

RESPONDING TO COVID-19

31 March 2020

Practice Group:

*Financial Institutions
and Services
Litigation*

COVID-19: Impact on Consumer Financial Service Providers

U.S. Federal Government

Home Mortgage Loans (Mortgage Servicing, Foreclosure, and Eviction)

Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) (March 27, 2020)

- **Forbearance for federally-backed mortgage loans:** Borrowers of certain federally backed mortgage loans may request up to a 180-day payment forbearance without additional fees, penalties, or interest beyond the regular amounts scheduled or calculated for regular payments. Borrowers may request up to an additional 180 days of forbearance (up to 360 days of total forbearance).
- **Foreclosure moratorium:** Federally-backed mortgage loan servicers shall not initiate foreclosures (judicial and non-judicial) or conduct foreclosure sales or foreclosure-related evictions until after May 17, 2020. The Act provides an exception for vacant and abandoned properties.
- **Eviction moratorium:** Starting March 27, 2020 and extending for 120 days, landlords are prohibited from initiating legal action to recover possession of a rental unit or to charge fees, penalties, or other charges to the tenant related to nonpayment of rent where the landlord’s mortgage on that property is insured, guaranteed, supplemented, protected, or assisted in any way by HUD, Fannie Mae, Freddie Mac, the rural housing voucher program, or the Violence Against Women Act of 1994.
- **Credit reporting:** Beginning January 31, 2020 and extending to the later of 120 days after March 27, 2020 or 120 days after the date the national emergency declaration is terminated, furnishers of information to credit reporting agencies who provide account forbearance or agree to modified payments for a consumer account impacted by COVID-19, should report such account as “current” or as the status reported prior to the accommodation during the period of accommodation unless the consumer becomes current (so long as the consumer satisfies all requirements of the forbearance or modification agreement).

<https://www.congress.gov/bill/116th-congress/house-bill/748/text#toc-H4D5728D599DE43C1B10376E596A41BCE>

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Federal Home Loan Mortgage Corp. (“Freddie Mac”) – Bulletin 2020-7: Servicing Requirements and Relief Related to COVID-19 (March 25, 2020) and Bulletin 2020-4: Temporary Servicing Requirements Related to COVID-19 (March 18, 2020)
Federal National Mortgage Association (“Fannie Mae”) – Lender Letter 2020-02: Impact of COVID-19 on Servicing (March 25, 2020)

- **For mortgages owned by Freddie Mac and Fannie Mae:** Several relief options are now in place for homeowners who are directly or indirectly impacted by COVID-19, provided the homeowner’s ability to make timely mortgage payments has been negatively affected as a result of COVID-19.
- **Foreclosure moratorium:** Suspension of foreclosure sales for 60 days (through May 17, 2020).
- **Credit reporting suspension:** No credit reporting for homeowners on an active forbearance plan, repayment plan, or trial period plan as a result of COVID-19-related hardship where the borrower is making the required payments as agreed, even though payments are past due.
- **Forbearance plan eligibility:** COVID-19-related hardships that have impacted the borrower’s ability to make monthly mortgage payments are considered eligible forbearance hardships under existing agency guidance, and a hardship may include unemployment, reduction in regular work hours, or illness (of borrower or dependent family member)
 - No documentation is required to verify the hardship; and
 - Forbearance plans for up to 12 months, suspension of late charges and penalties, available regardless of property type (primary home, second home, investment property).
- **Loan modifications:** Mortgage loan modifications must be considered near conclusion of forbearance plan term. Servicers are to evaluate COVID-19 borrowers for modifications under existing Extend Modification and Cap and Extent Modification requirements. See Bulletin 2017-25 at https://guide.freddiemac.com/app/guide/content/a_id/1002075; see LL-2017-09R at <https://singlefamily.fanniemae.com/media/16451/display>. Evaluation requirements updated for COVID-19 are located in Bulletin 2020-4 and LL-2020-02.

Additional details regarding Fannie Mae and Freddie Mac COVID-19 updates can be found in the links above and below.

<https://guide.freddiemac.com/app/guide/bulletin/2020-7>
<https://sf.freddiemac.com/articles/news/guide-bulletin-2020-4>
<https://singlefamily.fanniemae.com/media/22261/display>

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Interagency: Consumer Financial Protection Bureau (“CFPB”), Office of the Comptroller of the Currency (“OCC”), Board of Governors of the Federal Reserve System (“FRB”), Federal Deposit Insurance Corporation (“FDIC”), National Credit Union Administration (“NCUA”) – Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus (March 22, 2020)

- Encourages servicers to “work prudently with borrowers who are or may be unable to meet their contractual payment obligations” due to the effects of COVID-19. The agencies:
 - View loan modification programs as positive actions;
 - Will not criticize institutions for working with borrowers;
 - Will not direct supervised institutions to automatically categorize all COVID-19-related loan modifications as troubled debt restructurings (“TDRs”);
 - Will not criticize financial institutions that mitigate credit risk through prudent actions consistent with safe and sound practices; and
 - Will not criticize institutions that work with borrowers as part of a risk mitigation strategy intended to improve an existing nonpass loan.
- Short-term modifications made on a good-faith basis in response to COVID-19 to borrowers who were current prior to any relief are not TDRs, including short-term (e.g., six months) modifications such as payment deferrals, fee waivers, extensions of repayment terms, or other delays in payment that are insignificant;
- The agencies’ examiners will exercise judgment in reviewing loan modifications, including TDRs, and will not automatically adversely risk rate credits that are affected by COVID-19, including those considered TDRs. Regardless of whether modifications result in loans that are considered TDRs or are adversely classified, agency examiners will not criticize prudent efforts to modify the terms on existing loans to affected customers.
- The FRB, the FDIC, and the OCC note that efforts to work with borrowers of one to four family residential mortgages, where the loans are prudently underwritten, and not past due or carried in nonaccrual status, will not result in the loans being considered restructured or modified for the purposes of their respective risk-based capital rules.
- For loans not otherwise reportable as past due:
 - Financial institutions are not expected to designate loans with deferrals granted due to COVID-19 as past due because of the deferral.

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- A loan's payment date is governed by the due date stipulated in the legal loan documents. If a financial institution agrees to a payment deferral, this may result in no contractual payments being past due, and these loans are not considered past due during the period of the deferral.

<https://www.occ.treas.gov/news-issuances/news-releases/2020/nr-ia-2020-39a.pdf>

CFPB: Statement on Bureau Supervisory and Enforcement Response to COVID-19 Pandemic (March 26, 2020)

- The CFPB will work with financial institutions to schedule examinations and supervisory activities in a manner “to minimize disruption and burden.”
- In scheduling examinations and supervisory activity, the CFPB will:
 - Cooperate with institutions to determine when supervisory events can be appropriately scheduled;
 - Consider staffing and related resource challenges confronting the institutions and their counsel;
 - Encourage prudent efforts undertaken in good faith, which are designed to meet the current needs of an institution's borrowers and other customers;
 - Consider the circumstances that entities face as a result of the COVID-19 pandemic; and
 - Be sensitive to good-faith efforts designed by institutions to assist consumers.

https://files.consumerfinance.gov/f/documents/cfpb_supervisory-enforcement-statement_covid-19_2020-03.pdf

CFPB: Statement on Supervisory and Enforcement Practices Regarding Quarterly Reporting Under the Home Mortgage Disclosure Act (March 26, 2020)

- To provide mortgage lenders with “flexibility” and to “reduce administrative burden,” the CFPB has stated that:
 - Until further notice, the CFPB will not “cite in an examination” or “initiate an enforcement action” based on a failure by any financial institution to submit the Quarterly reporting required by the Home Mortgage Disclosure Act (“HMDA”), 12 U.S.C. 2801, *et seq.* and Regulation C, 12 C.F.R. § 1003.5(a)(1)(ii).
- Institutions should continue collecting and recording HMDA data for future, likely annual, data submissions.

https://files.consumerfinance.gov/f/documents/cfpb_hmda-statement_covid-19_2020-03.pdf

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Interagency: CFPB; OCC; Board of Governors of the FRB; FDIC; NCUA – Joint Statement Encouraging Responsible Small-Dollar Lending in Response to COVID-19 (March 26, 2020)

- Encourage financial institutions to offer responsible small-dollar loans to consumers and small businesses, including, for example, through:
 - open-end lines of credit;
 - closed-end installment loans; or
 - other appropriately structured single payment loans.
- Encourage financial institutions to consider workout strategies to enable borrowers unable to repay a loan as structured to repay the principal of the loan while reducing the need to re-borrow.

