Order shall be effective immediately and shall remain in effect until August 23, 2020, unless such time period is modified by subsequent Administrative Order.

DONE AND ORDERED in Chambers at Miami-Dade, Florida, this 13th day of May 2020.

**Bertila Soto, Chief Judge
Eleventh Judicial Circuit of Florida**

IN THE COUNTY COURT OF THE ELEVENTH
JUDICIAL CIRCUIT IN AND FOR MIAMI DADE
COUNTY, FLORIDA

[insert name of Landlord]
Plaintiff,

CIVIL DIVISION

vs.

Case No. _____
[insert case number assigned by
Clerk of the Court]

[insert name of Tenant]
Defendant.

_____/

VERIFICATION OF APPLICABILITY OF SECTION 4024 OF THE CARES ACT
IN RESIDENTIAL EVICTIONS FOR NON-PAYMENT OF RENT
(DECLARATION UNDER PENALTY OF PERJURY)

My name is: _____,
First Middle Last

and I am the legal owner of the property that is the subject of the eviction case described at the top of this page. I am capable of making this declaration. The facts stated in this declaration are within my personal knowledge and are true and correct.

I verify that the property that is the subject of this eviction action (*check one*):

☐ **is** a "covered dwelling" as defined by Section 4024(a)(1) of the CARES Act.

or

☐ **is not** a "covered dwelling" as defined by Section 4024(a)(1) of the CARES Act.

("covered dwellings" include property that is occupied by a tenant pursuant to a residential lease and has a Federally backed mortgage loan or a Federally backed multifamily mortgage loan, but see section 4024 of the CARES Act for a full definition of "covered dwelling," a copy of which is attached to this form.)

In this eviction action, Plaintiff is seeking to recover possession of the following property:

Name of Apartment Complex (if any)

Street Address & Unit No. (if any)

City

County

State ZIP

FORM CONTINUED ON NEXT PAGE

If I have indicated above that this property is not a “covered dwelling” as defined by Section 4024(a)(1) of the CARES Act, the facts on which I base my conclusion are as follows.

(Please identify which database or the other information you have used to determine that the property does not have a federally backed mortgage loan or federally backed multifamily mortgage loan.)

(If the property does not have a federally backed mortgage loan or federally backed multifamily mortgage loan, please state whether (1) the property is a Low Income Housing Tax Credit (LIHTC) property, (2) the property is federally subsidized under any HUD program, or (3) the property leases to persons with Section 8 vouchers.)

Declaration: Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

[your signature]

[date signed]

[your printed name]

[your address]

A declaration filed pursuant to this Administrative Order is subject to Florida Statute section 92.525(3), which provides that a “person who knowingly makes a false declaration . . . is guilty of the crime of perjury by false written declaration, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.” The Court may also find Plaintiff in contempt of Court and impose any additional sanctions it deems appropriate.

CARES Act

Public Law 116-136

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—

(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 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).