

# COVID-19 State Foreclosure Moratoriums and Stays

## State COVID-19 related housing actions, March 1, 2022

The following are summaries of actions certain states have taken in response to the COVID-19 crisis to limit home foreclosures. The list may not be complete, as state and local governments continue to adopt new emergency measures at a fast pace.

Consumers and their advocates should carefully review the scope of the measures adopted in their states. These executive declarations and court orders provide important relief in a crisis that will lead to severe health and financial consequences for many homeowners. However, some of these emergency proclamations have a very narrow scope. Press coverage may give the impression that an order prevents a wider range of actions than it actually does. For example, certain state emergency declarations bar post-foreclosure evictions. However, they do not halt the conduct of the foreclosure sale itself or reverse its consequences. In judicial foreclosures the orders may prevent the conduct of a foreclosure sale and eviction, but may not stop the running of deadlines to respond to motions or answer pleadings. In particular, the orders may not address the running of post-judgment redemption periods. In certain states, it may still be necessary to modify recorded orders setting the expiration of redemption periods. The expiration of a redemption period will have a direct impact on the scheduling of a foreclosure sale when the emergency order expires.

Finally, consumers and advocates should keep in mind that a federal regulation promulgated under the Real Estate Settlement Procedures Act prohibits most mortgage servicers from taking the first step to initiate a judicial or non-judicial foreclosure under any state law until at least 120 days have passed since the borrower became delinquent. 12 C.F.R. § 1024.41(f)(1). The purpose of this mandatory delay is to ensure that borrowers and servicers have time to communicate over alternatives to foreclosure. This federal rule applies to covered mortgage servicers active in all states, the District of Columbia, and Puerto Rico.

## **Alabama (non judicial foreclosure)**

Governor's Tenth Supplemental State of Emergency Proclamation, May 21, 2020

- Protections against evictions in Section I of April 3, 2020 proclamation and Section III of May 8, 2020 proclamation expire at 12:00 a.m. on June 1, 2020.

Governor's Sixth Supplemental State of Emergency Proclamation, April 3, 2020

- Directs state, county, and local law enforcement officials to cease enforcement of any order that would evict an individual from a residence for nonpayment of rent or mortgage payments. To remain in effect for duration of public health emergency declaration or further order.

## **Alaska (non judicial foreclosure)**

HB 312 and SB 242, Legislative term ended without action

- Bill would provide that during period of declared state of emergency borrowers may request 30-day moratorium on foreclosure if they submit sworn affidavit to servicer that they are experiencing a financial hardship.

## **California (non judicial foreclosure)**

A.B. 832, June 28, 2021

- Further extends to December 1, 2021 the statutory requirement from 2020 that mortgage servicers provide borrowers with written notices of grounds for denial of COVID-related forbearance relief.

S.B. 91, approved Jan. 29, 2021

- Extends to September 1, 2021 the requirement that mortgage servicers provide borrowers with written notices of grounds for denial of COVID-related forbearance relief.

A.B. 3088, approved August 31, 2020

- Chapter 2 of A.B. 3088 addresses mortgage relief. The law expresses a general intent that servicers and loan beneficiaries comply with the CARES Act and with COVID-19 servicing guidelines applicable to mortgages. The servicer of a federally backed loan must review the borrower for forbearance and post-forbearance options that apply to the loan. The options include those under the CARES Act and the guidelines of the appropriate federal agency (GSE, FHA, RHS, VA). For a non-federally backed loan the servicer must offer eligible borrowers options that are consistent with its contractual duties and with the guidelines for federally-backed loans. For all loans, compliance with the CARES Act and with the forbearance and post-forbearance guidelines for federally-backed loans is a safe harbor. A servicer must provide notices with specified content when it denies a request for forbearance. Required content includes the ground for denial and the means to cure any application deficiency. A borrower who was harmed by a material violation of the law may bring an action for injunctive relief, restitution, and damages. The borrower may also sue to enjoin a foreclosure proceeding contrary to the law. The availability of “any other remedy to redress the violation” appears to include the setting aside of a completed foreclosure sale in appropriate cases. Borrowers who prevail in an action to enforce the law may recover attorney’s fees.

Emergency Rules of California Rules of Court, April 6, 2020

- Rule No. 2 suspends judicial foreclosures. Stays all judicial proceedings to foreclose on a mortgage or deed of trust, including an action for a deficiency. The periods for electing or exercising the right to redeem after foreclosure are tolled, as well as any period to petition a court regarding redemption rights. Statutes of limitations on foreclosure actions are tolled. The emergency rule remains in effect until 90 days after the pandemic state of emergency is lifted or the judicial authorities otherwise suspends the rule. Emergency Rule 1 pertains to unlawful detainer actions and with limited health and safety exceptions prohibits issues of summons and complaints, restricts entry of default judgments, and continues trials for 60 days.

Executive Order N-71-20, June 30, 2020

- Extends protection in Executive Order N-28-20 (Paragraph 2 authorizing local regulation of post-foreclosure evictions) through September 30, 2020.

Executive Order N-66-20, May 29, 2020

- Extends protections in Executive Order N-28-20 (Paragraphs 1 and 2 authorizing local regulation of post foreclosure evictions) through July 28, 2020.

Executive Order N-28-20 from Governor, March 16, 2020 effective to March 31, 2020

- Suspends state preemption of local government regulation of evictions, including post-foreclosure evictions. Localities may restrict evictions in cases where nonpayment was caused by income reduction or increased household expenses.

## **Colorado (non judicial foreclosure authorized by court)**

House Bill 20-1410, June 22, 2020

- Directs certain federal funding the state receives under the CARES Act for assistance to borrowers who experience financial distress due to the pandemic. Funds are targeted to low-income households.

Governor's Executive Order D 2020-088, May 29, 2020

- Extends the stays of mortgage foreclosures contained in Executive Orders D 2020-012, D 2020-031 and D 2020-051 for fifteen days beyond May 29, 2020. The Order also provides \$3 million in relief funds to borrowers facing foreclosure or eviction.

Governor's Executive Order D 2020-51, April 30, 2020

- Extends and amends Executive Order D 2020-12, as amended by Executive Order D 2020-51, until 30 days from April 30, 2020, unless further extended by Executive Order. Adds provisions regarding landlord/tenant evictions.

Governor's Executive Order D 2020-31, April 6, 2020

- Extends Executive Order 2020-12 to April 30, 2020 or until further order. Adds provision authorizing County Treasurers to suspend or waive delinquent interest on property taxes due.

Governor's Executive Order 2020-12, March 20, 2020, effective for 30 days

- Extends for 30 days the deadlines to cure and to redeem under Colorado foreclosure statute.

## **Connecticut (judicial foreclosure)**

Superior Court Administrative Order - Foreclosure Mediation Standing Order: Resumption of Mediations, February 25, 2021

- Effective immediately, mediation is resumed for non-federally backed and federally-backed foreclosure cases.

#### Administrative Order: Mortgage Foreclosures Standing Order on Federal Mortgage Foreclosure Moratorium, September 24, 2020

- Continues a stay on foreclosure proceedings involving federally-backed mortgages. It requires an affidavit certifying the type of loan involved in order to proceed with a new or existing case.
- The affidavit required to certify the type of mortgage can be found [here](#).

#### Connecticut Superior Court Order, September 3, 2020

- Dissolves any stay on issuance or service of summary process execution, execution of an ejectment judgment in summary process, or the vesting of title in a foreclosure case that occurred prior to March 19, 2020.

#### Connecticut Superior Court Order, July 20, 2020

- All Judgments of Strict Foreclosure entered in matters with law days prior to September 9, 2020 are opened by the Court for the sole purpose of extending the Law Day in those matters to September 9, 2020 for the owner of equity of redemption.

