

FORECLOSURES AND EVICTIIONS

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- ▶ Have to read state and federal directives together.
- ▶ State of Florida Executive Order No. 20-94 dated April 2, 2020
 - ▶ Applies to mortgages and residential tenancies
 - ▶ Suspended and tolled any statute for a mortgage foreclosure action under Florida law for 45 days from April 2, 2020 (or until May 17, 2020)
 - ▶ Suspended and tolled any statute providing for an eviction cause of action under Florida law solely as it relates to the payment of rent for 45 days from April 2, 2020 (or until May 17, 2020)
 - ▶ The Order does not relieve an individual from its obligation to make mortgage payments or rent payments

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- ▶ State of Florida Executive Order No. 20-121 dated May 14, 2020
 - ▶ Extended the deadline in Order No. 20-94 to 12:01 a.m. on June 2, 2020
- ▶ Question: Does the Executive Order stay commercial foreclosure cases? It appears that the intent of the Order was to apply to single-family mortgages (cited in WHEREAS clauses), but in Section 1 of the Order it refers to “mortgages”. Section 2 of the Order refers to residential tenancies, so if Section 1 was to be limited to residential foreclosures it should have probably said that.
- ▶ Conclusion: It is a reasonable conclusion that commercial and residential foreclosures are stayed by the Order.

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▶ Judicial Circuits:

- ▶ Hillsborough County Admin Order S-2020-23 dated April 15, 2020 contemplates that all mortgages are stayed.
- ▶ Orange and Osceola County Admin Order 2020-11 dated April 3, 2020 suspends all actions related to mortgage foreclosure causes of action, cancels all pending mortgage foreclosure sales, and suspends all residential eviction causes of action.

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- ▶ Supreme Court of Florida Administrative Order No. AOSC20-23 dated May 4, 2020
 - ▶ The requirement in Florida Rule of Civil Procedure 1.580(a) for the clerk to issue a writ of possession is suspended. A writ of possession is issued when a judgment or order grants the delivery or possession of real property to an owner or landlord.
 - ▶ At present, the Order remains in effect through May 29, 2020

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▶ FHA Insured Loans

- ▶ On March 18, 2020, the Department of Housing and Urban Development authorized the Federal Housing Administration to implement a 60-day foreclosure and eviction moratorium for FHA-insured single-family mortgages (would expire on May 17, 2020)
- ▶ On May 14, 2020, FHA extended the moratorium through June 30, 2020
- ▶ The moratorium (i) halts all new foreclosure actions and suspends all foreclosure actions currently in process and (ii) ceases all evictions

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- ▶ Homeowners must continue to make their mortgage payments during the moratorium if they are able to do so or seek mortgage payment forbearance pursuant to the CARES Act from their mortgage servicers to avoid further foreclosure action when the moratorium expires. Pursuant to the CARES Act, FHA requires mortgage servicers to offer borrowers with FHA-insured mortgages up to six months or more of delayed mortgage payment forbearance when the borrower requests it. The FHA does not require a lump sum payment at the end of the forbearance period. [NOTE: Special program to treat missed payments as junior lien which is only paid when loan is paid off, home sold or mortgage refinanced]

FORECLOSURES AND EVICTIONS

▶ Fannie Mae and Freddie Mac Loans

- ▶ On March 18, 2020, the Federal Housing Finance Agency directed Fannie Mae and Freddie Mac to suspend foreclosure and evictions for Enterprise-backed single family mortgages for 60 days (would expire on May 17, 2020)
- ▶ On May 14, 2020, the Federal Housing Finance Agency extended the date through at least June 30, 2020