<https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20200326a1.pdf>

U.S. Department of Housing and Urban Development – Mortgagee Letter 2020-04: Foreclosure and Eviction Moratorium in Connection with the Presidentially-Declared COVID-19 National Emergency (March 18, 2020)

- For all properties secured by Federal Housing Administration (“FHA”)-insured single-family mortgages (FHA loans):
 - **60-day foreclosure moratorium** – applies to initiation and completion of foreclosures;
 - **60-day eviction suspension**; and
 - Deadlines of the first legal action and reasonable diligence timelines are extended by 60 days

<https://www.hud.gov/sites/dfiles/OCHCO/documents/20-04hsgml.pdf>

U.S. Department of Veterans Affairs (“VA”) – Circular 26-20-7: Special Relief for those Potentially Impacted by COVID-19 (March 16, 2020); Circular 26-20-8: Foreclosure Moratorium for Borrowers Affected by COVID19 (March 16, 2020)

- **Forbearance** – “Encourages” lenders and servicers to extend forbearance to borrowers in distress as a result of COVID-19, as well as waive late chargers, and suspend credit reporting.
- **Foreclosure Moratorium** – “Strongly encourages” loan holders “to establish a sixty-day moratorium beginning March 18, 2020, on completing pending foreclosures or initiating new foreclosures on loans.”
- **Eviction** – Loan holders to consider the impact of completing an eviction when choosing to retain property instead of conveying it to the VA. “VA requests

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holders not expose Veterans and their families to additional risk through an eviction action, if at all feasible.”

https://www.benefits.va.gov/HOMELOANS/documents/circulars/26_20_7.pdf

https://www.benefits.va.gov/HOMELOANS/documents/circulars/26_20_8.pdf

U.S. Department of Housing and Urban Development – Dear Lender Letter 2020-04: Foreclosure and Eviction Moratorium in Connection with the Presidentially Declared COVID-19 National Emergency (March 20, 2020)

- For all Sections 184 (Indian Home Loan Guarantee Program) or 184A (Native Hawaiian Housing Loan Guarantee Program) guaranteed loans and properties secured thereunder:
 - Moratorium on foreclosure for a period of 60 days from the date of issuance. The moratorium applies to the initiation of foreclosures and to foreclosures in process.
 - Evictions of persons from such properties where the lender has acquired title are also suspended for a period of 60 days from the date of issuance.
 - Deadlines of the first legal action and reasonable diligence time lines are extended by 60 days from the date of issuance

https://www.hud.gov/sites/dfiles/Main/documents/sec184_letter_032020.pdf

Credit Cards and Prepaid Accounts

CFPB: Statement on Supervisory and Enforcement Practices Regarding Bureau Information Collections for Credit Card and Prepaid Account Issuers (March 26, 2020)

- To provide financial institutions with “more flexibility” and to “reduce administrative burden[s]” on issuers of credit cards and prepaid accounts, until further notice, the CFPB will not “cite in an examination” or “initiate an enforcement action” based on a failure by any financial institution to submit the following reporting:
 - Annual submission of information concerning agreements between credit card issuers and institutions of higher education, as required by the Truth in Lending Act (“TILA”), 15 U.S.C. § 1637(r), and Regulation Z, 12 C.F.R. § 1026.57(d)(3);
 - Quarterly submission of consumer credit card agreements, as required by TILA, 15 U.S.C. § 1632(d)(2) and Regulation Z, 12 C.F.R. § 1026.58(c);
 - Collection of certain credit card price and availability information from a sample of credit card issuers under TILA, 15 U.S.C. § 1646(b)(1) *et seq.*; and
 - Submission of prepaid account agreements and related information required by Regulation E, 12 C.F.R. § 1005.19(b).
- The CFPB further advises that entities should maintain records to allow them to make delayed submissions under future CFPB guidance.

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https://files.consumerfinance.gov/f/documents/cfpb_data-collection-statement_covid-19_2020-03.pdf

Student Loans

Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) (March 27, 2020)

- U.S. Department of Education (“DOE”) will suspend payments due for federal student loans through September 30, 2020.
- Interest will not accrue on federal student loans through September 30, 2020.
- DOE will treat suspended payments through September 30, 2020 as regularly scheduled payments for reporting to consumer reporting agencies.
- DOE will suspend all involuntary collection related to federal student loans.

<https://www.congress.gov/bill/116th-congress/house-bill/748/text#toc-H4D5728D599DE43C1B10376E596A41BCE>

U.S. Department of Education (“DOE”) – Press Release: Secretary DeVos Directs FSA to Stop Wage Garnishment, Collections Actions for Student Loan Borrowers, Will Refund More Than \$1.8 Billion to Students, Families (March 25, 2020)

- DOE will halt collections actions and wage garnishments for defaulted student loan accounts for at least 60 days beginning on March 13, 2020 (March 13–May 12, 2020).
- DOE will instruct private collections agencies to halt all proactive collection activities, including making phone calls to borrowers and issuing collection letters and billing statements.
- DOE will monitor employers’ compliance with garnishment of wages stoppage.

<https://www.ed.gov/news/press-releases/secretary-devos-directs-fsa-stop-wage-garnishment-collections-actions-student-loan-borrowers-will-refund-more-18-billion-students-families>

DOE – Press Release: Delivering on President Trump’s Promise, Secretary DeVos Suspends Federal Student Loan Payments, Waives Interest During National Emergency (March 20, 2020)

- 60-Day 0 Percent Interest – Borrowers with a federally held student loan will automatically have their interest rates set to 0 percent for a period of at least 60 days
- Payment Suspension Option – Borrowers will have the option to suspend their payments for at least two months, without accruing any interest

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- Loan Forbearance – DOE directed all federal student loan servicers to grant an administrative forbearance to any borrower with a federally held loan who requests one, which will last for at least 60 days, beginning on March 13, 2020
- Automatic suspension of payments for any borrower more than 31 days delinquent as of March 13, 2020, or whomever becomes more than 31 days delinquent

<https://www.ed.gov/news/press-releases/delivering-president-trumps-promise-secretary-devos-suspends-federal-student-loan-payments-waives-interest-during-national-emergency>

Authors:

David E. Fialkow

david.fialkow@klgates.com

+1.617.261.3126

Brian M. Forbes

brian.forbes@klgates.com

+1.617.261.3152

Robert W. Sparkes, III

robert.sparkes@klgates.com

+1.617.951.9134

Edward J. Mikolinski

edward.mikolinski@klgates.com

+1.617.951.9067

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California

Home Mortgage Loans (Mortgage Servicing, Foreclosure, and Eviction)

Office of Governor Gavin Newsom – Executive Order N-37-20 – Moratorium on Evictions and Foreclosures (3/27/2020)

- Statewide ban on the enforcement of eviction orders for renters affected by COVID-19.
- Tenant would remain obligated to repay full rent in a timely manner and could still face eviction after the enforcement moratorium is lifted on May 31. The order takes effect immediately, and provides immediate relief to tenants for whom rent is due on April 1st.

<https://www.gov.ca.gov/wp-content/uploads/2020/03/3.27.20-EO-N-37-20.pdf>

Office of Governor Gavin Newsom – Executive Order N-28-20 – Moratorium on Evictions and Foreclosures (March 16, 2020)

- Allows local governments to impose limitations on evictions for nonpayment of rent or mortgages due to a decrease in household or business income or substantial out-of-pocket medical expense caused by COVID-19 or government responses to COVID-19.
- Waives the time limitation set forth in California Penal Code section 396(f), which prohibits a landlord from evicting a tenant and then charging the new tenant a rent higher than could have been legally charged to the evicted tenant. This protection is now extended through May 31, 2020.
- Requests financial institutions holding home or commercial mortgages to implement an immediate moratorium on foreclosures and related evictions when the foreclosure or foreclosure-related eviction arises out of a substantial decrease in household or business income or substantial out-of-pocket medical expense caused by COVID-19 or government responses to COVID-19.

<https://www.gov.ca.gov/wp-content/uploads/2020/03/3.16.20-Executive-Order.pdf>

Office of Governor Gavin Newsom – Announcement regarding Mortgage Payment Relief (March 25, 2020)

Certain financial institutions (consisting of nearly 200 federal and state-chartered banks plus credit unions) will offer the following protections:

- 90-day grace period for mortgage payments;
- No negative credit reporting;
- Moratorium on initiating foreclosure sales or evictions for at least 60 days; and
- Waive or refund mortgage-related late fees and early CD-withdrawal fees for at least 90 days.