#### Connecticut Superior Court Order, June 9, 2020

- “[I]n order to prevent a potential gathering of individuals at the auction site” all foreclosure sales scheduled prior to August 22, 2020 are cancelled and Court sets a new sale date of August 22, 2020.

#### Connecticut Judicial Branch Superior Court Order, May 15, 2020

- Orders immediate stay of service of all issued executions on evictions and ejectments through July 1, 2020.

#### Connecticut Judicial Branch Strict Foreclosure Order, May 15, 2020

- Opens all judgments of strict foreclosure entered in matters with law days (expiration of borrower’s right of redemption) prior to July 7, 2020 for the purpose of extending the borrower’s right of redemption in these matters to July 7, 2020.

#### Statement from Chief Court Administrator, March 18, 2020

- All foreclosure sales previously scheduled to occur in April or May 2020 rescheduled to June 6, 2020. The judgment in any foreclosure action in which the court set a redemption period to expire during April or May 2020 is amended to set the expiration date for June 2, 2020. The execution of ejectment judgments is stayed through March 27, 2020. Civil trials, trial management conferences, pretrial and status conferences, and mediations cancelled until further notice.

### **Delaware (judicial foreclosure)**

#### Governor’s Twenty-Seventh Modification of State of Emergency, Sept. 3, 2020

- Modifying Governor’s March 24, 2020 order, stays lifted under paragraphs C.2 (all deadlines in residential mortgage foreclosure actions commenced prior to state of emergency), C.3 (sheriff’s sales in residential mortgage foreclosure action in which judgment issued prior to state of emergency) and C.4 (in limited circumstances allowing evictions following a permitted

residential mortgage foreclosure action)

#### Governor's Twenty-Third Modification of State of Emergency, June 30, 2020

- Effective July 1, 2020, the Order lifts any stay of deadlines for any residential mortgage foreclosure commenced prior to declaration of Emergency unless a court determines that a longer period is necessary. Unless judgment of foreclosure was entered prior to the declaration of emergency, evictions related to foreclosures are stayed unless allowed based on a finding of necessity by a court. In order to proceed with any foreclosure activity, a plaintiff must provide documentation to the court that loan is not federally-backed.

#### Governor's Fourteenth Modified Declaration of State of Emergency, April 30, 2020

- Extends until further notice the March 24 Governor's Modified Declaration of State of Emergency.

#### Governor's Modified Declaration of State of Emergency, March 24, 2020

- Bars commencement of all residential foreclosures unless mortgagee is the seller. Provides that "no late fee or excess interest may be charged or accrue on the account for such residential mortgage during the state of emergency." For foreclosure actions pending as of initial March 12, 2020 emergency declaration all deadlines extended to date no sooner than the 31st day following the termination of the state of emergency. Similarly, if judgment entered before emergency declaration, no sheriff's sale can take place and no eviction can occur until at least 31 days after termination of state of emergency.

#### Senate Bill 2868, failed June 20, 2020

- Bill would have barred commencement of judicial foreclosure actions by all lenders except those that own five or fewer mortgages. Pending foreclosure proceedings would be stayed. The law would apply up to sixty days from the termination of the state's COVID emergency declaration.

### **District of Columbia (non judicial foreclosure)**

#### D.C. Code § 42-851.01, February 18, 2022

- Implements a foreclosure moratorium for residential properties from March 11, 2020 – June 30, 2022. From July 1, 2022 through September 30, 2022, there can be no residential foreclosure initiated or conducted, no sale be initiated or conducted under, and no judgment foreclosing the right of redemption shall be entered if a homeowner applies for funds from "the Department of Housing and Community Development's Homeowner Assistance Fund ("Homeowner Assistance Funds") or a similar government fund established to assist homeowners impacted by the COVID-19 public emergency or public health emergency..." Proof of the application status is required.

#### D.C. Code § 42-815.05; Act 24-178, effective June 7, 2021, as amended October 7, 2021

- During the period from March 11, 2020 until February 4, 2022, certain residential foreclosures may not be initiated or conducted, and no condominium sale may be conducted.

#### D.C. R 60 Council Resolution 24-25, October 5, 2021

- Foreclosure Moratorium Extension to February 4, 2021. The purpose of the extension is to allow time for implementation of the Housing Assistance Funds (“HAF”) program.

D.C. Superior Court Order, January 13, 2021

- Continues stays of evictions and foreclosures under May 14, 2020 Order until at least March 21, 2021.

D.C. Bill 743, May 27, 2020

- Prohibits foreclosure of a condominium lien for an occupied condominium unit during a limited moratorium period while the COVID emergency declaration is in effect. Initial duration of law is 90 days from enactment.

D.C. Act 23-286, April 10, 2020

- Entitled “COVID-19 Response Supplemental Emergency Amendment Act of 2020.” Sec. 202 mortgage relief provisions apply for period of Mayor’s declaration of emergency plus 60 days. Loan servicers subject to regulatory authority of the D.C. Department of Insurance, Securities and Banking must develop a program that grants at least a 90-day deferment of payments. Servicers must develop application criteria and procedures, and these must be available online. Servicers must approve a deferment application if the borrower demonstrates a hardship directly or indirectly related to the emergency, even if the default arose before the pandemic. The borrower must agree in writing to pay the forbore payments “in a reasonable time.” If the parties cannot agree upon a reasonable time, the repayment must occur within five years of the end of the deferment or at the end of the original loan term, whichever is earlier. Subject to investor guidelines, the servicer cannot demand lump sum payment from the borrower at the end of the deferment period. In addition, servicers must waive default fees during the period of emergency and refrain from negative credit reporting during the deferment. Borrowers whose requests for forbearance are denied may file a complaint with the Department.

D.C. Superior Court Order, May 14, 2020

- Stays all evictions and foreclosures “to the extent required by statute.”

B735, enacted May 4, 2020, effective to August 2, 2020

- Requires servicers who approve 90-day deferrals under the D.C. emergency COVID-19 Amendment to report data to the Department of Insurance, Securities, and Banking.

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

- The court “has suspended evictions of all tenants and foreclosed homeowners.”

## **Florida (judicial foreclosure)**

Governor’s Executive Order No. 20-211, August 31, 2020

- Extends Executive Order No. 20-180 until October 1, 2020.

Governor’s Executive Order No. 20-180, July 29, 2020

- Extends Executive Order No. 20-94, as extended by Executive Orders 20-121, 20-137 and 20-159, until September 1, 2020. Limits mortgage foreclosure and eviction relief to single-family mortgagors and residential tenants adversely affected by COVID-19 emergency.

Governor's Executive Order No. 20-159, June 30, 2020

- Extends Executive Order No. 20-94, as extended by Executive Orders 20-121 and 20-137, until August 1, 2020.

Governor's Executive Order No. 20-137, June 1, 2020

- Extends Executive Order No. 20-94, as extended by Executive Order 20-121, until July 1, 2020.

Governor's Executive Order No. 20-121, May 14, 2020

- Extends Executive Order No. 20-94 until June 2, 2020.

Governor's Executive Order No. 20-94, April 2, 2020

- Suspends and tolls operation of Florida foreclosure statutes for 45 days from the date of the Order, including any extensions.

In addition, the chief judge of each judicial district in Florida has authority to define the scope of the stay of foreclosure related proceedings due to the COVID-19 pandemic. Examples include:

- Administrative Order 12.510 - 04/2020.8 of the Circuit Court of the 15th Judicial Circuit for Palm Beach County, April 6, 2020
  - Suspends foreclosure proceedings as non-essential and cancels all scheduled foreclosure sales up to and including May 29, 2020.
- Administrative Order 2020-01 19th Judicial Circuit, March 19, 2020
  - Stays foreclosure proceedings as non-essential and cancels all scheduled foreclosure sales until further Order of the Court.

