

COVID-19 Emergency Orders Affecting Real Estate North Carolina

Last updated December 17, 2020

MORTGAGE ENFORCEMENT LIMITATIONS

March 31, 2020 – Office of the Governor Executive Order Number 124:

- Governor Roy Cooper issued an executive order that, among other things, encourages (but does not require) North Carolina licensed / regulated banks/mortgage lenders/servicers to: (a) implement the following measures for business/individuals who are North Carolina residents and can demonstrate financial hardship caused by COVID-19 (i) waive late fees for loan balances, and (ii) offer payment accommodations, and (b) implement the following measures for resident mortgage borrowers who attest they are unable to make timely payments: (i) forbear mortgage payments for 180+ days from their due dates and allow mortgagors to extend loan terms by such time without a lump sum payment, (ii) waive late payment fees for 90 days, and (iii) postpone foreclosure/eviction proceedings for 90 days.

<https://files.nc.gov/governor/documents/files/EO124-Utilities-Evictions-Financial-Services.pdf>

LANDLORD/TENANT ENFORCEMENT LIMITATIONS

October 28, 2020 – Office of the Governor Executive Order Number 171

- Governor Roy Cooper issued an executive order that, among other things, (a) confirms that a Centers for Disease Control Order (“CDC Order”) that halted certain residential evictions for the non-payment of rent through the end of 2020 is applicable to all residential tenants in North Carolina who qualify under the CDC Order, (b) set out certain protections and procedures to be followed by landlords and tenants in an eviction action to make sure the CDC Order is complied with and (c) provide that such protections and procedures apply to tenants that have been notified they meet eligibility criteria for participation in HOPE Program, even if such tenants would not qualify for protection from eviction under the CDC Order. The order does not apply to evictions for reasons other than nonpayment of rent and expires on December 31, 2020, unless otherwise extended.

<https://files.nc.gov/governor/documents/files/EO171-Assisting-North-Carolinians-At-Risk-of-Eviction.pdf>

March 31, 2020 – Office of the Governor Executive Order Number 124:

- Governor Roy Cooper issued an executive order that, among other things, prohibits the filing of all new eviction proceedings until April 17, 2020 and encourages (but does not require) Clerks of Superior Court and sheriffs of all counties in North Carolina to hold the issuance and execution of any writs of possession (legal documents under which evictions are performed) until April 17, 2020.

<https://files.nc.gov/governor/documents/files/EO124-Utilities-Evictions-Financial-Services.pdf>

NON-ESSENTIAL BUSINESS RESTRICTIONS

State of North Carolina

December 8, 2020 – Office of the Governor Executive Order Number 181 (Implementing a Modified Stay At Home Order and Requiring Nighttime Closure for Certain Businesses and Activities for all North Carolinians during Overnight Hours):

- Governor Roy Cooper issued an executive order that, among other things: (a) restates and replaces Executive Orders 141, 153, 162, 163, 169, 170, 176 and 180; (b) requires that restaurants, bars, retail businesses, personal care and grooming businesses, museums and aquariums, movie theaters and entertainment facilities, fitness facilities, arenas, and amusement parks must close to the public no later than 10:00 pm and may not re-open until 5:00 am the following morning (except that restaurants, breweries and wineries may

continue delivery and carryout services during such time and such restriction does not apply to businesses that sell groceries, medication, fuel or health care supplied); (c) requires events or convenings outside of the home, and entertainment/sporting events (other than professional and collegiate sporting events) must end or pause no later than 10:00 pm; and (d) requires that individuals in North Carolina stay home or at the place they will stay for the night between 10:00 pm and 5:00 am except for travel (i) for work, (ii) to obtain food, medical care or supplies, social services or fuel, (iii) from a business that closed at 10:00 pm or to a business that will open at or after 5:00 am, (iv) to take care of family, friends or pets, (v) necessary for personal safety, (vi) into or out of North Carolina, (vii) required by law enforcement or court order and (viii) using or providing shared transportation.

<https://files.nc.gov/governor/documents/files/EO181-Modified-Stay-at-Home-Early-Closure-Order.pdf>

November 23, 2020 – Office of the Governor Executive Order Number 180 (Increasing Face Covering Requirements to Prevent the Rapid Spread of COVID-19):

- Governor Roy Cooper issued an executive order that, among other things, modifies requirements for when face coverings are required and extends Phase 3 opening guidelines through December 11, 2020.