<https://www.gov.ca.gov/2020/03/25/governor-gavin-newsom-announces-major-financial-relief-package-90-day-mortgage-payment-relief-during-covid-19-crisis/>

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Consumer Banking

California Business, Consumer Services and Housing Agency and Department of Business Oversight (“DBO”) – Guidance to Financial Institutions During the COVID-19 Pandemic (3/22/2020)

Statement encouraging financial institutions to take steps to meet the financial services needs of customers and communities adversely affected by COVID-19, including, among other things:

- Waive fees, such as automated teller machine (“ATM”) fees, overdraft fees, late payment fees on credit cards or other loans, and early withdrawal penalties on time deposits’;
- Increase ATM daily cash withdrawal limits;
- Ease restrictions on cashing out-of-state and noncustomer checks;
- Increase credit card limits for creditworthy borrowers;
- Offer payment accommodations, such as allowing borrowers to defer or skip payments or extending payment due date to avoid delinquencies and negative credit reporting caused by COVID-19-related disruptions;
- Make prudent efforts to modify the terms on existing loans for affected customers, including to evaluate whether the loan represents a “troubled debt restructuring”;
- Ease terms for new loans to affected borrowers; and
- Make other accommodations that could assist customers in responding to COVID-19-related challenges.

Further, the DBO supports and will not criticize efforts to accommodate customers in a safe and sound manner. The DBO will refrain from citing violations directly arising from any late mortgage recordation due to the closure of a county recorder’s office related to COVID-19. In addition, the DBO provides assurances that it will consider the unusual circumstances financial institutions are facing, including an increase in levels of delinquent or nonperforming loans, when reviewing the institutions financial condition.

https://www.bcsb.ca.gov/coronavirus19/dbo_banks.pdf

Author:

Jeremy M. McLaughlin

jeremy.mclaughlin@kkgates.com

+1.415.882.8230

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Connecticut

Home Mortgage Loans (Mortgage Servicing, Foreclosure, and Eviction)

Conn. Judicial Branch – Order from Chief Administrative Judge for Civil Matters for the Superior Court (March 19, 2020)

The Superior Court issued a temporary moratorium on all judicial foreclosure and eviction actions in Connecticut:

- All foreclosure sales previously scheduled to have occurred in April or May 2020 are rescheduled to Saturday, June 6, 2020, with no appointed committee to begin working on the sale (i.e., place foreclosure signs on the property, etc.) prior to May 1, 2020.
- Judgment in any foreclosure action in which the Superior Court set a “law day” to run in April or May is amended with the first law day now set for June 2, 2020.
- All executions issued in eviction or ejection actions are stayed through May 1, 2020.
- All civil trials, trial management conferences, pre-trials, status conferences, judicial alternative dispute resolution mediations and short calendars (arguable and nonarguable) are cancelled.

https://jud.ct.gov/Execution_stay.pdf; <https://jud.ct.gov/COVID19.htm#Civil>

Conn. Department of Banking – Letter to Connecticut Residential Mortgage Servicers with Guidance on COVID-19-related Issues (March 18, 2020)

Letter encouraging residential mortgage servicers operating in Connecticut to take steps to meet the financial services needs of customers and communities adversely affected by COVID-19 including, among other things:

- Waive late fees;
- Offer forbearance plans or other deferment options; and
- Make adequate staff available to proactively work with borrowers facing hardship as a result of the outbreak.

In addition, the Department of Banking (the “Department”) requests that servicers consider providing guidance to their internal and external collection teams regarding the servicer’s current policies to ensure their teams are fully aware of all potential accommodations available to adequately assist impacted customers.

<https://portal.ct.gov/-/media/DOB/Consumer-Credit-Division/2020-03-18-Mortgage-Servicer-Guidance.pdf>

Conn. Department of Banking – Memorandum of No-Action Position Regarding Temporarily Working From Home Due to COVID-19 (March 6, 2020)

The Department regulates numerous “Consumer Credit Licensees” who are required to maintain a branch office location license in order to perform Connecticut licensable activity at a location other than the licensed main office. “Consumer Credit Licensees” include the following Connecticut Licensees:

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- Mortgage lenders, mortgage correspondent lenders, mortgage brokers, mortgage loan originators, loan processors or underwriters, sales finance companies, debt adjusters, debt negotiators, mortgage servicers, small loans, consumer collection agencies, and student loan servicers

The Department recognizes that, due to COVID-19, individuals who work for “Consumer Credit Licensees” in Connecticut may need or be required work from home temporarily, even though such a home location is not currently licensed as a branch office. As a result, the Department indicates that it is taking a no-action position concerning the requirement that any Connecticut licensable activity by a “Consumer Credit Licensee” be conducted from a licensed branch office location, effective through April 30, 2020, so long as the following criteria are satisfied:

- The licensable activity is from a home location of an individual working on behalf of a “Consumer Credit Licensee”;
- The individual is working from home due to a reason relating to the COVID-19 outbreak and has informed the “Consumer Credit Licensee” of such reason in writing;
- The individual maintains all necessary licenses to conduct such licensable activity;
- None of the licensable activity will be conducted in person with members of the public from the home location; and
- The “Consumer Credit Licensee” shall at all times exercise reasonable supervision of the licensable activity being performed at the home office and ensure that appropriate safeguards and controls are established concerning consumer information and data security.

<https://portal.ct.gov/-/media/Office-of-the-Governor/News/20200309-COVID19-Dept-of-Banking-memo.pdf?la=en>

Student Loans

Conn. Department of Banking – Memorandum of No-Action Position Regarding Temporarily Working From Home Due to COVID-19 (March 6, 2020)

See above notes.

<https://portal.ct.gov/-/media/Office-of-the-Governor/News/20200309-COVID19-Dept-of-Banking-memo.pdf?la=en>

Consumer Banking

Conn. Department of Banking – Letter to State Chartered Banks and Credit Unions with Guidance on COVID-19-related Issues (March 17, 2020)

Letter encouraging residential mortgage servicers operating in Connecticut to take steps to meet the financial services needs of customers and communities adversely affected by COVID-19, including, among other things:

- Ease credit terms for new loans, waive overdraft fees, increase the number of allowed money market withdrawals, waive CD early withdrawal penalties, waive late fees for loan balances, and offer payment accommodations (such as deferment or extending the payment due date).

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The Department also states that any modifications to existing loans that are deemed prudent by financial institutions in light of the circumstances will not be subject to regulatory criticism.

In addition, the Department requests that financial institutions consider providing guidance to their servicers and collection agencies regarding the institution's current policies to ensure their teams are fully aware of all potential accommodations available to adequately assist impacted customers.

<https://portal.ct.gov/-/media/DOB/Administration/2020-03-17-Guidance-on-COVID-19-related-Issues.pdf>

Court Closures, Deadlines (Impact on Pending and New Litigation)

Office of Governor Ned Lamont – Executive Order No. 7G (March 19, 2020)

The governor suspended, among other things, all noncritical court operations, including, but not limited to:

- Statutory time requirements;
- Statutes of limitations or other limitations or deadlines relating to service of process;
- Court proceedings or court filings for the duration of the COVID-19 outbreak, in particular, proceedings enumerated in the order, including time requirements for Connecticut Supreme Court and Connecticut Appellate Court filings.

These limitations impact civil litigation involving financial services products relating to foreclosure, eviction, and collection actions.

<https://portal.ct.gov/-/media/Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-7G.pdf?la=en>
<https://jud.ct.gov/COVID19.htm>

Authors:

Sean R. Higgins

sean.higgins@klgates.com

+1.617.261.3128

Hollee M. Boudreau

hollee.boudreau@klgates.com

+1.617.951.9087

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District of Columbia

Home Mortgage Loans (Mortgage Servicing, Foreclosure, and Eviction)

Department of Insurance, Securities, and Banking - Commissioner's Order 02-2020

- Foreclosure mediation timing - the time period after the date of mailing of a notice of default on residential mortgage by which a foreclosure mediation must be scheduled is extended to 120 days from 90 days. The mediation must be completed within 210 days of the date of the mailing of the notice on default. A mediator may reschedule with at least 2 business days' notice if doing so is in the public interest.
- All mortgage lenders, mortgage brokers and mortgage loan originators ("MLOs") offering mortgage loan services or engaging in the business of servicing mortgage loans for others may operate from home, even if the home offices are not licensed as branch locations, as long as security conditions are met.