## **Illinois (judicial foreclosure)**

Executive Order 2021-23, September 17, 2021

- Extends and reissues sections 1, 4, 5, 7 and 8 of Executive Order 2021-13 (residential eviction moratorium), as amended by Executive Order 2021-14 and Executive Order 2021-19 through October 3, 2021, after which Executive Order 2021-13 is rescinded.

Executive Order 2021-06, April 2, 2021

- Extends moratorium on residential evictions until May 1, 2021 (previously extended to April 1, 2021 by Executive Order 2021-05 (March 5, 2021)).

Executive Order 2020-59, October 16, 2020

- Re-issues and extends eviction restriction of Executive Order 2020-30 through November 14, 2020.

Executive Order No. 2020-33, Apr. 30, 2020

- Amends Executive Order 2020-30 to specifically reference mortgage payments, and extend

eviction restriction through May 29, 2020.

Executive Order No. 2020-30, April 23, 2020

- Continues Executive Order No. 2020-10 and clarifies circumstances under which residential eviction action may be commenced: threat to other tenants, immediate and severe risk to property; violation of law.

Governor's Executive Order No. 2020-10, March 20, 2020

- Directs all state, county and local law enforcement officers cease enforcement of orders of eviction for residential premises for the duration of Gubernatorial Disaster Proclamation.

## **Indiana (judicial foreclosure)**

Governor's Executive Order 21-08, March 31, 2021

- Extends prior executive orders staying evictions and foreclosures until April 30, 2021 (prior extensions ordered Sept. 24, 2020, Dec. 1, 2020, Dec. 31, 2020, Jan. 28, 2021, Feb. 25, 2021).

Governor's Executive Order No. 20-47, October 30, 2020

- Extends prior executive orders staying evictions and foreclosures until December 1, 2020.

Governor's Executive Order No. 20-25, May 1, 2020

- Sets June 5, 2020 expiration of prior executive orders staying foreclosures and evictions.

Governor's Executive Order, March 19, 2020

- No residential eviction proceedings or foreclosure actions to be initiated during the declared public health emergency.

## **Iowa (judicial foreclosure)**

Governor's Proclamation, April 27, 2020

- Section Ninety-Nine of Part 2 of the Proclamation continues temporary suspension of provisions of the Iowa Code allowing for the commencement of proceedings, or the prosecution of ongoing foreclosure proceedings on residential, commercial and agricultural real property. The Governor notes that Iowans should not expect any further extension past May 27, 2020.

Executive Proclamation of Disaster Authority, April 2, 2020

- Sec. 65 of the Proclamation continues the temporary suspension of provisions of the Iowa Code allowing for the commencement of foreclosure proceedings, or the prosecution of ongoing foreclosure proceedings, on residential, commercial, and agricultural real property located in the state. The suspension applies for the duration of the emergency proclamation or any future extension of the suspension. The Proclamation also directs the state's Division of Banking and Division of Credit Unions to immediately engage with banks, credit unions, mortgage bankers, and mortgage services "to identify any tools, means, or methods that could be used to relieve Iowans from the threat of foreclosure."



## Governor's Proclamation, March 22, 2020

- Temporarily suspends the provisions of Iowa Code allowing for the commencement of foreclosure proceedings, or the prosecution of ongoing foreclosure proceedings, on residential, commercial, and agricultural real property. Suspension to remain in effect for duration of Governor's proclamation of emergency.

## **Kansas (judicial foreclosure)**

### Governor's Executive Order No. 21-13, April 1, 2021

- Temporarily prohibits certain foreclosures and evictions. Prohibits foreclosures on borrowers impacted by pandemic. If a servicer commences a judicial foreclosure while order in effect, servicer bears burden of proving that default not substantially caused by financial impact of pandemic. Order to remain in effect until declaration of emergency ends. Does not apply to foreclosures begun before COVID emergency declaration.

### Governor's Executive Order No. 21-02, January 26, 2021

- Extends Executive Order No. 20-61 to earlier of expiration of emergency or rescission of order.

### Governor's Executive Order No. 20-64, September 10, 2020

- Extends Executive Order No. 20-61 to earlier of January 26, 2021 or until declaration of emergency terminates.

### Governor's Executive Order No. 20-61, August 17, 2020

- Continues prohibition of foreclosures and evictions substantially caused by financial hardship due to COVID-19 and places burden on foreclosing plaintiff to establish absence of borrower hardship. Lenders are "encouraged" to reach accommodations with borrowers to reinstate loans after emergency ends. Extension effective until September 15, 2020.

### Governor's Executive Order No. 2020-28, April 30, 2020

- Extends Executive Order No 20-10 through the earlier of May 31, 2020, or until State of Disaster Emergency proclaimed and reissued on April 30, 2020 expires.

### Governor's Executive Order No. 2020-10, March 23, 2020 effective to May 1, 2020 or further order

- A party attempting to initiate a judicial or non-judicial foreclosure or eviction will have the burden of pleading and proving that the foreclosure or eviction proceeding is not being initiated solely because of a default substantially caused by a financial hardship resulting from the COVID-19 pandemic. The requisite hardship is defined to be a significant loss of income, a significant increase in expenses for necessities, or the inability to work due directly or indirectly to the pandemic. In addition the household must not have resources available to make the mortgage payments and cover other necessities. The order does not prohibit the continuation of a foreclosure or eviction proceeding filed before the effective date of the order. A prior Executive Order of March 17, 2020 suspending "any mortgage foreclosure efforts or judicial proceedings" is superseded by this Order.

## **Kentucky (judicial foreclosure)**

Governor's Executive Order 2021-26, March 31, 2021

- Extends earlier executive orders implementing CDC eviction restrictions in the state through June 30, 2021. The CDC eviction protections do not apply to post-foreclosure evictions of mortgagors and the Executive Order appears to incorporate this exclusion.

Governor's Executive Order No. 2020-751, September 4, 2020

- Incorporates CDC moratorium on evictions for nonpayment of rent of persons who can demonstrate that inability to pay is substantially related to COVID-19, effective until December 31, 2020. Does not specifically reference foreclosure-based eviction actions.

Governor's Executive Order No. 2020-700, August 24, 2020

- Rescinds suspension of residential evictions effective 30 days from August 25, 2020.

Governor's Executive Order No. 2020-323, May 8, 2020

- Restates applicable language (paragraph 5) of Executive Order No. 2020-257 staying evictions.

Governor's Executive Order 2020-257, March 25, 2020

- Directs that all state, county and local law enforcement officers cease enforcement of orders of eviction for residential premises for the duration of State of Emergency declared on March 6, 2020.

## **Maine (judicial foreclosure)**

State of Maine Judicial Branch Directive, June 1, 2021

- Rescinds COVID-19 Phased Management Plan issued May 27, 2020, which limited judicial foreclosure filings.

State of Maine Judicial Branch, COVID-19 Phased Management Plan, Revised Emergency Order and Notice from Maine Supreme Judicial Court, October 8, 2020

- Extends COVID-19 Phased Management Plan through November 9, 2020; no proceedings will be scheduled or heard for foreclosure cases through October 18, 2020.

State of Maine Judicial Branch COVID-19 Phased Management Plan, July 31, 2020

- References bar on foreclosure scheduling through October 18, 2020.

State of Maine Judicial Branch, COVID-19 Phased Management Plan, May 27, 2020

- No proceedings will be scheduled or heard for foreclosure and eviction cases through July 31, 2020.

State of Maine Judicial Branch Revised Emergency Order and Notice PMO-SJC-1, April 22, 2020

- No proceedings will be scheduled or heard for foreclosure and eviction cases effective through

May 15, 2020.

