



INDIANA SUPREME COURT

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Indianapolis, Indiana 46204

Office of Judicial Administration

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To: Trial Court Judges
Circuit Clerks

From: Jeff Wiese, IOCS Deputy Director
Michelle Goodman, Supervisor

Date: March 25, 2020

RE: Status of Foreclosure and Eviction proceedings with Federal Directives and State Executive Order

IOCS has received questions related to recent Federal and State directives regarding foreclosures and evictions. To address these questions, we are providing an overview of these documents with links to the documents. Below are some additional considerations.

Summary of directive and executive order:

- On March 18, 2020, the [U.S. Department of Housing and Urban Development](#) and the [Federal Housing Finance Agency](#) issued directives which provide:
 - A moratorium on foreclosure and evictions for all FHA-insured Single-Family mortgages for 60 days. This applies to the initiation of foreclosure actions and to the completion of foreclosures in process.
 - Evictions from properties secured by FHA-insured Single-Family mortgages are also suspended for 60 days.
 - The deadline of first legal action and reasonable diligence timeliness are extended by 60 days.
 - Foreclosure and eviction suspension for at least 60 days applies to homeowners with a Fannie Mae or Freddie Mac backed single family mortgage.
- On March 19, 2002, the Governor issued [Executive Order 20-06](#) providing, in part:

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- Eviction or foreclosure actions or proceedings involving residential real estate or property **may not be initiated** between the date of this order until the state of emergency has terminated.
- Any applicable rule or regulation in connection with these matters is rescinded for the duration of the state of emergency.
- The Executive Order does not relieve individuals of their obligations to pay rent, to make mortgage payments, or to comply with other obligations under a tenancy or mortgage.

Guidance for Indiana Courts:

- New Filings: The courts and clerks should continue to accept all case filings submitted. Article 1, Section 12 of the Indiana Constitution requires that “all courts shall be open; and every person, for injury done to him in his person, property, or reputation, shall have remedy by due course of law...” To implement this constitutional provision, the Indiana Supreme Court adopted Ind. Trial Rule 72 which required that “trial courts shall be deemed always open for the purpose of filing any pleading or other proper paper, of issuing and returning process and of making and directing all interlocutory motions, orders, and rules.”
- Cases filed prior to the new Federal and State Directives: AR 17 approved orders provide a general tolling provision for all case types and authorizes the courts to handle matters impacting individual right to liberty interests and emergency matters during the period of the orders. The ability to stay proceedings that are not emergencies is also permitted under this provision. When exercising your judicial discretion, you may want to consider, among other things, the need to protect public health and safety, the need to protect property from substantial loss of value, etc.
- The Governor’s Executive Order obligates parties to continue paying rent/making mortgage payments and complying with other obligations under a tenancy or mortgage during the state of emergency. Failure to meet these obligations would be issues for future hearings on damages.