District of Columbia City Council – COVID-19 Response Emergency Amendment Act of 2020 (B23-0718)

- Prohibits the eviction of residential tenants but does not appear to apply to mortgagors. Landlords must not evict commercial tenants. Increases penalties under D.C. Code 2804102 for increasing the price of services to \$5,000.
- The law expires on June 24, 2020.

<https://dccouncil.us/council-unanimously-passes-emergency-covid-19-response-bill/>

D.C. Superior Court – Corona Virus Advisory (March 13, 2020)

- All court hearings for debt collection and mortgage foreclosure are continued.
- All evictions of tenants and foreclosed homeowners on or before May 1, 2020, are stayed.

<http://www.dccourts.gov/sites/default/files/Order-3-15-20.pdf>

Author:

Daniel S. Cohen

dan.cohen@klgates.com

+1.202.778.9020

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Florida

Home Mortgage Loans (Mortgage Servicing, Modification, Forbearance/Foregiveness)

Florida Office of Financial Regulation (“OFR”) – Consumer Finance Guidance Regarding COVID-19 (March 20, 2020)

Florida OFR Guidance encourages, but does not require, financial institutions to consider loan workout options.

- “We strongly encourage financial industries to take thoughtful steps and work with their customers that may be adversely affected by COVID-19.”
- “OFR supports efforts to accommodate customers in a safe and sound manner.”
- Mortgage loan originators may work from home, even if the home is not a licensed branch location.

https://dropinblog.com/uploaded/blogs/34235702/files/CF_Guidance_Final_32020.pdf

Florida OFR – Update to Florida State-Chartered Financial Institutions Regarding COVID-19 (March 18, 2020)

Florida OFR Guidance encourages, but does not require, financial institutions to consider loan workout options.

- “OFR encourages financial institutions to work with customers and communities affected by COVID-19.”
- “Reasonable efforts to make new loans and modify the terms on existing loans of affected customers will not be subject to examiner criticism.”
- “OFR examiners will be fair and understanding regarding the impact of COVID-19 and the efforts being made by financial institutions to work with customers or members in response to this public health emergency.”
- Institutions are “particularly” encouraged to work with “borrowers from industries that may be especially vulnerable to volatility in the current economic environment.”

https://dropinblog.com/uploaded/blogs/34235702/files/2020_03_17_Financial_Institutions_COVID-19_Industry_Update.pdf

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Home Mortgage Loans (Foreclosure and Eviction)

Supreme Court of Florida – In re COVID-19 Essential and Critical Trial Court Proceedings – Administrative Order (March 17, 2020)

- Mortgage foreclosures are effectively stayed as a nonessential court proceeding that is cancelled during the pandemic.
- No statewide eviction moratorium in place at this time, but Governor DeSantis has said he will consider one.

<https://www.floridasupremecourt.org/content/download/631996/7181425/AOSC20-15.pdf>

Consumer Banking

Florida OFR – Emergency Order 2020-01 Re: Renewal Deadlines (March 20, 2020)

Emergency order entered by the OFR that suspends and tolls for 30 days any renewal deadlines for OFR-issued licenses occurring in March or April 2020.

- Suspension of licensure renewal deadlines applies to “Money Services Businesses” covered by Chapter 560, Florida Statutes, including check cashers, deferred presentment providers, foreign currency exchangers, money transmitters, and payment instrument issuers.

https://dropinblog.com/uploaded/blogs/34235702/files/Emergency_Order_32020.pdf

Authors:

Olivia Kelman

olivia.kelman@klgates.com

+1.305.539.3382

Robert S. Hogue

shawn.hogue@klgates.com

+1.305.539.3325

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Maine

Home Mortgage Loans (Mortgage Servicing, Foreclosure, and Eviction)

Maine Supreme Judicial Court – Cancellation and Postponements (March 18, 2020)

- Evictions, foreclosures, landlord/tenant disputes, and other cases and proceedings will not be scheduled or heard through May 1, 2020, unless otherwise ordered by the court (there are more unrelated to consumer finance).

<https://www.courts.maine.gov/covid19/emergency-order-notice-revised.pdf>

Maine Bureau of Consumer Credit Protection – Interim Regulatory Guidance – Temporarily Working from Home (March 18, 2020)

- Bureau expresses its intent to allow licensed mortgage loan originators to work from home even if the home is not a licensed branched.

<https://www.maine.gov/pfr/consumercredit/index.shtml>

Consumer Banking

An Act to Implement Provisions Necessary to the Health, Welfare and Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency, ch. 617, sex. I-1 (to be codified at ME. STAT. TIT. 5, § 157) (March 18, 2020)

- Individuals who can demonstrate they have experienced a reduction of income since January 1, 2020, due to COVID-19 can apply for a loan guaranteed by Finance Authority of Maine (“FAME”). An individual can apply for up to three loans each equal to their monthly after-tax pay, up to \$5,000, minus unemployment benefits received.
- Lenders cannot consider an individual’s creditworthiness when determining eligibility. There is a 90-day grace period. After the 90 days, the borrower must repay the loan in full in 180 days by making at least three and no more than six equal installments. Lenders can charge interest in accordance with their lending policy if the loan is not repaid in full after 180 days.
- Lenders recoup unpaid loans through FAME.

<http://legislature.maine.gov/bills/getPDF.asp?paper=SP0789&item=2&snum=129>

https://www.maine.gov/governor/mills/sites/maine.gov.governor.mills/files/inline-files/85926_Assistance_V6.pdf

<https://www.famemaine.com/business/programs/covid-19-relief-loan-programs/covid-19-relief-consumer-loan-program/>

Court Closures, Deadlines (Impact on Pending and New Litigation)

Maine Supreme Judicial Court and Maine Superior and District Court – Emergency Order Extending Unexpired Deadlines (March 17, 2020)

COVID-19: Impact on Consumer Financial Service Providers

The Maine Supreme Judicial Court extended all unexpired deadlines for matters related to any law court appeals by 49 days.

All unexpired deadlines are extended 49 days that relate to any matter before the Maine Superior Court or a district court (with exceptions):

Statutory deadlines are not affected by these orders.

<https://www.courts.maine.gov/covid19/emergency-order-appeals.pdf>

<https://www.courts.maine.gov/covid19/emergency-order-extending-deadline.pdf>

Authors:

Morgan T. Nickerson

morgan.nickerson@klgates.com

+1.617.261.3134

Christopher F. Warner

christopher.warner@klgates.com

+1.617.951.9208

COVID-19: Impact on Consumer Financial Service Providers

Massachusetts

Home Mortgage Loans (Mortgage Servicing, Foreclosure, and Eviction)

Massachusetts Legislature – Bill HD.4935 – An Act Providing for a Moratorium on Evictions and Foreclosures During the COVID19 Emergency (filed March 14, 2020)

- A proposed bill seeking to stay evictions and foreclosures in Massachusetts during the governor's COVID-19 emergency declaration. The proposed bill would:
 - prohibit eviction courts from (1) entering judgment for possession of residential dwelling in favor of plaintiff; (2) issuing executions for possession of residential dwelling; (3) accepting newly filed complaints for possession of residential dwelling, (4) denying, upon request of a defendant, a stay of execution or continuance of eviction action; and (5) denying requests to stay an execution or continue a case as requested by a defendant;
 - prohibit sheriffs, constables, or other persons from enforcing or levying upon an execution for possession of a residential dwelling;
 - prohibit creditors, mortgagees, and others from proceeding with a residential foreclosure, including publishing statutory notices of foreclosure sale, exercising power of sale, or exercising right of entry;
 - prohibit credits, mortgages, and others from initiating summary process eviction action; and
 - \$5,000 fine – proposed fine and/or imprisonment for violations.

<https://malegislature.gov/Bills/191/HD4935>

Office of Governor Charlie Baker and Lt. Governor Karyn Polito – Order Permitting the Temporary Conditional Deferral of Certain Inspections of Residential Real Estate (March 20, 2020)

- Temporary change to the inspection statutes that require a smoke and carbon-dioxide alarm inspection prior to completing on a residential real estate transaction (G.L. c. 148, §§ 26F, 26F½). The order permits the parties to defer the inspection if the buyer contractually assumes responsibility for installing the detectors and the subsequent inspection happens within 90 days of the conclusion of the COVID-19 emergency.
- The order applies to any sale or transfer of residential real estate that occurs while the order is in effect. The order is immediately effective and shall remain in place until rescinded or the state of emergency is terminated.

