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Colorado Property Management Agreements Should Contain an Indemnification Provision

- ✓ If you are serving as a property manager for a landlord in Colorado, you need to make sure that your property management agreements contain an indemnification provision that protects you against liability arising from the management and use of the property.
- ✓ An indemnification provision in a contract transfers risk from one contracting party to the other in the event that a defined act or injury occurs. In the context of a property management agreement, an indemnification provision would shift liability from the property manager to the property owner in the event that an issue arises out of the management or use of the property not caused by an intentional act of the property manager. Generally, these issues will arise as claims of negligence not intentional conduct.
- ✓ If a claim of negligence is asserted against you for acting in your role as property manager, an indemnification provision in the property management contract would require the property owner to defend you against that allegation, such as by paying your attorney's fees or providing counsel, and also pay any money damages that might arise from a related injury. Without such a provision, you would be required to defend yourself against such a claim, which could result in costly legal fees and even a potential judgment against you personally.
- ✓ There is no "magic" language that is required for an indemnification provision to shift liability from a property manager to a property owner. However, broader language in the agreement will provide better protection to a property manager.
- ✓ Be aware of language that might limit the protections you are receiving and consider whether those limitations are acceptable and, if not, how that language can be changed. If in doubt, contact any attorney to help you assist in this determination.
- ✓ If you are currently serving as a property manager, review your management agreement to see whether it has an indemnification provision.
- ✓ A property management agreement may include an indemnification provision that is not clearly labeled as an "Indemnification" or "Hold Harmless" provision. Another label or title might be used or it may not be labeled at all. It is the language of the provision shifting liability for the property manager's negligence while acting in the professional capacity as a property manager that matters.

- ✓ If the property management agreement does not contain an indemnification provision, make a plan to include such a provision before renewing your contract. If the property management contract contains an expiration date or is subject to renewal at a certain time in the future, make sure to request that an indemnification provision be included in the next version of the contract.
- ✓ If you are presented with a contract to manage a new property, review the contract carefully to ensure there is a broad indemnification provision that protects your interests. Do not agree to serve as the property manager until the contract includes an indemnification provision.
- ✓ If you are having an attorney prepare a property management contract, as required by Commission Position Statement 27, make sure that attorney includes a broad indemnification provision in the agreement. Broad language might include protection from a claim arising out of an injury occurring on the property or any alleged negligent acts you might be accused of in your management of the property.
- ✓ Having a broad indemnification in your property management agreements will protect you from the cost and hassle of dealing with a dispute or lawsuit arising from a claim so that you can focus on providing quality, property management services to your clients.
- ✓ An indemnification provision is not the same as being named as an additional insured on the landlord's liability policy; make sure you have both.

White and Steele, P.C.

James M. Meseck

Rachel E. Ryckman

E. Catlynne Shadakofsky

John C. Matthews

NOTE that the information contained in this document is for general education and knowledge. It is not designed to be, and should not be used as, the sole source of information when analyzing and resolving a legal problem or claim. Additionally, the situation surrounding COVID-19 is evolving and the subject matter discussed herein may change on a daily basis. Please contact an attorney for timely advice as to any specific issue that may arise.