



MARYLAND COMMISSIONER OF FINANCIAL REGULATION INDUSTRY ADVISORY REGULATORY GUIDANCE



June 28, 2021 *(updated July 6, 2021 - clarification)*

Termination of COVID-19 Executive Orders: Reopening of the Notice of Intent to Foreclose Electronic System

On June 15, 2021, Governor Larry Hogan announced that many of the executive orders issued under Maryland's COVID-19 state of emergency and catastrophic health emergency will terminate on July 1, 2021. See [Executive Order 21-06-15-01](#). While most executive orders relating to the health crisis will terminate on that date, certain orders will be extended until August 15, 2021. Among those extended is [Executive Order 20-12-17-02](#) ("the Order"), regarding evictions and foreclosures. The Order mandated the closure of the Notice of Intent to Foreclose Electronic System ("the System") through January 31, 2021, and authorized further extensions of that closure. The most recent extension closed the System through June 30, 2021. Based on the Governor's recent announcement, after review and analysis of relevant information related to the COVID-19 catastrophic health emergency, the Commissioner has determined that there will be no further extensions of the closure of the System. Therefore, **the System will re-start on July 1, 2021.**

With the re-start of the System, users will need to access the System through the Commissioner's integrated [Foreclosure Registration System](#). Please note that user accounts in the legacy system will not transition to the new System; users without an account in the Foreclosure Registration System must create one in order to submit Notices of Intent to Foreclose. Users will also need to transfer data from the legacy system into the Foreclosure Registration System should they wish to access that information. User guides, as well as a video tutorial, will be available when the system reopens.

While the System will reopen on July 1, 2021, **compliance with all other provisions of the Order is required until August 15, 2021.** The Commissioner previously issued [interpretational guidance](#) regarding compliance with the Order. Please note that, because the 45-day extension of the Order coincides with the statutory 45-day waiting period between the sending of a Notice of Intent to Foreclose and the filing of an order to docket, there will be no requirement to provide certification of offers of forbearance at the time of submission of a Notice of Foreclosure, as specified in the Order and described in the guidance. Additionally, nothing in this Guidance, including the reopening of the System, should be inferred to alleviate or undermine any obligation or relief program imposed under state or federal authority (such as the current foreclosure moratorium on certain federal mortgage loans).

While the health effects of the COVID-19 pandemic in Maryland are waning, the pandemic's economic impact continues to affect many Maryland consumers. The Commissioner strongly urges all Maryland-

licensed mortgage servicers to continue efforts to mitigate the impact of this crisis on their customers. At a minimum, mortgage servicers are required by Maryland regulation to make borrowers in default aware of all available loss mitigation options available and to pursue loss mitigation when possible. Additionally, servicers are expected to adequately staff their default servicing activity with well-trained and responsive employees. Further, servicers must ensure that their risk and compliance management functions are calibrated to monitor and control for compliance with all applicable internal and external guidelines, and all applicable laws, rules and regulations focused on loss mitigation and default servicing activities. Servicers are encouraged to take other reasonable steps in an attempt to assist all Maryland borrowers who have suffered a loss of income due to the pandemic or have otherwise experienced impacts that could affect their ability to pay their mortgages. Steps that servicers should be taking or consider taking could include:

- Waiving late fees as well as online and telephone payment fees that may be permitted by law;
- Forgoing the reporting of payment information relating to defaults during the health emergency or reporting payment information to credit reporting agencies in a manner that minimizes the impact of delinquent payment on a borrowers' credit histories;
- Offering forbearance or other options, when permitted under investor guidelines, to allow borrowers to defer payments (such deferral programs should take into account the ability of the borrower to meet payment obligations when the forbearance period ends with a goal towards preserving homeownership – such as extending the loan term to accommodate the missed payments);
- Extending trial modification periods and ensuring that late payments resulting from COVID-19-related interruptions to income do not prevent borrowers from obtaining permanent modifications;
- Reaching out to borrowers proactively to provide information on available assistance;
- Ensuring that borrower-facing business units are sufficiently staffed to manage potential increases in the volume of requests for information and assistance;
- Ensuring that all borrower-facing staff are fully informed about any available assistance and are proactive in informing borrowers of such.

Servicers should also be aware that the Maryland Department of Housing and Community Development is currently developing mortgage assistance programs as a final backstop based on allocations from the American Rescue Plan Act's Homeowner Assistance Fund. Servicers should consider the potential impact of such assistance when evaluating borrowers for loss mitigation or considering collection actions. More detailed information on these programs will be provided as soon as it becomes available.

Overall, as our Country and State return to normal operations in the post-pandemic environment, all licensed mortgage servicers are expected to handle their servicing duties consistent with their legal and contractual obligations and in a manner that is supportive of efforts to minimize the impact of pandemic hardships on the citizens and communities of Maryland.

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



Office of the Commissioner of Financial Regulation