Emergency Order and Notice Maine Supreme Court, March 18, 2020 effective to May 1, 2020

- No proceedings will be scheduled or heard for foreclosure and eviction cases.

Emergency Order Maine Superior and District Court, March 17, 2020

- Until further order of court 49 days added to unexpired deadline established by court order or court rule, but does not extend statutory deadlines or limitations

## **Maryland (judicial authorization for non judicial foreclosure)**

Maryland's Homeowner Assistance Fund: FAQs For Mortgage Servicers, February 7, 2022

- The Maryland Department of Housing and Community Development and the Office of the Commissioner of Financial Regulation stated that "[t]he HAF program is considered a form of loss mitigation. As with any repetitive loss mitigation application under 12 U.S.C. §1024.41, a servicer is not required to delay the foreclosure process if the servicer previously complied with all requirements and the borrower has been delinquent at all times since the prior submission."

Maryland Commissioner of Financial Regulation issued Industry Advisory Regulatory Guidance, December 27, 2021

- In implementing the HAF program, the Commissioner stated "servicers should know that the Commissioner takes the position that the evaluation timing and dual tracking standards set forth in 12 CFR §1024.41 are considered applicable once a servicer receives notice that a borrower has applied for HAF."

Governor's Executive Order 20-12-17-02, December 17, 2020

- Amends and restates Executive Order 20-10-16-01, October 16, 2020. To continue until state of emergency order rescinded with foreclosures allowed subject to certifications defined in order as of Jan. 31, 2021.

Governor's Executive Order 20-10-16-01, October 16, 2020

- Amends and restates Executive Order 20-04-03-1, April 3, 2020. Directs Commissioner of Financial Regulation to discontinue acceptance of Notices of Intent to Foreclose until January 4, 2021. After January 4, 2021, a Notice of Intent to Foreclose may only be accepted if the servicer provides certification of compliance with provisions of this Executive Order governing offers of forbearance. The Order sets out requirements for forbearance applicable to both federally-backed and non-federally backed mortgages. For federally-backed mortgages the servicer must provide notice of forbearance options at least 30 days prior to submitting a Notice of Intent to foreclose. The servicer must also certify compliance with requirements to offer forbearance relief consistently with the CARES Act and federal agency servicing guidelines. For non-federally-backed mortgages servicers must give written notice of the availability of forbearance and offer forbearance of up to 180 days with the opportunity for an additional 180 days. The borrower with a non-federally backed mortgage must be treated similarly under forbearance to borrowers with federally-backed loans under the CARES Act, with no fees or default-related charges accruing during a period of forbearance.

Order of Chief Judge of Maryland Court of Appeals, May 22, 2020

- Rescinds Order of Chief Judge dated March 25, 2020, and lifts stays of foreclosures and evictions effective July 25, 2020.

Governor's Executive Order No. 20-04-03-01, April 3, 2020

- Directs the Commission of the State's Commissioner of Financial Regulation to suspend the operation of the state's electronic system that accepts Notices of Intent to Foreclosure – the initial step in foreclosure under state law. The Order remains in effect until the state of emergency is terminated and the health emergency rescinded. The order prohibits eviction of residential tenants who can demonstrate to a court that they have suffered a substantial loss of income due to the pandemic.

Order of Chief Judge of Maryland Court of Appeals, March 25, 2020

- Stays all pending proceedings related to residential foreclosures, foreclosure of the right of redemption after tax sales, and actions to recover possession of residential properties. The Order also bars initiation of new judicial proceedings in these categories. The Order is to be revised "as circumstances warrant."

Maryland H. 1368, PENDING

- Bill would require waiver of interest and penalties on overdue property taxes while loan in COVID-related forbearance. To remain in effect to June 30, 2024.

Maryland S. 724, Mortgage Servicers – Requirements and Prohibitions During and After a State of Emergency and Catastrophic Health Emergency (Foreclosure Relief Act of 2021), PENDING

- The law would bar commencement or completion of foreclosure during COVID-19 state of emergency. The law applies to federally-backed and non-federally backed mortgages. Servicers must grant forbearances upon request from borrowers impacted by the pandemic. Servicers must provide notice of right to mediation prior to end of forbearances. Law would create requirements for notices of denials of forbearance requests, including grounds for denial. For two years following the end of the state of emergency foreclosures would be invalid if conducted without disclosure of forbearance options. Post-forbearance options cannot include demand for lump sum or increase in payments. Borrowers to have private right of action to enforce terms of law, including remedies of injunctive relief, damages, and attorneys fees.

## **Massachusetts (non judicial foreclosure)**

MA Homeowner Assistance Fund Collaboration Agreement, November 15, 2021

- The Collaboration Agreement requires servicers to halt any foreclosure proceedings once they have been notified the borrower has applied for HAF funds.

Governor's Order Announcing Termination of March 10, 2020 COVID-19 state of emergency, May 28, 2021, effective June 15, 2021

- Effective June 15, 2021 state of emergency terminated. Orders issued since March 10, 2020 declaration of state of emergency that restricted mortgage foreclosures are rescinded.

## Governor's Statement, July 21, 2020

- Extends moratoria on evictions and foreclosures (as contained in HB 4647, Chapter 65 of the Acts of 2020) for sixty days until October 17, 2020.

## Massachusetts House Bill 4647, April 20, 2020

- The enacted legislation mandates a moratorium on foreclosures and foreclosure-related evictions. It also requires that mortgagees grant forbearance with prescribed terms. The moratoria are effective to the earlier of 120 days from the law's effective date (to August 18, 2020) or 45 days from the termination of the State's declared state of emergency. These deadlines also apply to the borrower's submission of requests for forbearance.
- **Moratorium provisions of House Bill 4647:** For the duration of the covered period the law prohibits the publication of a notice of foreclosure sale and the conduct of a sale. Mortgagees shall not "initiate" a judicial or non-judicial foreclosure process, including the filing of a complaint to determine the borrower's SCRA status. Post-foreclosure sale eviction actions to recover possession are treated as "non-essential evictions" under the law. Mortgagees must not file post-foreclosure sale eviction complaints or request writs of possession. Eviction proceedings, including the tolling of time periods and requests for entry of judgment, are stayed.
- **Forbearance provisions of House Bill 4647:** The law's forbearance terms apply to a "mortgage loan" as defined under the Massachusetts statute regulating non-judicial foreclosure procedures. This statute defines a "mortgage loan" as "a loan to a natural person made primarily for personal, family or household purposes secured wholly or partially by a mortgage on residential property." Massachusetts General Laws Chapter 244 § 35B. House Bill 4647 requires that the mortgagee grant a forbearance to a mortgagor with a covered loan "if the mortgagor submits a request to the mortgagor's servicer affirming that the mortgagor has experienced a financial impact from COVID-19." The forbearance "shall be for not more than 180 days." The mortgagee must not assess default-related fees and charges during a forbearance and must not report negative credit information during this time. Unless the parties agree otherwise, the law requires that forborne payments "be added to the end of the term of the loan." The law does not restrict the mortgagor's ability to collect on the mortgage debt as a personal liability of the mortgagor.
- Massachusetts Division of Banks FAQ on Ch. 65 of Acts of 2020 (Mass. House Bill 4647), May 1, 2020

## House Bill 3030, An Act to Prevent COVID-19 Evictions and Foreclosures and Promote Equitable Housing Recovery, PENDING

- Section 5 addresses protections against foreclosures. Bill would establish moratorium on foreclosures for at least 180 days after borrower's COVID-19 related forbearance expires. Servicers must provide borrowers with disclosures of COVID forbearance and post-forbearance options that apply to their loans and review for appropriate options as a condition to foreclosure. For non-federally-backed loans servicers must implement the GSE options for forbearance and post-forbearance relief unless they can demonstrate unable to do so. The law would create private right of action for borrowers to enforce terms of the law.