<https://files.nc.gov/governor/documents/files/EO180-Face-Coverings-Requirements.pdf>

November 10, 2020 – Office of the Governor Executive Order Number 176 (Further Extension of Phase 3 Order and Implementation of Additional Measures Necessary to Protect Public Health):

- Governor Roy Cooper issued an executive order that, among other things, prohibits gatherings of more than 10 people indoors or more than 50 people outdoors in a single confined space and extends Phase 3 opening guidelines through December 4, 2020.

<https://files.nc.gov/governor/documents/files/EO176-Phase-3-ext.pdf>

October 21, 2020 – Office of the Governor Executive Order Number 170 (Extension of the Phase 3 Order):

- Governor Roy Cooper issued an executive order that, among other things, extends the Phase 3 opening guidelines, including the provisions of Executive Order Number 163 (issued on September 1, 2020; see summary below) which were incorporated into Executive Order 169 (issued on September 30, 2020; see summary below), until November 13, 2020.

<https://files.nc.gov/governor/documents/files/EO170-Phase-3-Extension.pdf>

September 30, 2020 – Office of the Governor Executive Order Number 169 (Restrictions to Protect Lives During the COVID-19 Pandemic: Phase 3):

- Governor Roy Cooper issued an executive order that, among other things, established “Phase 3” opening guidelines by lifting several of the restrictions originally imposed by previous Executive Orders, and providing that, among other things, (a) amusement parks may open at 30% occupancy for outdoor attractions only, (b) bars may operate outdoors at the lesser of 30% of outdoor capacity or 100 guests, (c) movie theaters and conference centers may open indoor spaces to the lesser of 30% of capacity or 100 guests, (d) small outdoor entertainment venues may operate outdoors at the lesser of 30% of outdoor capacity or 100 guests, and (e) large outdoor venues (greater than 10,000 people) may operate with 7% occupancy. Executive Order 169 expires on October 23, 2020.

<https://files.nc.gov/governor/documents/files/EO169-Phase-3.pdf>

September 1, 2020 – Office of the Governor Executive Order Number 163 (Revised Prohibitions and Restrictions to Protect Lives in Responding to the COVID-19 Pandemic):

- Governor Roy Cooper issued an executive order that, among other things, modifies the following restrictions originally imposed by Executive Order 141 (issued on May 20, 2020; see summary below): (i) the limitation on mass gatherings is increased to 25 people indoors and 50 people outdoors; (ii) playgrounds, museums, aquariums, gyms and indoor exercise facilities may open (provided, that museums and aquariums must operate at no more than 50% capacity and gyms and indoor exercise facilities must operate at no more than 30% capacity) and clarifies that social distancing requirements such as mask wearing and maintaining 6 feet of distance between people still apply to museums, aquariums, gyms and indoor exercise facilities. Citations may be issued for failure to enforce face covering requirements but law enforcement personnel are not authorized to criminally enforce face covering requirements.

<https://files.nc.gov/governor/documents/files/EO163-New-Phase-2.5.pdf>

September 1, 2020 – Office of the Governor Executive Order Number 162 (Extending Restrictions on Late Night Service of Alcoholic Beverages):

- Governor Roy Cooper issued an executive order which extends the provisions of Executive Order 153 (issued on July 28, 2020; see summary below) through 11:00 pm on October 2, 2020.

<https://files.nc.gov/governor/documents/files/EO162-Extending-Alcohol-Curfew.pdf>

August 5, 2020 – Office of the Governor Executive Order Number 155 (Extension of Phase 2 Measures to Save Lives in the COVID-19 Pandemic):

- Governor Roy Cooper issued an executive order that, among other things, extends the provisions of Executive Order 141 (issued on May 20, 2020; see summary below), Executive

Order 147 (issued on June 24, 2020; see summary below) and Executive Order 151 (issued on July 16, 2020; see summary below) until 5 pm on September 11, 2020.

<https://files.nc.gov/governor/documents/files/EO155-Extension-of-Phase-2.pdf>

July 28, 2020 – Office of the Governor Executive Order Number 153 (Restricting Late Night Service of Alcoholic Beverages):

- Governor Roy Cooper issued an executive order that, among other things, states that restaurants, breweries, wineries, distilleries and any other business that (1) is not required to close under existing executive orders and (2) sell/serve alcoholic beverages for onsite consumption shall cease the sale and service of alcoholic beverages for onsite consumption between 11:00 pm and 7:00 am. The foregoing restrictions are minimum requirements and local governments can impose greater restrictions.

<https://files.nc.gov/governor/documents/files/EO-153-Restricting-Late-Night-Service-of-Alcoholic-Beverages.pdf>

July 16, 2020 – Office of the Governor Executive Order Number 151 (Extension of Phase 2 Measures to Save Lives in the COVID-19 Pandemic):

- Governor Roy Cooper issued an executive order that, among other things, extends the provisions of Executive Order 141 (issued on May 20, 2020; see summary below) and Executive Order 147 (issued on June 24, 2020; see summary below) until 5 pm on August 7, 2020 and amending Executive Order 141 by allowing venues for receptions or parties to open so long as such venues limit indoor gatherings to 10 people and outdoor gatherings to 25 people.

