

COVID-19 Emergency Orders Affecting Real Estate Virginia

Last updated August 4, 2020

MORTGAGE ENFORCEMENT LIMITATIONS

April 22, 2020 – Statewide Legislation

- House Bill 340 was enacted providing (a) a 60-day stay of an unlawful detainer for nonpayment of rent for residential tenants, and (b) a 30-day stay of foreclosure proceedings for homeowners of, and owners who rent to a tenant, a one-family to four-family residential dwelling unit, who request a stay and provide written proof, defined in the bill, that they are (i) an employee of the United States government, (ii) an independent contractor for the United States government, or (iii) an employee of a company under contract with the United States government who was furloughed or was or is otherwise not receiving wages or payments as a result of a closure of the United States government, defined in the bill. In addition, the bill was modified at the Governor's request to expand the available relief described above to any tenant, homeowner, or owner affected by the novel coronavirus (COVID-19) pandemic public health crisis during the period for which the Governor has declared a state of emergency. This appears to include commercial tenants, but it is not entirely clear.

<https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP1202+pdf>

March 16, 2020 (and amended April 22, 2020 and May 12, 2020) – Supreme Court of Virginia

- Effective May 18, 2020, all courts may hear in-person non-emergency matters if they determine it is safe to do so per the May 12, 2020 Amendment.

http://www.vacourts.gov/news/items/covid/2020_0512_scv_amendment_to_fourth_order.pdf

LANDLORD/TENANT ENFORCEMENT LIMITATIONS

Statewide Moratorium on Residential Evictions

- June 22, 2020** – The Chief Justice of the Supreme Court of Virginia issued an order permitting courts to resume hearing all unlawful detainer actions and issuing writs of eviction as of June 29, 2020.

http://www.vacourts.gov/news/items/covid/2020_0622_scv_sixth_order.pdf

April 22, 2020 – Statewide Legislation

- House Bill 1420 was enacted providing that a landlord shall not charge a tenant for late payment of rent unless such charge is provided for in the written rental agreement, and that no such late charge shall exceed the lesser of 10% of the periodic rent or 10% of the remaining balance due and owed by the tenant.

<https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP1231+pdf>

- House Bill 340 was enacted providing (a) a 60-day stay of an unlawful detainer for nonpayment of rent for residential tenants, and (b) a 30-day stay of foreclosure proceedings for homeowners of, and owners who rent to a tenant, a one-family to four-family residential dwelling unit, who request a stay and provide written proof, defined in the bill, that they are (i) an employee of the United States government, (ii) an independent contractor for the United States government, or (iii) an employee of a company under contract with the United States government who was furloughed or was or is otherwise not receiving wages or payments as a result of a closure of the United States government, defined in the bill. In addition, the bill was modified at the Governor's request to expand the available relief described above to any tenant, homeowner, or owner affected by the novel coronavirus (COVID-19) pandemic public health crisis during the period for which the Governor has declared a state of emergency. This appears to include commercial tenants, but it is not entirely clear.
<https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP1202+pdf>

March 16, 2020 – Supreme Court of Virginia

- Effective May 18, 2020, all courts may hear in-person non-emergency matters if they determine it is safe to do so per the May 12, 2020 Amendment.
http://www.vacourts.gov/news/items/covid/2020_0512_scv_amendment_to_fourth_order.pdf

NON-ESSENTIAL BUSINESS RESTRICTIONS / STAY-AT-HOME ORDERS

State of Emergency: The Governor of Virginia has issued a Declaration of a State of Emergency due to Novel Coronavirus (COVID-19) effective March 12, 2020 until the order is amended or rescinded by further executive order..

[https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-51-AMENDED-Declaration-of-a-State-of-Emergency-Due-to-Novel-Coronavirus-\(COVID-19\).pdf](https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-51-AMENDED-Declaration-of-a-State-of-Emergency-Due-to-Novel-Coronavirus-(COVID-19).pdf)

Commonwealth of Virginia

August 3, 2020

- The Governor of Virginia amended and restated the July 28 Executive Order to require closure of all dining and congregation areas in restaurants, dining establishments, food courts, breweries, distilleries, wineries, and tasting rooms in the Eastern Region of Virginia between the hours of 12:00 a.m. and 5:00 a.m in addition to the restrictions already in place.
[https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-68-AMENDED-and-Order-of-Public-Health-Emergency-Eight---Additional-Restrictions-on-the-Eastern-Region-due-to-Novel-Coronavirus-\(COVID-19\).pdf](https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-68-AMENDED-and-Order-of-Public-Health-Emergency-Eight---Additional-Restrictions-on-the-Eastern-Region-due-to-Novel-Coronavirus-(COVID-19).pdf)

July 28, 2020

- The Governor of Virginia signed an Executive Order placing additional restrictions on restaurants, dining establishments, food courts, breweries, distilleries, wineries, and tasting rooms in the Eastern Region of Virginia (Cities of Virginia Beach, Chesapeake, Norfolk, Suffolk, Portsmouth, Hampton, Williamsburg, Newport News, Poquoson, James City County and York County) and prohibiting all public and private gatherings in excess of 50 people in the Eastern Region. This order takes effect July 31, 2020 and shall remain in full force and effect until amended or rescinded by further executive order.

