

Insights

Governor DeSantis Announces Florida Foreclosure Moratorium

Article

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04.03.2020

On April 2, 2020, Governor DeSantis issued Executed Order Number 94-20 which suspended and tolled “any statute providing for a mortgage foreclosure cause of action under Florida law for 45 days.” It is unclear at this point what exactly is affected by this order, as the preamble to the order only discusses the existence of the COVID-19 emergency with respect to single-family mortgages, while the effective language of the order appears to be significantly broader, potentially affecting all mortgage foreclosure cases, both residential and commercial.

It is also unclear how this suspension will affect cases already in progress, but which have not yet been concluded. The Florida Supreme Court has already announced the suspension of the issuance of writs of possession through at least April 17, 2020.

Assuming that this executive order prohibits the filing of any new foreclosure cases of any type, lenders will need to consider that delay in negotiating workouts or forbearances with their borrowers. If no agreement can be reached, it appears that one potential alternative for lenders would be to file suit only on the promissory note for the time being, adding a count for foreclosure later upon the expiration of this executive order in an effort to minimize the delay caused by the foreclosure prohibition.

The executive order does not suspend any obligation for borrowers to continue to make mortgage payments.

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