## House Bill 5062, PENDING

- Would extend provisions of Chapter 65, including moratorium, to January 1, 2021, or 45 days from termination of COVID emergency, whichever is sooner.

## **Michigan (non judicial foreclosure)**

Governor's Executive Order No. 2020-134, June 26, 2020

- Extends Executive Order No. 2020-118 until July 15, 2020 and rescinds Executive Order No. 2020-118 effective July 16, 2020.

Governor's Executive Order No. 2020-118, June 11, 2020

- Rescinds Executive Order No. 2020-85 and extends prohibition on execution of eviction process against tenants, vendees under executory contracts (installment land sale contracts), and mobile home owners until June 30, 2020.

Governor's Executive Order No. 2020-106, May 28, 2020

- Rescinds Executive Order 2020-14 (March 18, 2020) and extends deadline to redeem property for nonpayment of delinquent property taxes from March 31 to June 29, 2020.

Governor's Executive Order 2020-85, effective to June 11, 2020

- Supersedes Executive Order 2020-54 (staying evictions) to make effective through June 11, 2020.

Governor's Executive Order 2020-54, effective to May 15, 2020

- Rescinds and supersedes Executive Order 2020-19. Temporary stay of evictions through May 15, 2020.

Governor's Executive Order 2020-19, March 20, 2020 effective to April 17, 2020

- Bars execution of eviction process against tenants, vendees under executory contracts (installment land sale contracts) and mobile home owners. Does not specifically reference post mortgage foreclosure evictions.

Governor's Executive Order 2020-14, March 18, 2020

- Temporarily suspends tax sale redemption deadline from March 31, 2020 until the later of (a) May 29, 2020, or (b) 30 days after the termination of the state of emergency.

## **Minnesota (non judicial foreclosure)**

H.F. No. 4, approved by Governor June 29, 2021

- Terminates Governor's Executive Orders 20-14, 20-73, and 20-79.

Governor's Emergency Executive Order 20-79, July 14, 2020

- Rescinds Executive Orders 20-14 and 20-73; suspends filing of eviction actions (including after termination of redemption period in a residential foreclosure), execution of writs, and termination of leases. Order effective July 14, 2020 and until declaration of emergency terminated. A willful violation of the Order can be treated as a misdemeanor.

Governor's Executive Order 20-14, March 23, 2020

- Effective March 24, 2020 and until suspension of emergency declaration. Prohibits mortgage holders from filing eviction actions to recover possession of a property after termination of a redemption period. Financial institutions are “requested” to enter a moratorium on all pending and future foreclosures and evictions against borrowers impacted financially by virus and “strongly urged” not to assess late fees and penalties for nonpayment related to epidemic.

SF 4495, Session adjourned, Bill failed

- The Bill would prohibit commencement of non-judicial or judicial foreclosure during the state of emergency and for 60 days thereafter.

MN H 160, Session adjourned, Bill failed

- Would impose moratorium on recording of notices of non-judicial sales and commencement of judicial foreclosures during declared COVID emergency. The Bill also authorizes a fund to assist borrowers facing COVID hardships.

## **Montana (non judicial foreclosure)**

Executive Order No. 10-2021 Rescinding COVID-19 State of Emergency, June 30, 2021

- Order No. 10-2021 rescinds Executive Order 2-2021 establishing statewide emergency, and lifts state of emergency.

Executive Order No. 2-2021, Jan. 31, 2021

- Rescinds Executive Order 2-2020.

Governor’s Directive, May 19, 2020

- March 30, 2020 and April 7, 2020 Directives limiting foreclosures, evictions, and service disconnections to be in effect until May 24, 2020, except for vulnerable population who have suffered significant financial hardship due to virus outbreak and who remain sheltered at home, in which case the protections expire upon sooner of 30 days after person ceases to shelter at home or the end of the emergency. In order to obtain benefit of continued stay affected parties must “make a basic showing” to bank that they meet the applicable standards.

Governor’s Directive, April 7, 2020

- Extended Governor’s Executive Order, March 30, 2020 through April 24, 2020.

Governor’s Executive Order, March 30, 2020 effective through April 10, 2020

- The Order bars foreclosure sales and sheriff sales of residential real property. It also bars delivery of a trustee’s deed, certificate of sale, or sheriff’s deed with respect to a foreclosure sale. All pending judicial proceedings related to foreclosure are stayed, including enforcement of a judgment or writ of possession. The Order does not relieve borrowers of payment obligations under a mortgage “except late fees or other charges.” For the duration of the Order no borrower may be reported to a credit bureau for non-payment.
- Applicable to borrower-occupied properties. Other provisions of Order bar eviction of residential tenants.

## **Nevada (non judicial foreclosure)**

Governor's Declaration of Emergency, Directive 031, August 31, 2020

- Terminates Directive 008. Prohibits initiation of nonpayment of rent summary eviction action by a "pay or quit" notice effective August 31, 2020 and through October 14, 2020. This Directive does not expressly reference eviction actions commenced to recover possession of foreclosed property from a borrower.

Governor's Declaration of Emergency, Directive 008, March 29, 2020

- Prohibits initiation of foreclosure and evictions based upon default under a mortgage until emergency declaration dated March 12, 2020 terminates.

## **New Hampshire (non judicial foreclosure)**

Governor's Emergency Order No. 51, June 11, 2020

- Terminates Emergency Orders Nos. 4 and 24 effective July 1, 2020. Extends 7 day pre-eviction notice period to 30 days for rent defaults that accrued between March 17, 2020 and June 11, 2020.

Governor's Emergency Order No. 24, April 3, 2020

- Modifies and clarifies Governor's Emergency Order No. 4, March 17, 2020. Foreclosure deed with respect to foreclosure sale occurring on or before March 16, 2020 may be recorded, but no eviction proceedings may be brought.

Governor's Emergency Order No. 4 pursuant to Executive Order No. 4 Temporary Prohibition on Evictions and Foreclosures, March 17, 2020

- Prohibits all forms of foreclosure during emergency declaration. Initiation of foreclosure proceedings suspended for duration of declared emergency.

## **New Jersey (judicial foreclosure)**

Notice to the Bar and Public, December 8, 2021

- The Administrative Office of the Courts issued a notice that the Supreme Court authorized homeowners to apply for a stay of a Sheriff's sale even after the statutory maximum number of stays had been reached if they affirm that they meet the eligibility criteria for HAF. The notice states that the court is preparing a pro se motion packet for homeowners to apply for the stay.

Executive Order No. 249, August 4, 2021

- The prohibitions in Executive Order No.106 against evictions resulting from foreclosure proceedings expire November 15, 2021.

Bill A 5130, March 9, 2021

- Creates New Jersey Foreclosure Prevention Act. The Act establishes a Foreclosure Intervention Fund to be operated by New Jersey Housing and Mortgage Finance Agency.



Executive Order No. 191, Oct. 24, 2020

- Continues existing executive orders including Executive Order 106.

NJ A 3859, March 19, 2020

- Authorizes the Governor to issue a stay of proceedings to recover possession of foreclosed residential property. The law does not apply to commencement of or proceeding with a foreclosure, but prohibits only actions to execute a judgment of possession following a foreclosure sale. The stay may remain in effect until two months after the state of emergency ends.