<https://www.mass.gov/doc/march-20-2020-smoke-alarm-inspections-order/download>

COVID-19: Impact on Consumer Financial Service Providers

Mass. Division of Banks - Message to Mass. Financial Institutions, Mortgage Lenders, and Mortgage Servicers Regarding Support for Mortgage Loan Borrowers Impacted by the Novel Coronavirus (COVID-19) (March 25, 2020)

The Division outlined its expectations for all regulated financial institutions, including Massachusetts chartered banks, credit unions, lenders, and servicers, to implement all reasonable and necessary changes to provide relief to adversely impacted borrowers during the COVID-19 outbreak (and continuing thereafter, as necessary), including, but not limited to:

- Postponing foreclosures for 60 days;
- Forbearing mortgage payments for 60 or more days from their due dates;
- Waiving late payment fees and any online payment fees for 60 days;
- Refraining from reporting late payments to credit rating agencies for 60 days;
- Offering borrowers an additional 60-day grace period to complete trial loan modifications, and ensuring that late payments during outbreak do not affect their ability to obtain permanent loan modifications;
- Ensuring that borrowers do not experience a disruption of service if the mortgage servicer closes its offices, including making available other methods for borrowers to manage their accounts and make inquiries; and
- Proactively reaching out to borrowers to explain the available assistance being offered.
- Reasonable and prudent efforts by financial institutions during the outbreak will not be subject to examiner criticism.

<https://www.mass.gov/doc/dob-guidance-regarding-support-for-mortgage-loan-borrowers-impacted-by-the-novel-coronavirus/download>

Debt Collection

Mass. Attorney General - Emergency Regulation to Protect Consumers from Harmful Debt Collection Practices During Covid-19 Emergency, 940 CMR 35.00 (March 27, 2020)

- The Regulation immediately prohibits creditors from engaging in methods of debt collection that can require people to leave their homes or have in-person contact, including, but not limited to, threatening or filing collection lawsuits against Massachusetts consumers, seeking to garnish, attach, or withhold consumer wages, visiting places of work, threatening to or actual repossessing cars, seeking or servicing civil capias warrants, and confronting consumers in public places.
- It prohibits debt collection agencies and debt buyers from making unsolicited debt collection calls to consumers.
- The Regulation remains in effect for ninety days.

<https://www.mass.gov/news/ags-office-issues-emergency-regulation-to-protect-consumers-from-harmful-debt-collection>

COVID-19: Impact on Consumer Financial Service Providers

Consumer Banking

Mass. Division of Banks – Statement on Financial Institutions Working with Customers Affected by the Coronavirus and Regulatory Assistance (March 16, 2020)

Statement encouraging financial institutions to take steps to meet the financial services needs of customers and communities adversely affected by COVID-19, including, among other things:

- Waive fees, such as automated teller machine (“ATM”) fees, overdraft fees, late payment fees on credit cards or other loans, and early withdrawal penalties on time deposits;
- Increase ATM daily cash withdrawal limits;
- Ease restrictions on cashing out-of-state and noncustomer checks;
- Increase credit card limits for creditworthy borrowers;
- Offer payment accommodations, such as allowing borrowers to defer or skip payments or extending payment due date to avoid delinquencies and negative credit reporting caused by COVID-19-related disruptions;
- Make prudent efforts to modify the terms on existing loans for affected customers, including to evaluate whether the loan represents a “troubled debt restructuring”;
- Ease terms for new loans to affected borrowers; and
- Make other accommodations that could assist customers in responding to COVID-19-related challenges.

In addition, the division provides assurances that it will consider the unusual circumstances financial institutions are facing, including an increase in levels of delinquent or nonperforming loans, when reviewing the institutions financial condition.

<https://www.mass.gov/files/documents/2020/03/16/COVID-19%20DOB%20Industry%20Statement%2003-16-20.pdf>

Court Closures, Deadlines (Impact on Pending and New Litigation)

Mass. Supreme Judicial Court – Order In Re: COVID-19 Pandemic – Supreme Judicial Court Order Limiting In-Person Appearances in State Courthouses to Emergency Matters that Cannot be Resolved Through a Videoconference or Telephonic Hearing (March 17, 2020)

The Massachusetts Supreme Judicial Court limits in-person appearances in state court to emergency matters only that cannot be resolved through videoconference or telephonic hearing, from March 18, 2020 through, at least, April 6, 2020. The following limitations impact civil litigation involving financial services products, including foreclosures, evictions, and collection actions:

COVID-19: Impact on Consumer Financial Service Providers

- All jury trials scheduled to start between March 17, 2002 and April 17, 2020, are continued to a date no earlier than April 21, 2020, unless the trial is a bench trial in a civil matter and may be conducted otherwise than in person by agreement of the parties and court. Where a jury trial has already commenced, a mistrial shall be declared;
- All statutes of limitations are tolled from effective date of order through April 21, 2020;
- All deadlines set forth in statutes or court rules, standing orders, or guidelines that would otherwise expire before April 21, 2020, are extended to that date, unless otherwise ordered by the applicable court; and
- All orders that were issued prior to the effective date of the order after an adversarial hearing (or the opportunity for an adversarial hearing) that are due to expire prior to April 21, 2020, shall remain in effect until the matter is rescheduled and heard.

<https://www.mass.gov/doc/supreme-judicial-court-order-limiting-in-person-appearances-in-state-courthouses-that-cannot-be/download>

Massachusetts Housing Court – Housing Court Standing Order 3-20: Supplement to Housing Court Standing Order 2-20 Relating to the Coronavirus (COVID 19) Outbreak (March 17, 2020)

- Through at least April 6, 2020, the Massachusetts Housing Court shall hear only emergency matters, which include, among other things, requests to stay levy on an execution for possession of a residential dwelling;
- All executions for possession of residential dwelling that would otherwise expire before April 21, 2020, are extended to that date, unless otherwise ordered by the court; and
- All deadlines set forth in statutes or court rules, standing orders, or guidelines that would otherwise expire before April 21, 2020, are extended to that date, unless otherwise ordered by the court.

<https://www.mass.gov/doc/housing-court-standing-order-3-20-supplement-to-housing-court-standing-order-2-20-relating-to/download>

Authors:

David E. Fialkow

david.fialkow@klgates.com

+1.617.261.3126

Hollee M. Boudreau

hollee.boudreau@klgates.com

+1.617.951.9087

COVID-19: Impact on Consumer Financial Service Providers

New Hampshire

Home Mortgage Loans (Mortgage Servicing, Foreclosure, and Eviction)

Governor of New Hampshire – Executive Order #4 Pursuant to Executive Order 2020-04 (issued March 17, 2020)

- No property owner of nonrestricted or restricted property may initiate eviction proceedings during the state of emergency (“State of Emergency”) and no eviction order shall be issued or enforced during the State of Emergency.
- All judicial and nonjudicial foreclosure actions are prohibited during the State of Emergency.
- “No provision in this Order shall be construed as relieving an individual of their obligations to pay rent, make mortgage payments, or any other obligation which an individual may have under a tenancy or mortgage.”

<https://www.governor.nh.gov/news-media/emergency-orders/documents/emergency-order-4.pdf>

Court Closures, Deadlines (Impact on Pending and New Litigation)

New Hampshire Supreme Court – Order Suspending In-Person Court Proceedings (issued March 16, 2020)

- Deadlines set forth in court rules, court orders, ordinances, administrative rules, administrative orders, or otherwise that are set to expire between March 16 and April 6, 2020, are extended to April 7, 2020. Statutes of limitations and statutes of repose that would otherwise expire during the period between March 16 and April 6, 2020 are extended to April 7, 2020. Orders of protection and temporary injunctions that would otherwise expire between March 16 and April 6, 2020 are hereby extended to April 7, 2020.