<https://files.nc.gov/governor/documents/files/EO151-Phase-2-Extension-1.pdf>

June 24, 2020 – Office of the Governor Executive Order Number 147 (Extension of Phase 2 Measures to Save Lives in the COVID-19 Pandemic):

- Governor Roy Cooper issued an executive order that, among other things, extends the provisions of Executive Order 141 (issued on May 20, 2020; see summary below) until 5 pm on July 17, 2020 and mandating individuals to wear face coverings when they are within 6 feet of another person (whether inside or outside) in the following settings: (a) inside retail businesses; (b) in restaurants (when customer is not at table); and (c) in personal care, grooming and tattoo businesses (excluding individuals receiving facial treatment).

<https://files.nc.gov/governor/documents/files/EO147-Phase-2-Extension.pdf>

May 21, 2020 – Office of the Governor Executive Order Number 141 (Easing Restrictions on Travel, Business Operations and Mass Gatherings: Phase 2):

- Governor Roy Cooper issued an executive order that, among other things, lifts the stay at home order provided for in Executive Order 138 (issued on May 5, 2020; see summary below) and allows for all most all business (including, without limitation, retail businesses, restaurants (including for on premises dining, which is now allowed), personal care, grooming and tattoo businesses, child care facilities, day camps and overnight camps and parks, trails and beaches) to open and operate subject to certain businesses complying with additional restrictions (including, without limitation, following social distancing guidelines and for retail businesses, restaurants and personal care, grooming and tattoo businesses, limiting occupancy to not more than 50% of stated fire capacity (or 12 customers per 1,000 square feet if no stated fire capacity)). Entertainment and fitness facilities without a retail or dining component (e.g. gyms, health clubs and fitness centers, indoor fitness facilities, skating rinks, bowling alleys, movie theaters, performance venues, amusement parks, bars, night clubs, etc.) are not allowed to open and operate and must remain closed. Executive Order 141 is effective as of 5 pm on May 22, 2020 and shall remain in effect through 5 pm on June 26, 2020.

<https://files.nc.gov/governor/documents/files/EO141-Phase-2.pdf>

May 5, 2020 – Office of the Governor Executive Order Number 138 (Modification of Stay at Home Order):

- Governor Roy Cooper issued an executive order that, among other things, modifies the previous Stay at Home Orders to permit additional business to open and activities to resume subject to the requirements set forth therein (including, without limitation, following social distancing guidelines and for retail businesses, limiting occupancy to not more than 50% of stated fire capacity (or 12 customers per 1,000 square feet if no stated fire capacity)), while the following businesses are still required to remain closed: (a) personal care/grooming businesses (e.g. salons, massage therapists, tattoo parlors, etc.); (b) entertainment facilities without a retail or dining component (e.g. gyms, bowling alleys, movie theaters, performance venues, etc.); and (c) sit-down services in restaurants and bars (but restaurants and bars may still remain open to serve customers for off-premises consumption occurs off premises (sit down services are prohibited). Executive Order 138 is effective May 8, 2020 at 5 pm and expires on May 22, 2020 at 5 pm.

<https://files.nc.gov/governor/documents/files/EO138-Phase-1.pdf>

April 23, 2020 – Office of the Governor Executive Order Number 135 (Extension of Stay at Home Order):

- Governor Roy Cooper issued an executive order that, among other things, extended the stay at home order implemented under, among others, Executive Order 120 (issued on March 23, 2020; see summary below), Executive Order 121 (issued on March 27, 2020; see summary below) and Executive Order 131 (issued on April 9, 2020; see summary below), until 5:00 pm EDT on May 8, 2020.

<https://files.nc.gov/governor/documents/files/EO135-Extensions.pdf>

April 9, 2020 - Office of the Governor Executive Order Number 131 (Policies for Retail Establishments):

- Governor Roy Cooper issued an executive order requiring, among other things, that all retail establishments permitted to operate under Executive Order 121 (issued on March 27, 2020; see summary below) limit their occupancy to 20% of their stated fire capacity or 5 customers per 1,000 square feet of their retail location (including non-customer facing areas), and if such establishment has reached or is expected to reach the maximum occupancy under said Executive Order, then such establishment must enforce the limit on occupancy with staff placed at the entrances to such establishment.

