

JUDGE DIANA RINCHE-MCGINNIS
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**THIRD MODIFICATION OF STANDING ORDER REGARDING
CORONAVIRUS DISEASE (COVID-19) MITIGATION TO ALL
ARANSAS COUNTY JUSTICES OF THE PEACE (JUSTICE COURT)
(Order No. 05)**

- 1) **The Justices of the Peace in ARANSAS County issue this order pursuant by the authority granted by law and by all emergency orders regarding the COVID-19 state of disaster issued by the Supreme Court of Texas and Court of Criminal Appeals of Texas. This order is in response to the passage of the federal law known as the “Coronavirus Aid, Relief, and Economic Security Act” (also known as the CARES Act) that was passed and took effect on March 27, 2020.**
- 2) **This order supplements “STANDING ORDER REGARDING CORONAVIRUS DISEASE (COVID-19) MITIGATION TO ALL ARANSAS COUNTY JUSTICES OF THE PEACE (JUSTICE COURT) UPDATED MARCH 17, 2020 (Order No. 02)” and adds the additional paragraph:**
- 3) **For all residential eviction cases filed on or after March 27, 2020, in order for the Court to comply with the CARES Act requirement regarding evictions and in order to receive competent testimony/evidence on whether the CARES Act applies to a property consistent with Texas Rules of Civil Procedure 500.6, all ARANSAS County Justice Courts will require the filing of a sworn affidavit/or unsworn 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.**
 - a) **No judgement in an eviction case shall be issued in favor of the plaintiff until the filing of a sworn affidavit/or unsworn 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 Justice Court.**
 - b) **The sworn affidavit/or unsworn 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 beginning at the time of filing the plaintiff’s petition until the conclusion of the Plaintiff’s case-in-chief.**
 - c) **Attached to this order is a sample sworn affidavit/or unsworn 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. Consistent with Texas Rules of Procedure 507.2, if a plaintiff wishes to use another form to comply with this order, the substantive information contained in the sample must be contained in the plaintiff’s form.**

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**This order is in effect immediately and shall remain in effect until modified/rescinded by the ARANSAS County Justices of the Peace.
This order is in effect immediately.**

The time period in this order may be extended in a subsequent order if required.

Signed on April 29, 2020 at 4:00 PM.

A handwritten signature in cursive script, appearing to read "Diana McGinnis", written over a horizontal line.

Judge Diana Rinche-McGinnis

A handwritten signature in cursive script, appearing to read "Diane Dupnik", written over a horizontal line.

Judge Diane Dupnik

The "VERIFICATION OF COMPLIANCE WITH SECTION 4224 OF THE CARES ACT" sample document is attached to this order (3 pages)

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CAUSE NO. _____

PLAINTIFF

v.

DEFENDANT

§
§
§
§
§

IN THE JUSTICE COURT

PRECINCT NO. _____

ARANSAS COUNTY, TX

VERIFICATON OF COMPLIANCE WITH SECTION 4024 OF THE CARES ACT

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.

1. Verification:

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

I verify 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.)

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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 USC. 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.

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- 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).