



INDIANA SUPREME COURT

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Office of Judicial Administration

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To: Trial Court Judges
Circuit Clerks

From: Jeff Wiese, IOCS Deputy Director
Michelle Goodman, Supervisor

Date: March 31, 2021

RE: Updated Status of Foreclosure and Eviction proceedings with Federal Directives

IOCS continues to receive questions related to directives regarding evictions. To address these questions, we are providing updated overview of these documents with links to the documents. Below are some additional considerations.

Summary of directive, executive order, and laws:

- On February 16, 2021, the [U.S. Department of Housing and Urban Development](#) extended the directives issued March 18, 2020, as follows:
 - A moratorium on foreclosure and evictions for all FHA-insured Single-Family mortgages through **June 30, 2021**. This applies to the initiation of foreclosure actions and to the completion of foreclosures in process.
 - Evictions from properties secured by FHA-insured Single-Family mortgages are also suspended through **June 30, 2021**.
 - The deadline of first legal action and reasonable diligence timeliness are extended by **180** days from the date of expiration of the moratorium.
 - Foreclosure and eviction suspensions applies to homeowners with a Fannie Mae or Freddie Mac backed single family mortgage.
- On January 29, 2021, the Centers for Disease Control extended its [order](#) through **June 30, 2021**.

Below is an overview of the modified CDC order:

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- The order is a temporary eviction moratorium **under certain conditions** and specifies that a declaration signed under a previous order remains valid without needing to submit a new declaration.
- The order does not:
 - relieve any individual of the obligation to pay rent, make housing payments, or from complying with other tenancy/lease obligations
 - include mortgage foreclosures
 - prevent charging or collecting fees, penalties, or interest because of failure to pay
 - preclude evictions based on tenant engaging in criminal activity while on property (but does not include allegation of criminal trespass by a covered individual remaining in a residential property despite nonpayment rent); threatening the health and safety of other residents, damaging or posing an immediate and significant risk of damage to property; violating applicable building code, health ordinance, or similar health and safety regulations; or violating other contractual obligations other than timely payment of rent and fees
- The order defines residential property as:

“... 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.”
- Each renter/homeowner must complete a declaration form, under penalty of perjury, and provide the completed form to the landlord to have protection under this order. The form requires the following declarations:
 - The individual has used best efforts to obtain all available government assistance for rent or housing;
 - The individual either (i) expects to earn no more than \$99,000 in annual income for Calendar Year 2020 or expects no more than this amount in Calendar Year 2021 (or no more than \$198,000 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;

- 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 out-of-pocket medical expenses;
- 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
- 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.

There are forms and checklist available on the [Landlord Tenant Task Force](#) page.

Guidance for Indiana Courts:

- Courts should inquire at initial hearing if the eviction property is included in an above listed moratorium.
- There are searchable tools available to litigants:
 - Fannie Mae: <https://www.knowyouroptions.com/rentersresourcefinder>
 - Freddie Mac: <https://myhome.freddiemac.com/renting/lookup.html>