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(ALL REPLIES TO LATHAM OFFICE)

CLIENT ALERT

DATE: May 15 2020

SUBJECT: SKLH Updates- COVID related moratoriums.

➤ **The CARES Act: Signed March 27, 2020.**

Foreclosure:

“Except with respect to a vacant or abandoned property, a servicer of a Federally backed mortgage loan may not initiate any judicial or non-judicial foreclosure process, move for a foreclosure judgment or order of sale, or execute a foreclosure-related eviction or foreclosure sale for not less than the 60-day period beginning on March 18, 2020.”

Expires Monday May 18, 2020.

Eviction:

Prohibits a servicer of a Federally backed mortgage from charging a tenant fees, penalties, or other charges for nonpayment of rent, and from issuing a notice to vacate or initiating an eviction or forcible detainer proceeding against a tenant for nonpayment of rent or other fees or charges. This eviction moratorium for owners of certain investment properties is in effect for 120 days from the date of enactment (3/27/20) of the CARES Act.

Expires July 25, 2020.

➤ **FNMA: Effective May 14, 2020.**

Extends Foreclosure moratoriums to June 30, 2020 with exceptions:

“During the period of the extension, servicers may not, except with respect to a *vacant or abandoned property, initiate any judicial or non-judicial foreclosure process, move for a foreclosure judgment or order of sale, or execute a foreclosure sale.* This suspension does not apply to mortgage loans secured by properties that have been determined to be vacant or abandoned.”

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FNMA Continued:

“Foreclosure is considered to have begun on the date when the servicer refers the matter to a law firm.” Accordingly, during the period of the suspension, firms should expect to receive new foreclosure referrals only for mortgage loans secured by properties that have been determined to be vacant or abandoned.

“The revised Lender Letter also continues the temporary suspension of the requirement that servicers file motions for relief from the automatic stay in bankruptcy cases upon certain milestones. Pursuant to the revised Lender Letter, servicers must continue to work with counsel to determine the appropriate time to file such motions.”

➤ **FHLMC: Effective May 14, 2020.**

Extends Foreclosure moratoriums to June 30, 2020 with exceptions:

“Servicers must suspend all foreclosure actions, including foreclosure sales, through June 30, 2020. *This includes initiation of any judicial or non-judicial foreclosure process, move for foreclosure judgment or order of sale.* This foreclosure suspension does not apply to Mortgages on properties that have been determined to be *vacant or abandoned.*”

➤ **HUD/FHA: Effective May 14, 2020.**

Extends Foreclosure & Eviction moratoriums to June 30, 2020 with exceptions:

“FHA-insured Single-Family mortgages, *excluding vacant or abandoned properties*, are subject to an extension to the moratorium on foreclosure through June 30, 2020. The moratorium applies to the initiation of foreclosures and to foreclosures in process.”

“Separate from any eviction moratorium applicable to lessors provided under the CARES Act, evictions of persons from properties securing FHA-insured Single-Family mortgages, excluding actions to evict occupants of legally vacant or abandoned properties, are also suspended through June 30, 2020.”

“Deadlines for the first legal action and reasonable diligence timelines are extended by 90 days from the date of expiration of this moratorium for FHA- insured Single Family mortgages, except for FHA-insured mortgages secured by vacant or abandoned properties.”

➤ **NEW YORK:**

Executive Order 202-28 (“EO”) is vague and ambiguous, leaving banks and servicers on unsettled ground regarding compliance. It seems clear that the EO prohibits the filing of a new evictions based on nonpayment of rent, until August 20, 2020. Past that, the intent of the order cannot be determined by its plain language. We have engaged in dialogue with the Governor’s legal counsel seeking guidance. Nothing of substance has been provided to date, but we will continue to follow up.

New York Continued:

Until then, we recommend taking a cautious approach to in-process foreclosures against occupied properties, we do not recommend moving to Judgment or going to Sale. We do not recommend halting foreclosures against vacant and abandoned properties.

In the event a borrower is deceased, and a surrogate's proceeding is necessary to determine defendants to be named in a foreclosure we recommend moving forward with a surrogate's proceeding. Additionally, quiet title actions as well as title curative proceedings may continue.

Beginning next week, the New York State court system, judges and chambers staff, along with designated clerks and support staff, in the below named upstate counties will return to their courthouses. Importantly, new cases may be filed in these counties electronically. No direction has been given whether non-new essential cases can be filed.

The Chief Administrative Judge for New York has directed the court to continue and expand the use of virtual court proceedings wherein possible.

Following courts are opening on May 18, 2020:

Broome €, Chemung, Chenango €, Delaware, Schuyler, Steuben €, Tioga, Tompkins €, Genesee, Livingston €, Monroe €, Ontario €, Orleans, Seneca €, Wayne, Wyoming, Yates, Fulton, Herkimer, Montgomery, Oneida €, Otsego, Schoharie.

€- E-file county

Wednesday May 20, 2020

Clinton, Essex, Franklin, Hamilton, Jefferson, Lewis, St. Lawrence

➤ **NEW JERSEY:**

Governor Murphy extended Executive Emergency Order 138 to June 5, 2020.

“The Office of Foreclosure will not review or recommend motions or judgments received on or after March 1, 2020 pending further court order. “

Eviction moratorium started March 19, 2020 and will remain in place until two months after Governor Murphy declares an end to the crisis.

➤ **VERMONT:**

Governor signed S333 into law May 14,2020:

Emergency Period: March 13, 2020 through 30 days after the governor terminates the state of emergency. New Foreclosure filing are allowed, action is immediately stayed, no service until after termination of emergency period. Eviction actions are stayed, as well as Writs of Possession, excluding vacant and abandoned properties.

➤ **PENNSYLVANIA:**

Courts and counties will be re-opening in accordance with the grouping listed below:

Counties currently open:

Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Bradford, Butler, Cambria, Cameron, Chester, Cumberland, Dauphin, Forest, Franklin, Fulton, Green, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, Lycoming, McKean, Mercer, Mifflin, Montour, Northumberland, Perry, Potter, Snyder, Somerset, Sullivan, Susquehanna, Tioga, Union, Venango, Warren, Washington, Wayne, Westmoreland, Wyoming.

PA Counties Opening Today, 5/15/2020:

Bucks, Carbon, Columbia, Lackawanna, Montgomery and Schuylkill

PA Counties Opening Today, 5/15/2020 in defiance of the Governor's Orders:

Lancaster, Lebanon, York

PA Counties Opening 6/2/2020:

Philadelphia, Delaware, Luzerne, Monroe, Northampton, Pike

Executive Order issued 5/7/2020 prohibiting evictions prior to 7/10/2020, issuance of Writs of Possession prior to 6/1/2020 and new notices prior to 7/10/2020. No further moratoriums on eviction proceedings currently.

District Justice Courts scheduled to re-open 6/1/2020.

Magisterial District Courts – June 2, 2020.

Sheriff's Offices will re-open following the same schedules as the Courts.

All Courts of Common Pleas will re-open by 5/25/2020.