N.J. Dept. of Banking and Insurance announcement of Department's agreement with approximately 45 servicers, including major bank servicers, to consider borrowers affected by COVID-19 for forbearance agreements, March 28, 2020

- Listed institutions "will offer mortgage payment forbearance for up to 90 days" to reduce or delay monthly payments. The participating servicers stated that they will implement a "a streamlined process for requesting forbearance." The borrower's request must be "supported with available documentation." The servicer will confirm the approval and the terms of the forbearance. The servicers have agreed to waive late fees during the 90 days and will not report late or missed payments with credit reporting agencies (but may report borrower in forbearance). Borrowers may request an extension of a forbearance agreement if they continue to experience hardship due to the virus. The institutions agree not to "start any foreclosure sales or evictions" for 60 days from the date of the agreement (March 28, 2020). The Department's statement of the agreement terms does not refer to enforcement terms.

Governor's Executive Order No. 106, March 19, 2020, effective to later of two months following end of Public Emergency, or State of Emergency established by Executive Order

- Order prohibits eviction of a residential homeowner following foreclosure. The order allows foreclosures to proceed in all respects other than eviction.

NJ S. 2340, PENDING

- Bill would apply to all mortgage loans and require forbearance and post-forbearance relief for borrowers with COVID hardships. Authorizes state Attorney General and Department of Banking to enforce. The law would require compliance for all loans to the extent not in conflict with federal guidelines.

N.J. Assembly Bill 4034, PENDING

- Bill would create a system for mortgagors experiencing reduced income due to any declared emergency to apply to a state agency to receive a certification of eligibility for a three-month forbearance of mortgage payments. The forborne payments would be added to an extended loan repayment term. The Bill would also regulate credit reporting related to emergency forbearance periods.

AB 3948, PENDING

- The Bill would mandate a 90-day forbearance with a possible extension for an additional 90 days. The payments must be extended at the end of the loan term commensurate with the duration of forbearance. The total forbearance may not exceed 180 days. The borrower cannot

be required to provide proof of economic hardship. Default-related fees cannot be assessed during forbearance. The New Jersey Commissioner of Public Affairs must notify borrowers of the forbearance programs and provide information about them. The covered period for the law would extend from the March 9, 2020 declaration of emergency to six months after its termination. A moratorium on initiation of foreclosure and eviction proceedings will be in effect during this period.

AB 4236, PENDING

- Would require servicers to notify borrowers of forbearance options and require servicers to defer forbore payments to end of loan payment term.

## **New Mexico (judicial foreclosure)**

New Mexico Supreme Court Stay of Mobile Home Foreclosures, March 24, 2020

- Effective March 24, 2020, New Mexico Supreme Court orders stay of evictions resulting from nonpayment of park rent or mobile home foreclosures, to remain in effect until further order of the Court.

## **New York (judicial foreclosure)**

New York S 12031-01-1, signed by Governor September 2, 2021

- Extends moratorium on mortgage foreclosure proceedings and tax sales to January 15, 2022.

New York Senate Bill 6362, signed by Governor May 4, 2021

- Extends opportunity for stay of mortgage foreclosure proceedings and tax sales to August 31, 2021. To obtain stay, borrower must submit a hardship declaration to servicer or court (if foreclosure underway). Submission of borrower declaration creates rebuttable presumption of COVID hardship. Servicer must include certification of service of notice and no response in order to file foreclosure complaint. Applies to foreclosure begun before March 8, 2020.

COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020, L. 2020, c. 381, Dec. 28, 2020

- Part A relates to tenant protections. Part B covers protections for mortgagors. The law stays pending residential foreclosure actions for sixty days, directs court administration to publish form "Hardship Declarations" for mortgagors facing COVID-19 hardships. The law would stay proceedings "until at least May 1, 2021" when a mortgagor submits the completed form. The Hardship Declaration contains a prepared text that the mortgagor need only sign and return to the servicer. Servicers must give the form to homeowners with the statutory pre-foreclosure notice required by existing New York law. The servicer's foreclosure complaint must attest to compliance. The law is in effect until May 1, 2021.
- Court Administration Explanatory Material
- New York Office of Court Administrator's Order No. 341/20, December 31, 2020, issued pursuant to the COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020, L. 2020, c. 381.
  - Effective December 28, 2020 through at least May 1, 2021, any action to foreclose mortgage pending on December 28, 2020 and any action commenced on or before January 27, 2021 shall be stayed for 60 days. In any action in which judgment of sale has

not been issued and mortgagor submits hardship declaration, action shall be stayed until at least May 1, 2021. If judgment of sale has been issued on or before December 28, 2020, but not executed, execution shall be stayed at least until court has held a status conference, and, if mortgagor submits hardship declaration prior to execution, action shall be stayed until at least May 1, 2021. The Act also provides for a temporary stay applicable to lax lien sales and tax foreclosure actions that have commenced or could have been commenced before May 1, 2021.

Governor's Executive Order No. 202.72, November 3, 2020

- Extends Executive Order 202.28 through December 3, 2020 (prior extensions ordered Sept. 2, 2020 and Oct. 4, 2020).

New York Office of Court Administrator's Order No. 232/20, October 22, 2020

- Effective October 23, 2020, all residential, commercial and in rem foreclosures may proceed in the normal course, subject to relief provisions governing time limits for commencement, limitation of remedies, and certain court scheduling requirements. Applicable limits include restrictions set by federal law and state statute related to the COVID-19 emergency. Foreclosure proceedings are to be conducted remotely whenever possible. Local health guidelines apply to conduct of foreclosure sales. These may require conduct of the sale outdoors.

Governor's Executive Order No. 202.67, October 4, 2020

- Suspension in Executive Order 202.8 of tolling of time limits is effective only until November 3, 2020.

Governor's Executive Order No. 202.55, August 5, 2020

- Extends Executive Order 202.28 through September 4, 2020.

SB 8428, Signed into law June 17, 2020

- Part C of the law establishes requirements for regulated financial institutions to grant forbearance and post-forbearance relief to borrowers who "demonstrate" a COVID-19 hardship. The law applies to banking institutions and mortgage servicers subject to regulation by the State of New York. The law does not affect federally-backed mortgage loans (loans owned, insured, guaranteed by a GSE, FHA, VA, USDA). The provisions are in effect retroactively to March 7, 2010 and continue until the cessation of all COVID-based state-imposed limits on commercial activities in the state. During this period covered entities must make applications for forbearance "widely available" to borrowers in arrears and to borrowers who apply for loss mitigation. A regulated institution must grant forbearance to the qualified mortgagor for up to 180 and extend the forbearance for an additional period of up to 180 days if the mortgagor demonstrates continuing hardship. Borrowers have four options at the end of forbearance: (1) extend the term of the loan for the length of the forbearance; (2) pay off the accumulated arrears on a monthly basis during the remaining term of the loan; (3) negotiate a modification; and (4) if the parties cannot reasonably agree to modification terms, the accrued arrears will be converted to a non-interest bearing lien (balloon payment) due at the end of the loan term or at payoff. Regulated institutions that believe they lack the capital and liquidity resources to comply with the law may apply for relief to the state banking department. The applicant must demonstrate its inability to comply, and the department will rule on the request. Borrowers are entitled to notice of this proceeding. Compliance with the law is a

condition precedent to commencement of a foreclosure action. A borrower may raise non-compliance as a defense to foreclosure.

- N.Y. Dept. of Financial Services FAQ on SB 8428 and Implementing Regulations

Governor's Executive Order No. 202.28, May 7, 2020, effective beginning June 20, 2020

- Prohibits the initiation or enforcement of foreclosure of any residential or commercial mortgage for nonpayment of a mortgage where the property is owned by someone that is eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic. Order is effective for a period of sixty days beginning on June 20, 2020.