<https://files.nc.gov/governor/documents/files/EO131-Retail-Long-Term-Care-Unemployment-Insurance.pdf>

April 8, 2020 – Federal Emergency Management Agency Aid Regarding Housing:

- Governor Roy Cooper announced that North Carolina has received FEMA approval to provide housing alternatives (hotels, motels etc.) for residents of North Carolina with unstable housing who may need to quarantine or who are at high-risk for severe illness from COVID-19

<https://governor.nc.gov/news/fema-approves-north-carolina-request-stand-shelters-follow-social-distance-guidelines>

March 27, 2020 - Office of the Governor Executive Order Number 121:

- Governor Roy Cooper issued an executive order directing all individuals in North Carolina to stay at home, except for essential persons and activities. Construction, building management/maintenance, legislators, court personnel, legal service, accounting service, real estate services, engineering/architectural services, surveying services, mail services, financial/insurance institutions (including banks and title companies), judges, and governmental operations are considered “essential”. The order is effective through April 29, 2020.

<https://files.nc.gov/governor/documents/files/EO121-Stay-at-Home-Order-3.pdf>

March 23, 2020 - Office of the Governor Executive Order Number 120:

- Governor Roy Cooper issued an executive order directing local agencies and officials to continue to exercise their responsibilities, including Registers of Deeds and other local government functions required to protect lives and property. Such executive order is effective as of March 25, 2020 and is to continue for 30 days unless rescinded or superseded.

<https://files.nc.gov/governor/documents/files/EO120.pdf>

North Carolina State – Secretary of State Process Changes:

- Secretary of State Buildings are closed to the public (including, the Secretary of State's offices in downtown Raleigh and Atlantic Avenue locations) until further notice. Processing times may be delayed due to current circumstances and, in order to provide evidence of filings and communications with filers in as timely and efficiently as possible, filers should include a cover letter indicating the filer's email in telephone number (form BE-01).

<https://www.sosnc.gov/Corporations/>; <https://www.sosnc.gov/forms>

City of Charlotte (Mecklenburg County)

July 23, 2020 – Mecklenburg County (Charlotte) – Second Revised and Amended Joint Proclamation of the Mecklenburg County Board of Commissioners, Mayor of the City of Charlotte and Mayors of the Towns of Davidson, Matthews, Mint Hill and Pineville:

- County Board of Commissioners of Mecklenburg County, and the mayors of Charlotte, Davidson, Matthews, Mint Hill and Pineville issued a joint proclamation providing that, among other things, restaurants and private clubs serving food and alcohol shall be closed to on site consumption from the hours of 11pm to 5 am (however, restaurants can offer drive through/pick up services during those hours), and food and beverage service businesses shall not allow sitting or standing at bars for food/beverage consumption and shall not allow patrons to touch shared surfaces. The foregoing restrictions only apply to Mecklenburg County, Charlotte, Davidson, Matthews, Mint Hill and Pineville (and do not apply in Huntersville or Cornelius), and are effective as of July 23, 2020 and shall run concurrently with the Governor's Phase 2 reopening measures.

<https://www.mecknc.gov/news/Documents/Joint%20Proclamation%20-%20Alcohol%20Restrictions.pdf>

April 29, 2020 – Mecklenburg County (Charlotte) – Proclamation Regarding Recission of County Shelter-In-Place Order and Adoption of State Stay at Home Order:

- County Board of Commissioners of Mecklenburg County issued a proclamation announcing that, effective April 30, 2020, the Mecklenburg County Shelter-In-Place

Order (issued on March 24, 2020; see summary below) is rescinded and the North Carolina State stay at home orders as established by Executive Order 121 (issued on March 27, 2020; see summary above), Executive Order 131 (issued on April 9, 2020; see summary above) and Executive Order 135 (issued on April 23, 2020; see summary above), as may be further extended and/or amended by Executive Order, are adopted by Mecklenburg County.

<https://www.mecknc.gov/news/Pages/County-Transitions-to-States-Stay-at-Home-Order.aspx>

April 16, 2020 – Mecklenburg County (Charlotte) – Amended and Restated Shelter-In-Place Order:

- County Board of Commissioners of Mecklenburg County issued an amended and restated order that effectively extended the Shelter-In-Place Order (issued on March 24, 2020; see summary below) through the later of April 29, 2020 or, if Executive Order Number 121 is extended by the Governor of North Carolina, the date that Office of the Governor Executive Order Number 121 (issued on March 27, 2020; see summary above) expires.