<https://www.courts.state.nh.us/supreme/orders/3-16-20-order.pdf>

Authors:

Christopher J. Valente

christopher.valente@klgates.com

+1.617.951.9071

R. Nicholas Perkins

nicholas.perkins@klgates.com

+1.617.951.9207

COVID-19: Impact on Consumer Financial Service Providers

New Jersey

Home Mortgage Loans (Mortgage Servicing, Foreclosure, and Eviction)

New Jersey Governor – Executive Order No. 106 (March 19, 2020)

- No lessee, tenant, homeowner, or any other person shall be removed from a residential property as a result of an eviction or foreclosure proceeding while Executive Order 106 is in effect.
- Eviction and foreclosure proceedings may be initiated or continued while Executive Order 106 is in effect, but enforcement of any judgments for possession, warrants of removal, and writs of possession shall be stayed.

<https://nj.gov/infobank/eo/056murphy/pdf/EO-106.pdf>

New Jersey Governor - COVID-19 Residential Mortgage Relief (3/28/20)

Governor Murphy announced an initiative between the State of New Jersey and financial institutions that agreed to provide residential mortgage relief for homeowners in New Jersey. New Jerseyans who are struggling with the COVID-19 crisis may be eligible for the following relief upon contacting their financial institution:

- Ninety-day grace period for all mortgage payments;
- Relief from fees and charges for 90-days;
- No new foreclosures for 60-days;
- No credit score changes for accessing relief

<https://www.state.nj.us/dobi/covid/mortgagerelief.html>

Consumer Banking

New Jersey Department of Banking and Insurance – Bulletin No. 20-04 (March 19, 2020)

- Encourages entities regulated by the department to work with and assist customers who have been adversely affected by COVID-19-related issues

https://www.state.nj.us/dobi/bulletins/blt20_04.pdf

Court Closures, Deadlines (Impact on Pending and New Litigation)

New Jersey Supreme Court – Notice regarding New Jersey Court Operations – COVID-19 (March 15, 2020; updated and extended March 27, 2020)

- In-person proceedings canceled to the extent practicable; all court matters, including hearings, conferences, and arguments, will be conducted by video or phone conferencing; and in-person appearances only for emergencies.
- Discovery deadlines for the period March 16 through March 30, 2020, are extended through April 26, 2020.

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<https://www.njcourts.gov/notices/2020/n200315a.pdf?c=kNg>

<https://www.njcourts.gov/notices/2020/n200327a.pdf>

New Jersey Supreme Court – Order of the Chief Justice of the New Jersey Supreme Court (March 17, 2020, extended March 27, 2020)

- For filing purposes, all dates between March 16 through March 27, 2020, shall be treated as a legal holiday;
- Deadlines for trials and summary judgment motions are relaxed and extended;
- The Office of Foreclosure will not review or recommend motions or judgment received on or after March 1, 2020, pending further court order; and
- Landlord/tenant calendars are suspended through April 26, 2020, and residential evictions are suspended.

<https://www.njcourts.gov/notices/2020/n200317d.pdf?c=h1y>

Financial Services Generally

New Jersey Department of Banking and Insurance – Bulletin No. 20-06 (March 19, 2020)

- Issues guidance and informs mortgage lenders and certain regulated entities of no-action position regarding temporarily working from home due to COVID-19 effective through April 30, 2020, if certain submissions to the department are made.

https://www.state.nj.us/dobi/bulletins/blt20_06.pdf

<https://www.njcourts.gov/notices/2020/n200327a.pdf>

Author:

Joshua D. Rinschler

joshua.rinschler@klgates.com

+1.973.848.4145

COVID-19: Impact on Consumer Financial Service Providers

New York¹

Home Mortgage Loans (Mortgage Servicing, Foreclosure, and Eviction)

Executive Order Number 202.8: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency (March 20, 2020)

- Executive order prohibiting foreclosure of any commercial or residential properties for 90 days.

<https://www.governor.ny.gov/news/no-2028-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

New York State Department of Financial Services – 3 NYCRR Part 119: Emergency Relief for New Yorkers Who Can Demonstrate Financial Hardship as a Result of COVID-19 (March 24, 2020)

- Emergency regulations promulgated pursuant to Executive Order 202.9 issued by Governor Cuomo on March 21, 2020.
- New York-regulated institutions must:
 - Make widely available applications for forbearance of any payment due on a residential mortgage of New York property;
 - Within 10 business days of the order, disseminate information regarding how to apply for COVID-19 relief;
 - Process and respond to requests for relief within 10 business days of receipt of necessary information; and
 - Issue determination in writing where feasible.
- Section 39 of the Bank Law is modified such that it is deemed an “unsafe and unsound business practice” for any bank to “not grant a forbearance of any payment due on a residential mortgage for a period of ninety (90) days to any individual who has applied for such a forbearance and demonstrated a financial hardship as a result of the COVID-19 pandemic[.]”

https://www.dfs.ny.gov/system/files/documents/2020/03/re_new_pt119_nycrr3_text.pdf

Student Loans

Office of the Attorney General (“OAG”) (March 17, 2020)

- The state has suspended the collection of student debt owed to the “State of New York and referred to the OAG for collection from March 17, 2020 through April 16, 2020.”

<https://ag.ny.gov/press-release/2020/attorney-general-james-and-governor-cuomo-temporarily-suspend-state-debt>

¹ See Joseph C. Wylie II, Molly K. McGinley, and Nicole C. Mueller, *COVID-19: NY State of Emergency Imposes Ban on Telemarketing Calls*, K&L GATES (March 10, 2020) <http://www.klgateshub.com/details/?pub=New-York-State-Imposes-Temporary-Ban-on-Telemarketing-Calls-to-State-Residents-03-10-2020>

COVID-19: Impact on Consumer Financial Service Providers

Consumer Banking

New York State Department of Financial Services – 3 NYCRR Part 119: Emergency Relief for New Yorkers Who Can Demonstrate Financial Hardship as a Result of COVID-19 (March 24, 2020)

- Emergency regulations promulgated pursuant to Executive Order 202.9 issued by Governor Cuomo on March 21, 2020.
- New York-regulated institutions must provide the following relief to any individual who demonstrates financial hardship from COVID-19:
 - Eliminate automated teller machine fees, overdraft fees, and credit card late payment fees;
 - Within 10 business days of the order, disseminate information regarding how to apply for COVID-19 relief;
 - Process and respond to requests for relief within 10 business days of receipt of necessary information; and
 - Issue determination in writing where feasible.
- Regulated institutions are encouraged to provide additional relief if possible.
- Section 39 of the Bank Law is modified such that it is deemed an “unsafe and unsound business practice” for any bank to “not grant a forbearance of any payment due on a residential mortgage for a period of ninety (90) days to any individual who has applied for such a forbearance and demonstrated a financial hardship as a result of the COVID-19 pandemic[.]”

https://www.dfs.ny.gov/system/files/documents/2020/03/re_new_pt119_nycrr3_text.pdf

Court Closures, Deadlines (Impact on Pending and New Litigation)

Chief Administrative Judge of the Courts – Administrative Order Number 78-2020 (March 22, 2020)

- New York state courts are no longer accepting any filings in any court except for certain matters deemed essential, such as certain emergency family court matters.
- New York state courts are only open for “essential” cases.

<http://nycourts.gov/whatsnew/pdf/AO-78-2020.pdf>

Executive Order Number 202.8: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency (March 20, 2020)

- Executive order tolling “any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or proceeding, as prescribed by the procedural laws of the state” until April 19, 2020.

<https://www.governor.ny.gov/news/no-2028-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

COVID-19: Impact on Consumer Financial Service Providers

Chief Administrative Judge of the Courts – Memorandum (March 13, 2020)

- All trials (including judicial foreclosure) postponed unless already commenced.

<http://nycourts.gov/whatsnew/pdf/MEMO-3.13.20.pdf>

Authors:

David E. Fialkow

david.fialkow@klgates.com

+1.617.261.3126

Priya Chadha

priya.chadha@klgates.com

+1.212.536.3905

COVID-19: Impact on Consumer Financial Service Providers

North Carolina

Home Mortgage Loans (Mortgage Servicing, Foreclosure, and Eviction)

North Carolina Administrative Office of the Courts – Chief Justice Cheri Beasley Memorandum (March 15, 2020)

- Postpones all foreclosure and summary ejectment proceedings “for at least the next 30 days.”
- Parties may begin eviction proceedings, but they will not be heard until April 14, 2020, at the earliest.
- Emergency evictions where criminal activity is occurring can still be heard in magistrate court at this time.