[https://www.governor.virginia.gov/media/governorviriniagov/executive-actions/EO-68-and-Order-of-Public-Health-Emergency-Eight---Additional-Restrictions-on-the-Eastern-Region-due-to-Novel-Coronavirus-\(COVID-19\).pdf](https://www.governor.virginia.gov/media/governorviriniagov/executive-actions/EO-68-and-Order-of-Public-Health-Emergency-Eight---Additional-Restrictions-on-the-Eastern-Region-due-to-Novel-Coronavirus-(COVID-19).pdf)

June 30, 2020

- The Governor of Virginia signed an Executive Order easing additional restrictions on businesses as Virginia enters Phase 3 of reopening on July 1, 2020.

[https://www.governor.virginia.gov/media/governorviriniagov/executive-actions/EO-67-and-Order-of-Public-Health-Emergency-Seven---Phase-Three-Easing-of-Certain-Temporary-Restrictions-Due-to-Novel-Coronavirus-\(COVID-19\).pdf](https://www.governor.virginia.gov/media/governorviriniagov/executive-actions/EO-67-and-Order-of-Public-Health-Emergency-Seven---Phase-Three-Easing-of-Certain-Temporary-Restrictions-Due-to-Novel-Coronavirus-(COVID-19).pdf)

June 9, 2020

- The Governor of Virginia signed an Executive Order amending the June 2, 2020 Executive Order to move Richmond and the Northern Virginia Region into Phase 2 of reopening as of June 12, 2020.

[https://www.governor.virginia.gov/media/governorviriniagov/executive-actions/EO-65-and-Order-Of-Public-Health-Emergency-Six---AMENDED---Phase-Two-Easing-of-Certain-Temporary-Restrictions-Due-to-Novel-Coronavirus-\(COVID-19\).pdf](https://www.governor.virginia.gov/media/governorviriniagov/executive-actions/EO-65-and-Order-Of-Public-Health-Emergency-Six---AMENDED---Phase-Two-Easing-of-Certain-Temporary-Restrictions-Due-to-Novel-Coronavirus-(COVID-19).pdf)

June 2, 2020

- The Governor of Virginia signed an Executive Order easing additional restrictions on businesses as Virginia (excluding Richmond and the Northern Virginia Region, as defined in the May 12 Order) enters Phase 2 of reopening on June 5, 2020.

<https://www.governor.virginia.gov/newsroom/all-releases/2020/june/headline-857141-en.html>

May 8, 2020

- Restrictions will begin to ease on May 15 as the state enters Phase 1 reopening. The May 19 Amended Order excepts Virginia Beach from the provisions affecting beach closures.

[https://www.governor.virginia.gov/media/governorviriniagov/executive-actions/EO-61-and-Order-of-Public-Health-Emergency-Three---Phase-One-Easing-Of-Certain-Temporary-Restrictions-Due-To-Novel-Coronavirus-\(COVID-19\).pdf](https://www.governor.virginia.gov/media/governorviriniagov/executive-actions/EO-61-and-Order-of-Public-Health-Emergency-Three---Phase-One-Easing-Of-Certain-Temporary-Restrictions-Due-To-Novel-Coronavirus-(COVID-19).pdf)

[https://www.governor.virginia.gov/media/governorviriniagov/executive-actions/EO-61-and-Order-Of-Public-Health-Emergency-Three-AMENDED---Phase-One-Easing-Of-Certain-Temporary-Restrictions-Due-To-Novel-Coronavirus-\(COVID-19\).pdf](https://www.governor.virginia.gov/media/governorviriniagov/executive-actions/EO-61-and-Order-Of-Public-Health-Emergency-Three-AMENDED---Phase-One-Easing-Of-Certain-Temporary-Restrictions-Due-To-Novel-Coronavirus-(COVID-19).pdf)

March 30, 2020

- A Temporary Stay at Home Order was issued that will remain in effect until June 10.
[https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-55-Temporary-Stay-at-Home-Order-Due-to-Novel-Coronavirus-\(COVID-19\).pdf](https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-55-Temporary-Stay-at-Home-Order-Due-to-Novel-Coronavirus-(COVID-19).pdf)