New York State Department of Financial Services New Part 119 to 3 NYCRR Emergency Relief for New Yorkers who can Demonstrate Financial Hardship as a Result of COVID-19, March 24, 2020, effective to April 20, 2020 and any subsequent renewal period

- NYSDFS regulation implementing Executive Order 202.9, establishes "COVID-19 Relief Program." Under program regulated entities must make "widely available" to New York borrowers demonstrating financial hardship caused by COVID-19 a forbearance and "subject to safety and soundness requirements of the regulated institution" grant a forbearance of 90 days. Federally guaranteed and GSE loans are exempted. Within ten business days of rule's effective date regulated institutions must use email, mail mailing, website publication or similar communication method to publicize an application process for borrowers. Institutions must evaluate and respond to all applications within ten days of receipt of a complete application. The decision must be in writing. In its supervisory reviews the Department may treat the failure to approve forbearance as an unsafe and unsound business practice. The rule was promulgated as a temporary emergency measure with a **June 21, 2020 expiration date**.

Governor's Executive Order 202.9, March 21, 2020 effective to April 20, 2020

- Directs State's Superintendent of the Department of Financial Services to "ensure under reasonable and prudent circumstances that regulated entities provide to any consumer in the State an opportunity for a forbearance of payments for a mortgage for any person or entity facing a financial hardship due to the COVID-19 pandemic. The Superintendent shall promulgate emergency regulations to require that the application for such forbearance be made widely available for consumers, and such application shall be granted in all reasonable and prudent circumstances solely for the period of such emergency."

Governor's Executive Order No. 202.8, March 20, 2020

- "Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency." Tolls wide range of time limits until April 19, 2020, including "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, including but not limited to . . . the civil practice law and rules". Also tolls until April 19, 2020 all time limits set by "any other statute, local law, ordinance, order, rule, or regulation, or part thereof". The Order includes a provision stating: "There shall be no enforcement of either an eviction of any tenant residential or commercial, or a foreclosure of any residential or commercial property for a period of ninety days."

New York Office of Court Administrator's Order No. 78, March 22, 2020

- Directs court clerks not to accept filings in non-essential cases "until further order."

Foreclosure cases are deemed non-essential cases.

AB 10261, PENDING

- The Bill would suspend all residential mortgage payments for a period of 90 days from the law's enactment and prohibit negative credit reporting related to the nonpayment.

S 2849, PENDING

- Bill would impose moratorium on mobile home (and motor vehicle) repossessions through December 31, 2021 (or end of state's COVID-19 restrictions) for borrowers impacted by a COVID hardship. Borrower must make written COVID-19 hardship request to lender in order to obtain protection from repossession and imposition of default-related fees. Lender may not demand lump-sum arrearage payment at end of moratorium and must implement deferral of missed payments.

## **North Carolina (judicial foreclosure)**

Order of Supreme Court, May 21, 2020

- All deadlines for filing documents and papers and for other acts that were due to be filed or done between March 16, 2020 and June 1, 2020 remain extended until the close of business on June 1, 2020.

Order of Supreme Court, March 19, 2020

- Extends from March 16, 2020 to April 17, 2020 deadlines for filing pleadings, motions, notices, other documents and performing required "acts" in civil proceedings, including "special proceedings" (foreclosure proceedings). Effect is to delay to April 17, 2020 the completion of foreclosure sales not finalized as of March 16, 2020.

N.C. Senate Bill 827, bill failed May 21, 2020

- The Bill would create a state fund to which eligible mortgagors affected by COVID-19 crisis may apply for financial assistance to make mortgage payments. The Bill sets out repayment terms for no-interest loans to mortgagors of up to \$40,000.

## **Ohio (judicial foreclosure)**

Supreme Court Administrative Action, 2020-Ohio-1166, March 27, 2020

- Tolls limitations periods and deadlines for filing documents that were set to expire between March 9, 2020 and July 30, 2020.

Ohio Senate Bill S 297, PENDING

- The Bill would mandate a stay of foreclosure filings and proceedings for duration of the COVID-19 emergency. After a declared end to the state of emergency, any foreclosure proceedings initiated due to default on a mortgage during the state of emergency and sixty days thereafter would be stayed and referred to mediation.

HB 576, PENDING

- The Bill would prohibit initiation of county tax sale proceedings against residential properties through September 9, 2020. The law would also further restrict state tax enforcement proceedings and collection against residential properties.

HB 20, PENDING

- Bill would prohibit foreclosure activity during COVID emergency. Courts must refuse to accept foreclosure filings and stay pending proceedings. Upon termination of state of emergency foreclosures involving defaults occurring after March 9, 2020 must be referred to foreclosure mediation. Court system to bear cost of mediations.

## **Oregon (non judicial foreclosure)**

Oregon House Bill 2009, signed by Governor June 1, 2021

- The law provides for both a moratorium on foreclosure activities and a borrower's substantive right to certain COVID-19 loss mitigation relief measures. The foreclosure moratorium under former Bill 4204 that expired Dec. 31, 2020 is reinstated and extended retroactive to Dec. 31, 2020. The foreclosure moratorium was extended twice by governor's executive orders: by Ex. Ord. 21-14 (June 11, 2021) to Sept. 30, 2021 and by Ex. Ord. 21-30 (Aug. 16, 2021) to December 31, 2021.

During the moratorium a deed of trust beneficiary must not commence, continue, or complete a non-judicial or judicial foreclosure. Any trustee's sale conducted during moratorium period is void and does not convey title. A borrower obtains the right to forbearance/post-forbearance relief by giving notice during the moratorium period that he or she cannot make regular payments because of a loss of income "related to" the pandemic. Notice can be verbal, but servicer can ask for written confirmation of the request. However, servicer cannot ask for documentation of loss of income. If borrower gives notice, servicer cannot treat payments as coming due or loan as in default. Servicer must agree to deferment of arrearage to end of loan term or the parties can make a different agreement for reinstatement.

A servicer must notify borrowers of options under statute, either all borrowers that the servicer services, or all borrowers who are 30 plus days in default. The statute specifies content of notice (describing availability of forbearance and deferral). If borrower gave a notice under prior law, Bill 4202, borrower must give new notice under to obtain relief under Bill 2009. A borrower who gave notice of COVID-related hardship and was harmed by servicer's actions contrary to statute has private right of action with fees-shifting (subject to certain bona fide error defenses). The law applies to properties with up to four dwelling units. The borrower can be a purchaser under installment land sale contract. The law does not apply to tax sales. Finally, the law amends state law on foreclosure settlement conferences to allow video participation.

Executive Order No. 20-59, Oct. 27, 2020

- Reaffirms continuation of moratorium provisions of HB 4204 to December 31, 2020.

Governor's Executive Order No. 20-37, August 31, 2020

- Extends mortgage foreclosure moratorium "emergency period" underlying the provisions of House Bill 4204 to December 31, 2020.

HB 4204, effective June 30, 2020

- The law applies to a broad range of transactions, including mortgages, deeds of trusts, and land installment contracts. The terms are effective from March 8, 2020 to September 30, 2020, but may be extended by executive order. During the covered period a lender cannot treat a borrower as in default if the borrower notifies the lender that he or she will not be able to make a periodic payment. The borrower's notice must state that the failure to pay is due to loss of income related to the pandemic. The borrower need only give the notice once during the covered period. Once the notice is given, the lender must defer payments and allow the borrower to pay back the deferred payments at the end of the scheduled loan term. The lender cannot charge penalties or additional interest related to the deferment. Commencement and prosecution of foreclosures are stayed during the covered period, but the stay does not apply to notices of sale given before the covered period began. Borrowers who suffer an ascertainable loss of money or property due to a lender's noncompliance with the loss mitigation provisions of the law may bring an action for damages and recover attorney's fees if they prevail. Within 60 days of the effective date of the law each lender authorized to do business in the state must provide a written notice by mail to all the lender's borrowers in the state of the borrowers' rights to relief under this law.

