MIKE DEWINE
GOVERNOR
STATE OF OHIO

Executive Order 2020-08D

Commercial Evictions and Foreclosures

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death, is caused by the SARS-CoV-2 virus, which is a new strain of coronavirus that had not been previously identified in humans and can easily spread from person to person. The virus is spread between individuals who are in close contact with each other (within about six feet) through respiratory droplets produced when an infected person coughs or sneezes. It may be possible that individuals can get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose or eyes; and

WHEREAS, on January 31, 2020, Health and Human Services Secretary, Alex M. Azar II, declared a public health emergency for the United States to aid the nation's healthcare community in responding to COVID-19; and

WHEREAS, on March 9, 2020, testing by the Department of Health confirmed that three (3) patients were positive for COVID-19 in the State of Ohio. This confirmed the presence of a potentially dangerous condition which may affect the health, safety and welfare of citizens of Ohio; and

WHEREAS, on March 9, 2020, I declared a State of Emergency in Executive Order 2020-01D; and

WHEREAS, on March 22, 2020; the Ohio Department of Health Director signed a Public Health Order that required all individuals currently living in Ohio to stay at home or at their place of residence except as allowed in certain circumstances, such as for essential activities, essential governmental functions, or to participate in essential businesses and operations, to further increase social distancing and ensure that as many people as possible stay at home to slow the spread of COVID-19; and

WHEREAS, time limitations for criminal, civil, and administrative proceedings that were set to expire between March 9, 2020 and July 30, 2020 have been tolled though the enactment of Section 22 of Amended Substitute House Bill Number 197 of the 133rd General Assembly; and

WHEREAS, the Supreme Court of Ohio has provided guidance to local courts to temporarily continue eviction filings, pending eviction proceedings, scheduled move-outs, and the execution of foreclosure judgments; and

WHEREAS, under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act and prior federal directives, many residential properties have had a temporary period of suspension regarding evictions and foreclosures put into place; and

WHEREAS, the economic impacts of COVID-19 on Ohio businesses have been significant; and

WHEREAS, during this public health emergency, commercial evictions and foreclosures destabilize local economies and threaten designated essential businesses and operations; and

WHEREAS, a period of suspended, but not negated, rent payments for small business commercial tenants would provide temporary financial relief throughout this unprecedented pandemic; and

WHEREAS, a period of forbearance would provide a pause and would allow time for sensible solutions to be worked out between commercial real estate borrowers and lenders; and

WHEREAS, the actions of other states, such as California and New York, to shield their businesses from evictions and foreclosures place Ohio businesses in a competitive and economic disadvantage;

NOW THEREFORE, I, Mike DeWine, Governor of the State of Ohio, by virtue of the authority vested in me by the Constitution of the United States, specifically the implied police powers of the Tenth Amendment, the Constitution of the State of Ohio, Article III, Section 5, and the laws of this State do hereby order and direct that:

1. Landlords are requested to suspend, for a term of at least ninety (90) consecutive days, rent payments for small business commercial tenants in the State of Ohio that are facing financial hardship due to the COVID-19 pandemic; and

2. Landlords are requested to provide for a moratorium of evictions of small business commercial tenants for a term of at least ninety (90) consecutive days; and

3. Lenders are requested to provide commercial real estate borrowers with a commercial mortgage loan for a property located in the State of Ohio an opportunity for a forbearance of a term of at least ninety (90) consecutive days for said mortgage as a result of a financial hardship due to the COVID-19 pandemic; and

4. "Lender" as that term is used herein shall include any banking organization, bank holding company, credit union, mortgage broker, mortgage loan servicer, master or special servicer, mortgage revenue bond issuer, mortgage revenue bond holder, mortgage loan originator, owning or holding any mortgage loan secured by property

located in the State of Ohio, including commercial mortgage-back securities (CMBS) loans; and

5. "Forbearance" as that term is used herein shall mean an agreement to forbear from (a) the enforcement of any remedies following any monetary or non-monetary defaults arising as a result of the COVID-19 pandemic, including the filing of suit against any borrower, maker, co-maker or guarantor, the filing of foreclosure, appointment of a receiver, impounding of reserve or other funds deposited in accord with any loan or security documents, or termination of any license to use cash, or (b) sweeping and/or seizing any cash by reason of cash sweep trigger events regardless of a default or the existence of circumstances that may give rise to a cash sweep trigger event arising as a result of the COVID-19 pandemic, or (c) any requirement that a party waive any legal rights or admit any default arising as a result of the COVID-19 pandemic; and

6. Nothing in this Order shall be construed to negate the obligation of a small business commercial tenant to pay rent or restrict a landlord from recovering rent at a future time; and

7. Nothing in this Order shall be construed to negate the obligations of a commercial real estate borrower, but rather provide a pause and time for sensible solutions to be worked out among commercial real estate borrowers and lenders; and

8. Nothing in this Order shall be construed to suspend any federal or state law.

I signed this Executive Order on April 1, 2020, in Columbus, Ohio, and it shall take effect immediately and remain in full force and effect for ninety (90) days unless modified or rescinded by me before then.

Mike DeWine, Governor

ATTEST:

Frank LaRose, Secretary of State