March 24, 2020

- Gatherings of more than 10 people are prohibited and non-essential retailers are closed.
[https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-53-Temporary-Restrictions-Due-To-Novel-Coronavirus-\(COVID-19\).pdf](https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-53-Temporary-Restrictions-Due-To-Novel-Coronavirus-(COVID-19).pdf)

City of Alexandria

March 24, 2020

- Legally required public meetings can be postponed without penalty as long as public notice is given; however, public meetings are not prohibited as long as public health and safety measures and social distancing are considered.
<https://www.alexandriava.gov/Coronavirus#CityGovernmentOperationsMeetingsEventsandPrograms>

City of Richmond

June 26, 2020

- The City of Richmond has announced that it will enter Phase 3 of reopening on July 1, 2020.
<http://richmondvaannouncements.blogspot.com/2020/06/city-of-richmond-to-move-into-phase.html>

June 9, 2020

- The City of Richmond has announced that it will enter Phase 2 of reopening on June 12, 2020.
<http://richmondvaannouncements.blogspot.com/2020/06/city-of-richmond-to-move-into-phase-two.html>

May 27, 2020

- The City of Richmond has announced that it will enter Phase 1 of reopening on May 29, 2020.
<http://richmondvaannouncements.blogspot.com/2020/05/city-of-richmond-to-cautiously-move.html>

Arlington County

July 11, 2020

- Arlington County has announced that it will enter Phase 3 of reopening on July 1, 2020.
<https://newsroom.arlingtonva.us/release/phase-3-forward-virginia-faq/>

COURT ACCESS /JUDICIAL PROCESS LIMITATIONS

State

- See following links for information about COVID-19 related orders applicable to proceedings in state courts:
<http://courts.state.va.us/>
http://courts.state.va.us/news/items/covid_19.pdf
- The Supreme Court of Virginia has issued a Declaration of Judicial Emergency effective through August 30, 2020. For all cases in district and circuit courts, the statutes of limitation and all other case-related deadlines are tolled for the period of March 16, 2020 through July 19, 2020. As of July 20, 2020, there shall be no further tolling of statutes of limitation or other case-related deadlines, except for those imposed by the Speedy Trial Act, which shall be tolled during the ongoing Period of Judicial Emergency. Beginning July 20, 2020, there shall be no further tolling of deadlines regarding filings made pursuant to Part Five of the Rules of the Supreme Court of Virginia with the clerk of the circuit court as well as the filing of the petition for appeal in the Supreme Court under Rule 5:17(a)(1). Deadlines regarding filings made pursuant to Part Five A of the Rules of the Supreme Court of Virginia with the clerk of the circuit court are no longer tolled. Deadlines in the Court of Appeals that run from the filing of the record in that court remain unaffected; however parties remain free to seek extensions of time in the Court of Appeals.
- http://www.vacourts.gov/news/items/covid/2020_0728_scv_eighth_order.pdf

Federal

- See following links for information about COVID-19 related orders applicable to proceedings in Federal courts:
<https://www.uscourts.gov/news/2020/03/12/judiciary-preparedness-coronavirus-covid-19>
<https://www.uscourts.gov/about-federal-courts/court-website-links/court-orders-and-updates-during-covid19-pandemic>

RECORDING/FILING OFFICE LIMITATIONS

- Below is a link to relevant information about recording offices prepared by the American Land Title Association.
<https://www.alta.org/business-tools/county-status.cfm?state=VA>
- Below are links to relevant information about filing offices prepared by CT Corporation System and Corporation Service Company
<https://ct.wolterskluwer.com/covid-19-status?v=794331>
<https://www.cscglobal.com/blog/covid-19-state-closings/>

REMOTE NOTARIZATION

March 31, 2020 – Fannie Mae Lender Letter (LL-2020-03)

- Fannie Mae allows Lenders to sell loans with remotely notarized loan documents from states where remote notarization is currently authorized (listed in a table in the letter), subject to terms and conditions listed in the letter.

<https://singlefamily.fanniemae.com/media/22316/display>

March 31, 2020 – Freddie Mac Selling Guidance Related to COVID-19

- Freddie Mac allows Sellers to sell Mortgages to Freddie Mac where remote notarization was properly used in a state that currently allows remote notarization (listed in an attachment to the guidance). Freddie Mac provided specific requirements for qualifying Remote Online Notarization.

<https://guide.freddiemac.com/app/guide/bulletin/2020-8>

- Virginia allows electronic notarization to be performed remotely using audio-video conference technology by an approved eNotary.

<https://www.commonwealth.virginia.gov/official-documents/notary-commissions/enotary-faq/>