## **Pennsylvania (judicial foreclosure)**

Governor's Order, July 9, 2020

- Extends Governor's Order of May 7, 2020 until August 31, 2020. The text acknowledges it does not apply to federally-backed loans that are subject to their own foreclosure moratoria set by the federal agencies.

Governor's Order, May 7, 2020

- Directs a moratorium on giving the notices that state law requires in order to bring foreclosure actions for most residential mortgages. The Order is effective from May 11, 2020 through July 10, 2020. The Order does not affect foreclosures actions already pending.

Supreme Court Emergency Order of Statewide Judicial Administration, April 28, 2020

- Previous Orders related to dispossession are extended until May 11, 2020, at which time statewide suspension of dispossession procedures shall cease (subject to CARES Act limitations).

Supreme Court Order of Statewide Judicial Emergency, March 19, 2020 effective to April 3, 2020

- Deadlines for filing legal papers due between March 19, 2020 to April 3, 2020. During this period no state official may effectuate an eviction, ejectment, or other displacement from a residence for nonpayment of rent or a loan. Allows filing requests for orders of possession.

H 2868, PENDING

- Would authorize the Pennsylvania Housing Finance Agency to establish a COVID Relief Mortgage and Rental Assistance Program. Borrowers affected by the pandemic could apply for assistance of up to \$1500 monthly for up to six months to apply to mortgage payments. Mortgagees may receive incentives for forgiving portions of COVID-based arrearages.

H 2850, PENDING

- Would suspend residential foreclosures and evictions through December 31, 2020.

SB 466, PENDING

- Introduced April 13, 2021 “Housing Security Act.” The law would apply to mortgages subject to authority of Department of Banking and Securities, and to lease-purchase agreements. Department is to establish guidelines for deferral programs and servicers must adopt programs to implement these deferrals. Servicers cannot demand payment of deferred amount before end of loan term. Servicer must accept deferral applications for borrowers who have a COVID hardship and agree to deferment terms that comply with agency guidelines. The denial of an application can be appealed to the Department.

## **Rhode Island (non judicial foreclosure)**

S. 183, PENDING

- Bill seeks to impose moratorium on commencement of or continuation of judicial or non-judicial foreclosures until conclusion of declared state of emergency. Bars assessment of penalties and fees during suspension if borrower impacted by pandemic.

## **South Carolina (judicial foreclosure)**

Order No. 2020-4-30-02 of Supreme Court of South Carolina Re: Statewide Evictions and Foreclosures, April 30, 2020

- Orders that currently ordered and scheduled evictions resume on May 15, 2020, (“courts statewide shall resume foreclosure hearings, foreclosure sales, issuing writs of assistance and writs of ejectments, and proceed in any other manner regarding foreclosures beginning May 15, 2020”). Order is subject to CARES Act limitations on foreclosures.

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

- Ordering statewide moratorium on foreclosure hearings, foreclosure sales, writs of ejectment, all matters relating to foreclosures until further order of Chief Justice.

## **Texas (non judicial foreclosure)**

Texas Supreme Court Eighteenth Emergency Order No. 20-9080, June 29, 2020

- Extends to September 15, 2020 any deadlines for the filing or service of any civil case that falls on a day between March 13, 2020 and July 1, 2020. (§ 11)

Texas Supreme Court Seventeenth Emergency Order No. 20-9071, May 26, 2020

- Extends to August 15, 2020 any deadline for the filing or service of any civil case that falls on a day between March 13, 2020, and July 1, 2020. (§11)

Texas Supreme Court Twelfth Emergency Order No. 20-9059, April 27, 2020

- Modifies Ninth Emergency Order No. 20-9052. Provides that: no trial, hearing or other proceedings may be conducted, and deadlines tolled until after May 18, 2020; writ of possession may issue but execution may not occur until after May 25, 2020; and new filings



may be accepted but issuance and service may not occur until May 25, 2020.

Texas Supreme Court Emergency Order No. 20-9052, April 6, 2020 effective to April 30, 2020

- Pertains to eviction proceedings, which under Chapter 24 of Texas Property Code include forcible detainer actions filed against occupant of property after foreclosure. Trials, hearings, and other proceedings in pending cases stayed and time limits tolled to April 30, 2020. A writ of possession may issue but cannot be executed until May 7, 2020. Filings of eviction actions may be accepted but service and other time limits stayed to April 30, 2020.

## **Rhode Island (non judicial foreclosure)**

RI H 2850, PENDING

- Also known as RI S 2926. Prohibits initiation or continuation of mortgage foreclosures while the state's emergency declaration is in effect. The servicer may not assess late fees if the borrower provides notice and documentation that the default was related to the pandemic.

## **Vermont (judicial foreclosure)**

Amendment to VT Supreme Court Administrative Order No. 49, February 22, 2022 effective to September 30, 2025

- The declaration was amended to extend the date of the pandemic judicial emergency to May 31, 2022.
- Requires the plaintiff in a foreclosure action to provide notice to the defendant of the availability of federal funds under the Vermont Homeowner Assistance Program (VHAP, Vermont's HAF program) to assist borrowers with delinquent mortgages avoid foreclosure. A defendant may request a stay of foreclosure activity representing that they have submitted a VHAP application and believe they meet the basic eligibility requirements for the program. Upon submission of the request, the stay will be automatically granted for a period of 60 days. Plaintiffs also have an obligation to inform the court if they have knowledge that an VHAP application is pending. A form Certification of Compliance with or Exemption of AO49 and a Notice to Homeowner Form can be found in Appendix E and Appendix F respectively.

VT Supreme Court Administrative Order No. 49, Dec. 22, 2020

- For judicial foreclosures filed between March 27, 2020 and December 31, 2020 the plaintiff must include a certification as to whether the loan is federally-backed and subject to the CARES Act. If the loan is federally-backed, the plaintiff must certify that it advised the borrower of the opportunity to request forbearance and that the borrower either did not respond or declined. The plaintiff must certify that it notified the borrower about forbearance options as part of its initial contact obligations under RESPA, 12 C.F.R. § 1024.39. The court administration provides a form for the certification.

VT Supreme Court Administrative Order No. 49, March 16, 2020, as amended through May 13, 2020

- Removes suspension of non-emergency proceedings with scheduling starting May 18, 2020 and hearings starting June 1, 2020.

SB 333, approved by Senate and House May 5, 2020

- The Bill would stop pending foreclosure proceedings to the end of the period of emergency. For new cases, the Bill bars service of foreclosure complaints, but not the filing. Courts are directed to stay proceedings, but the Bill does not specifically address the running of redemption periods.
- Signed by Governor on May 14, 2020, law effective May 14, 2020.

## **Virginia (non judicial foreclosure)**

HB 340, April 22, 2020

- The law would allow U.S. government employees or employees of government contractors to request and receive a 30-day stay of foreclosure if they face foreclosure and can document reduced earnings from government sources as the cause of their inability to pay.

VA H 5115, PENDING

- Would allow homeowners facing foreclosure to obtain a thirty-day stay of proceedings if they provide their servicer with documentation that they had a reduction of income affected by the pandemic. The Bill would not apply to borrowers who are entitled to protection under a federal statute or program.

## **Wisconsin (judicial foreclosure)**

Governor's Emergency Order No. 15, March 22, 2020

- For duration of sixty 60 days prohibits mortgagees from commencing foreclosure actions and from requesting or scheduling a sheriff's sale of the mortgaged premises. Sheriffs may not act on any order of foreclosure or execute any writ of assistance related to foreclosure. Order does not affect obligation to make mortgage payments or any other obligation of borrower under mortgage.