



MARYLAND COMMISSIONER OF FINANCIAL REGULATION

INDUSTRY ADVISORY REGULATORY NOTICE



December 18, 2020

NEW FORECLOSURE UPDATE: EXECUTIVE ORDER 20-12-17-02 ISSUED BY GOVERNOR HOGAN

On December 17, 2020, Maryland Governor Larry Hogan issued [executive order number 20-12-17-02](#) (the “Order”) amending and restating the previous executive orders issued April 3, 2020, number 20-04-03-01, and October 16, 2020, number 20-10-16-01.

The Order generally continues previously announced consumer protections while extending the existing moratorium on foreclosures until January 31, 2021, and granting the Commissioner, under certain circumstances, the authority to further extend the moratorium and to issue binding and/or non-binding directives, advisories, and/or guidance under the Order. **The Commissioner has issued such binding guidance in the form of frequently asked questions, which may be found [here](#).**

The foreclosure provisions of the Order are in Paragraph IV of the Order.

Paragraph IV provides that the suspension of the Notice of Intent to Foreclose Electronic System will continue until January 31, 2021 or such later date as the Commissioner may determine. **Consistent with the Order, the Commissioner will resume accepting Notices of Intent to Foreclose on February 1, 2021, which is the first business day after January 31, 2021, unless the Commissioner otherwise extends that date through a subsequent Regulatory Advisory.**

Paragraph IV also modifies the certain requirements of the previous order relating to Non-Federal mortgage loans. Specifically, it requires an offer of forbearance to be sent to the borrower at least 30 days before a Notice of Intent to Foreclose is sent, and grants the borrower 90 days from the date of the offer to accept that offer.

With respect to a mortgage or deed of trust, whether federally-backed or not federally-backed, secured by the property subject to foreclosure, the Servicer or Secured Party must certify to the Commissioner of Financial Regulation at the time of the submission of a Notice of Foreclosure (*see* Md. Code Ann. Real Property §7-105.2) that the Servicer has complied with paragraph IV of the order. Certification will be provided electronically as part of the submission process through Maryland’s Foreclosure Registration System. The Commissioner has determined that certification will be required beginning February 1, 2021.

NOTE: The above summary is not exhaustive. See the full Order on the Governor's website here.

Furthermore, on June 3, 2020, Maryland Court of Appeals Chief Judge Mary Ellen Barbera, administrative head of the judicial branch in Maryland, issued an administrative order lifting the stay of all foreclosures of residential properties, subject to certain requirements relating to the CARES Act, effective July 25, 2020. That order was subsequently amended to address extensions of certain protections provided for through federal action.

While the lift-of-stay order addresses foreclosure actions which have been filed or which may be filed, it does not supersede, abrogate, or otherwise negate Governor Hogan's Order of December 17, 2020 or any Order preceding it.

NOTE: Pursuant to Maryland Code, Real Property Article, Section 7-105.1(c)(3), and COMAR 09.03.12.02(E), a copy of the Notice of Intent to Foreclose shall be electronically submitted to the Commissioner through the System within 5 business days of mailing a Notice of Intent to Foreclose. Filing a copy of the Notice of Intent to Foreclosure with the Commissioner **must be accomplished before** a party is authorized to file an action to foreclose a mortgage or deed of trust on residential property. **Failure to comply with this requirement will subject a violator to the enforcement jurisdiction of the Commissioner and/or the Maryland Attorney General's Office.**

Questions about this advisory may be directed to Jedd Bellman, Assistant Commissioner for Non-Depository Supervision by phone at (443) 904-7045 or by email at jedd.bellman@maryland.gov.

See also the [Interpretational Guidance Regarding Foreclosure and Repossession issued by the Commissioner on December 18, 2020](#).

The Office of the Commissioner of Financial Regulation, a division of the Maryland Department of Labor, is Maryland's banking and financial services regulatory agency. For more information, please visit our website at www.labor.maryland.gov/finance.



Office of the Commissioner of Financial Regulation