<https://www.nccourts.gov/assets/inline-files/Coronavirus-Update-for-our-Courts-Memo-to-Judicial-Officials-3-15-20.pdf?Tuzuse0oAnyFyzogb4eejpcawxCrf4kl>

Debt Collection

North Carolina Administrative Office of the Courts – Chief Justice Cheri Beasley Memorandum (March 15, 2020)

- Postpones all small-claims proceedings, including those for “money owed,” “for at least the next 30 days.”
- Parties may bring claims for money owed, but they will not be heard until April 14, 2020, at the earliest.

<https://www.nccourts.gov/assets/inline-files/Coronavirus-Update-for-our-Courts-Memo-to-Judicial-Officials-3-15-20.pdf?Tuzuse0oAnyFyzogb4eejpcawxCrf4kl>

Author:

Zachary S. Buckheit

zach.buckheit@klgates.com

+1.919.743.7314

COVID-19: Impact on Consumer Financial Service Providers

Oregon

Home Mortgage Loans (Mortgage Servicing, Foreclosure, and Eviction)

Governor of State of Oregon Executive Order No. 20-11 Temporary Moratorium on Residential Evictions for Nonpayment, In Response to Coronavirus (COVID-19) Outbreak (March 22, 2020)

- All residential evictions stayed for 90 days for nonpayment of rent arising under ORS 105.105 through ORS 105.168;
- Evictions for reasons other than nonpayment of rent unaffected by order;
- Through June 22, 2020, with extensions and early termination by governor possible.

https://www.oregon.gov/gov/Documents/executive_orders/eo_20-11.pdf

Court Closures, Deadlines (Impact on Pending and New Litigation)

Oregon Supreme Court Chief Justice Order No. 20-006 Imposing “Level 3” Restrictions on Court Operations (March 16, 2020; *extended on March 29, 2020)

- Postponement of most trials, including all forcible entry and detainer actions;
- Cancellation of all jury trials and oral arguments;
- Allows presiding judges the discretion to allow court operations to continue if social distancing can be maintained; and
- Most of order in place statewide through June 1, 2020, with extension possible.

*Monitoring Oregon courts website today for expected extension.

https://www.courts.oregon.gov/news/Lists/ArticleNews/Attachments/1303/acd3fb79befadf4982b20ceba127ffd0-2020-03-16_COVID-19_News.pdf

Financial Services Generally

Oregon Division of Financial Regulation Bulletin No. DFR 2020-07 (March, 20, 2020)

The division issued a nonbinding bulletin advising all Oregon-regulated lenders and loan servicers to provide reasonable assistance to Oregon borrowers.

- Affected entities include: banking institutions, as defined in ORS 706.008; credit unions, as defined in ORS 723.006; mortgage bankers, mortgage brokers, and loan originators, as those terms are defined in ORS 86A.100, required to be licensed under ORS 86A.095 to 86A.198; persons required to be licensed as consumer finance lenders under ORS 725.045; mortgage servicers, as defined in

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ORS 86A.303; and payday loan lenders and title loan lenders, as defined in ORS 725A.010.

- The entities are advised to take “active measures” to assist borrowers impacted by the COVID-19 pandemic, such as loan forbearance plans, fee waivers, and other deferred payment options during the Oregon State of Emergency (declared March 8, 2020). Suggested measures include:
 - 90-day mortgage forbearance;
 - 90-day period to modify mortgages;
 - Loan payment accommodations;
 - Waiving late payments and fees;
 - Waiving overdraft and nonsufficient funds fees; and
 - Refraining from reporting late payments to credit agencies for 90 days.
- The guidance bulletin is in effect through the duration of the Oregon State of Emergency.

<https://dfi.wa.gov/coronavirus/financial-resources>

Authors:

Peter A. Talevich

peter.talevich@klgates.com

+1.206.370.8070

Raina V. Wagner

raina.wagner@klgates.com

+1.206.370.8087

COVID-19: Impact on Consumer Financial Service Providers

Pennsylvania

Home Mortgage Loans (Mortgage Servicing, Foreclosure, and Eviction)

Pennsylvania Legislature

- A proposed bill seeking to stay evictions of unemployed Pennsylvanians during a state of emergency caused by an epidemic or pandemic. The proposed bill would also provide penalties for landlords who violate the stay.
- A draft bill has not yet been introduced.

<https://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=H&SPick=20190&cosponId=31441>

Pennsylvania Supreme Court (March 19, 2020)

- The Pennsylvania Supreme Court has declared a statewide “judicial emergency” as of March 19, 2020. Pursuant to the court’s order, “during the period of judicial emergency, no eviction, ejection or other displacement from a residence based on failure to make payment can be made.”

<http://www.pacourts.us/assets/files/page-1305/file-8634.pdf>
<http://www.pacourts.us/assets/files/page-1305/file-8638.pdf>
<http://www.pacourts.us/ujs-coronavirus-information>

Student Loans

Pennsylvania Legislature

- A proposed bill seeking to create a 60-day grace period for the repayment of student loans to the Pennsylvania Higher Education Assistance Agency.
- A draft bill has not yet been introduced.

<https://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=H&SPick=20190&cosponId=31431>

Consumer Banking

Pennsylvania Governor’s Office – COVID-19 Response Guide

- Statement that individuals having difficulty making credit card or loan payments should contact their lenders. The guide notes that “[r]egulatory agencies have encouraged financial institutions to work with customers impacted by the coronavirus” and advises, “[s]ome lenders may work out an agreement with you to waive late fees, set up a repayment plan or offer loan forbearance.”

<https://www.pa.gov/guides/responding-to-covid-19/#ForIndividuals>

COVID-19: Impact on Consumer Financial Service Providers

Court Closures, Deadlines (Impact on Pending and New Litigation)

Pennsylvania Supreme Court (3/19/20)

- Pursuant to the Pennsylvania Supreme Court's March 19, 2020 declaration of a judicial emergency, courts in the commonwealth are generally closed to the public "as to non-essential functions through at least April 3, 2020." Furthermore, "any legal papers or pleadings which are required to be filed between March 19, 2020, and April 3, 2020, SHALL BE DEEMED to have been timely filed if they are filed by April 6, 2020."

<http://www.pacourts.us/assets/files/page-1305/file-8634.pdf>

<http://www.pacourts.us/assets/files/page-1305/file-8638.pdf>

<http://www.pacourts.us/ujs-coronavirus-information>

Author:

Hugh T. McKeegan

hugh.cckeegan@klgates.com

+1.412.355.6313

COVID-19: Impact on Consumer Financial Service Providers

Rhode Island

Court Closures, Deadlines (Impact on Pending and New Litigation, Including Evictions)

Rhode Island Supreme Court – Executive Order No. 2020-04 - COVID-19 Pandemic Response – (March 17, 2020)

- All nonemergency/essential matters (including evictions in the district court) are continued until after April 17, 2020.

<https://www.courts.ri.gov/Courts/SupremeCourt/SupremeExecOrders/20-04.pdf>

Student Loans

Rhode Island Student Loan Authority – Coronavirus Relief Program – (March 19, 2020)

- Borrowers whose income has been impacted by the COVID-19 pandemic may be able to suspend monthly payments for up to two months on nonfederal education loans.

<https://app.risla.com/loan/CoronavirusReliefProgram.aspx>

Authors:

David E. Fialkow

david.fialkow@klgates.com

+1.617.261.3126

Edward J. Mikolinski

edward.mikolinski@klgates.com

+1.617.951.9067

COVID-19: Impact on Consumer Financial Service Providers

South Carolina

Home Mortgage Loans (Mortgage Servicing, Foreclosure, and Eviction)

South Carolina Supreme Court Order Re: Statewide Evictions and Foreclosures (March 18, 2020)

- All evictions currently ordered and scheduled statewide to be rescheduled not earlier than May 1, 2020.
- Court shall not accept applications for ejectment, schedule hearings, issue writs or warrants of ejectment, or proceed in any manner regarding evictions until directed by subsequent order by the Chief Justice.
- Moratorium in master-in-equity courts statewide on foreclosure hearings, foreclosure sales, writs of assistance, and writs of ejectments, nor should masters-in-equity proceed in any other manner regarding foreclosures until directed by a subsequent order of the Chief Justice.