<https://www.mecknc.gov/news/Pages/Amended-Stay-at-Home-Order.aspx>

March 24, 2020 - Mecklenburg County (Charlotte) – Shelter-In-Place Order:

- Effective through April 16, 2020, except for essential business/activities, all residents in Mecklenburg County are restricted to shelter at their places of residence. Construction, building management and maintenance, financial institutions (including title companies), mail/delivery services, and operations by courts/court personnel are among activities that are considered “essential”.

<https://www.mecknc.gov/news/Documents/Mecklenburg%20County%20Stay%20at%20Home%20Orders.pdf>

City of Raleigh, Wake County

July 20, 2020 – City of Raleigh, North Carolina Emergency Proclamation Regarding Alcohol Sales:

- Effective July 22, 2020 at 4:00 pm, all businesses located within the city of Raleigh are ordered to cease the sale of alcoholic beverages at 11:00 pm each evening and such sales may not resume until 7:00 am the following morning or the time when such sales are allowed by applicable law/ordinance, whichever is later. The declaration shall remain in effect until modified or rescinded.

<https://cityofraleigh0drupal.blob.core.usgovcloudapi.net/drupal-prod/COR14/prohibition-alcohol-sales-proclamation.pdf>

April 29, 2020 – Wake County (Raleigh) – Termination of Wake County Stay at Home Order and Adoption of State Stay at Home Order:

- Chairman of the Wake County Board of Commissioners issued a proclamation terminating the Wake County Stay at Home Order (as amended) effective as of April 30, 2020 and adopting for Wake County all restrictions and prohibitions contained in all of the Executive Orders issued by the Governor of North Carolina (as the same may be extended and/or amended) that are related to the activity of people and business.

<https://covid19.wakegov.com/wp-content/uploads/2020/04/DOC042920-04292020124553.pdf>

April 18, 2020 – Wake County (Raleigh) – Second Amendment to Stay at Home Order:

- Chairman of the Wake County Board of Commissioners issued a second amendment to the Stay at Home Order to clarify that the employer screening requirement imposed as part of the first amendment to the Stay at Home Order from April 15, 2020 (see note below) requires each employer to screen each employee for COVID-19 symptoms prior to such employee's shift (and includes discussions on shortness of breath, coughing, sore throat and respiratory issues) and encourages (but does not require) employers to take employee's temperature as part of such screening.

<https://covid19.wakegov.com/wp-content/uploads/2020/04/Second-Amendment-to-Proclamation-of-Emergency-Restrictions.pdf>

April 15, 2020 – Wake County (Raleigh) – Amendment to Stay at Home Order:

- Chairman of the Wake County Board of Commissioners issued an amendment to the Stay at Home Order from March 26, 2020 (see note below) which extended the stay at home order through April 30, 2020. The amendment also requires employers to check each employee for symptoms for COVID-19 (including taking each employee's temperature at the start of each shift).

<https://covid19.wakegov.com/wp-content/uploads/2020/04/First-Amendment-to-Proclamation-of-Emergency-Restrictions.pdf>

March 26, 2020 - Wake County (Raleigh) – Stay at Home Order:

- Effective through April 16, 2020, except for essential activities, residents are ordered to remain in their residence. Governmental services needed to ensure the continuing operations of government agencies, commercial and residential construction professions, banks/insurance/related financial institutions, mail services, professional real estate services (includes appraisers, notary services, title insurers and inspectors) are all considered “essential”.

<http://www.wakegov.com/covid19/Documents/FinalSignedSOE3-26-20.pdf>

COURT ACCESS /JUDICIAL PROCESS LIMITATIONS

State

- See following links for information about COVID-19 related orders applicable to proceedings in state courts:

<https://www.nccourts.gov/covid-19-coronavirus-updates>

<https://www.nccourts.gov/covid-19-coronavirus-updates#county-announcements-and-updates-8556>

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=NC>

- 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

- Governor Roy Cooper signed the North Carolina COVID-19 Relief bills into law which, among other things, allow for the remote notarization of documents. The requirement of personal appearance before a notary is satisfied for the purpose of a video notarization if the notary is physically present in North Carolina at the time of notarization, the principal signing the document identifies the county where they are located at the time of notarization, and the principal and notary use video conference technology that complies with the other requirements specified in the law. The allowance for remote notarization is effective May 4, 2020 and expires on August 1, 2020 at 12:01 A.M. Governor Roy Cooper signed House Bill 1023 on July 1, 2020 that, among other things, extended the allowance for remote notarization to March 1, 2021. Upon expiration of such allowance, remote notarization would not be permitted in North Carolina

<https://www.ncleg.gov/Sessions/2019/Bills/Senate/PDF/S704v5.pdf>

<https://www.ncleg.gov/Sessions/2019/Bills/House/PDF/H1023v7.pdf>