<https://www.sccourts.org/whatsnew/displaywhatsnew.cfm?indexID=2464>

Court Closures, Deadlines (Impact on Pending and New Litigation)

South Carolina Supreme Court Order Re: Operation of Appellate Courts During the Coronavirus Emergency, Appellate Case No. 2020-000447 (March 20, 2020)

- All oral arguments before appellate courts cancelled. Supreme Court building closed to public.
- Due dates for all filings due on or after date of order extended by 20 days (except deadlines to service notices of appeal).
- Procedural defaults since March 13, 2020, forgiven, and party has 20 days from date of order to take the required action. If dismissal order entered as a result of the procedural default, clerk may rescind that dismissal order. *Not applicable to deadlines to serve notices of appeal.

<https://www.sccourts.org/whatsnew/displaywhatsnew.cfm?indexID=2470>

South Carolina Supreme Court Order Re: Circuit Court Schedule and Judicial Travel (March 18, 2020)

- All circuit judges to return to home circuits and follow directives in trial court memo (below).
- Only emergency hearings shall be held at the discretion of each Chief Judge.
- All terms of court through May 1, 2020, cancelled.

<https://www.sccourts.org/whatsnew/displaywhatsnew.cfm?indexID=2466>

COVID-19: Impact on Consumer Financial Service Providers

Author:

Emily Mather

emily.mather@klgates.com

+1.919.743.7346

COVID-19: Impact on Consumer Financial Service Providers

Texas

Home Mortgage Loans (Mortgage Servicing, Foreclosure, and Eviction)

Home Mortgage Loans: Texas Supreme Court, Fourth Emergency Order Regarding the COVID-19 State of Disaster (March 19, 2020)

- Eviction moratorium: Most residential eviction proceedings have been halted through April 19, 2020. The order allows for new filings, but it states that no trial, hearings, or other proceedings can be held until after April 19, 2020. Exceptions are allowed in instances where a tenant poses an imminent physical threat or is conducting criminal activity.

<https://www.txcourts.gov/media/1446203/209045.pdf>

Department of Savings and Mortgage Lending – Part of Texas’ State of Disaster Order; COVID-19 – Re: Mortgage Entity Licensed Location Requirements and Branch Licensing (March 20, 2020)

- For all licensed mortgage entities:
 - There is an authorization to temporarily suspend any requirement that a physical office be open to the public during normal business hours.
 - Licensed mortgage loan originators may work from home or a remote location, even if the location is not a licensed branch.
 - If a licensed mortgage loan originator or mortgage loan staff works remotely, the licensed mortgage entities must ensure that: (1) information security is maintained, (2) physical business records are kept at a licensed office only, and (3) consumers are not allowed to go to the mortgage loan originator’s home.

<https://www.sml.texas.gov/>

Author:

Angela M. Buchanan

angela.buchanan@klgates.com

+1.214.939.5451

COVID-19: Impact on Consumer Financial Service Providers

Vermont

Home Mortgage Loans (Mortgage Servicing, Foreclosure, and Eviction)

- Currently no new statutes, rules, or orders regarding COVID-19.

Student Loans

Vermont Student Assistance Corporation – Loan Forbearance Policy (enacted 1998)

- The Vermont Student Assistance Corporation offers student loan forbearance enabling borrowers facing financial hardship to suspend their interest and principal payments for up to 24 months in three-month segments. This policy has been in place since 1998 and is not COVID-19-specific.

<https://www.vsac.org/covid-19-updates-ways-vsac-can-help>

Court Closures, Deadlines (Impact on Pending and New Litigation)

Vermont Supreme Court – Administrative Order No. 49: Declaration of Judicial Emergency and Changes to Court Procedures (Incorporating Order Promulgating Amendment to Administrative Order No. 49) (issued March 16, 2020)

- A “judicial emergency” is declared in effect until April 15, 2020, postponing all nonemergency Superior Court hearings, whether evidentiary or nonevidentiary, including jury trials and hearings that have already been scheduled, with limited exceptions. The exceptions do not relate to foreclosures or evictions, though there are potentially relevant exceptions for emergency landlord-tenant hearings at the discretion of the judge, as well as temporary emergency hearings on injunctive relief at the discretion of the judge.
- The order does not extend statutes of limitations or other filing deadlines.

<https://www.vermontjudiciary.org/sites/default/files/documents/AO%2049%20-%20Declaration%20of%20Judicial%20Emergency%20and%20Changes%20to%20Court%20Procedures%20with%20amendments%20through%203-24-20.pdf>

U.S. District Court for the District of Vermont – General Order 85 (issued March 16, 2020)

- All civil and criminal matters scheduled for in-court appearance before any district or magistrate judge or bankruptcy judge in the District of Vermont are postponed pending further order of the court. This includes all jury trials.
- Case-by-case exceptions to the postponements may be ordered for nonjury matters at the discretion of the court after consultation with counsel.

COVID-19: Impact on Consumer Financial Service Providers

- The work of the bankruptcy court will continue subject to protocols established by the bankruptcy judge.
- This order does not affect the consideration of civil or criminal motions that can be resolved without oral argument or handled by telephone conference call.

<https://www.vtd.uscourts.gov/sites/vtd/files/GeneralOrder85.pdf>

Financial Services Generally

Vermont Public Utility Commission – Order Blocking Disconnection of Utility Service (issued March 18, 2020)

- Vermont’s regulated utilities are ordered to stop any disconnection of residential utility service due to nonpayment of electricity, natural gas, and telecommunications bills until at least April 30, 2020.

https://puc.vermont.gov/sites/psbnew/files/doc_library/commission-blocks-utility-disconnection.pdf

Authors:

Christopher J. Valente

christopher.valente@klgates.com

+1.617.951.9071

R. Nicholas Perkins

nicholas.perkins@klgates.com

+1.617.951.9207

COVID-19: Impact on Consumer Financial Service Providers

Washington

Home Mortgage Loans (Mortgage Servicing, Foreclosure, and Eviction)

Governor of the State of Washington Proclamation 20-19 on Evictions (Amending Proclamation 20-05) (March 18, 2020)

- All residential evictions stayed until April 17, 2020, including unlawful detainer actions under RCW 59.12;
- Landlords are prohibited from serving notice of an unlawful detainer action on tenants for rent payments in default;
- Twenty-day notices are prohibited except in the case that a landlord can attest that the action is necessary to ensure the health or safety of the tenant or others;
- Landlords prohibited from seeking a writ of restitution; and
- Local law enforcement is prohibited from serving or acting on evictions.

<https://www.governor.wa.gov/sites/default/files/proclamations/20-19%20-%20COVID-19%20Moratorium%20on%20Evictions%20%28tmp%29.pdf>

City of Seattle Civil Emergency Order Moratorium on Residential Evictions (March 16, 2020)

- Moratorium on residential evictions for 60 days, until May 15, 2020.
- Exceptions permitted when eviction is based on tenant actions that constitute a threat to health or safety.
- **Note:** Currently more protective than state order, which stays actions until April 17, 2020.

<https://seattle.legistar.com/View.ashx?M=F&ID=8200918&GUID=7C036880-2C95-403D-B313-0A1EAE69CBEF>

Court Closures, Deadlines (Impact on Pending and New Litigation)

Supreme Court of Washington Corrected Order No. 25700-B-607 In the Matter of Statewide Response by Washington State Courts to the COVID-19 Public Health Emergency (March 19, 2020)

The Supreme Court of Washington continued all nonemergency civil matters through April 24, 2020, delaying all trials not currently in progress and most in-person hearings.

- All civil jury trials delayed except those where the trial was already in session and the jury sworn, which continue with social distancing practices;
- All nonemergency civil matters continued until after April 24, 2020;
- Emergency civil matters to convene via telephone, video, or other remote means; and
- Individual courts may adopt stricter/more protective measures, and the order may be extended.

COVID-19: Impact on Consumer Financial Service Providers

<http://www.courts.wa.gov/content/publicUpload/Supreme%20Court%20Orders/Supreme%20Court%20Emergency%20Order%20re%20CV19%20031820.pdf>

Financial Services Generally

Washington Financial Services Department Consumer Resources

- Collected links to consumer federal and state financial resources for consumers, including:
 - Unemployment applications;
 - Advice on paying credit cards;
 - Federal guidance for mortgages;
 - Short-term loans for small businesses; and
 - Many other links.
- No official statewide guidance or bulletin to financial services entities.

<https://dfi.wa.gov/coronavirus/financial-resources>

Authors:

Peter A. Talevich

peter.talevich@klgates.com

+1.206.370.8070

Raina V. Wagner

raina.wagner@klgates.com

+1.206.370.8087

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