State of Delaware

Executive Department
Dover

TWENTY-THIRD MODIFICATION OF THE DECLARATION OF A STATE OF EMERGENCY FOR THE STATE OF DELAWARE DUE TO A PUBLIC HEALTH THREAT

WHEREAS, the Centers for Disease Control and Prevention ("CDC") has determined that a novel coronavirus ("COVID-19") presents a serious public health threat, and has advised the public that asymptomatic individuals may be carriers of the COVID-19 virus and may unknowingly spread the virus to other individuals in close proximity, and therefore, social distancing is required to help mitigate the individual exposure to (and community spread of) the COVID-19 virus; and

WHEREAS, it is in the best interests of the State to protect its citizens from a public health emergency that could threaten the lives of those who live and work here; and

WHEREAS, on March 12, 2020 at 3:00 p.m. E.D.T., I issued a State of Emergency declaration due to the public health threat of COVID-19, which became effective as of 8:00 a.m. E.D.T. on March 13, 2020 (the "COVID-19 State of Emergency"); and

WHEREAS, on March 16, 2020 at 2:00 p.m. E.D.T., I issued the First Modification to the COVID-19 State of Emergency declaration to advise that the CDC issued new guidance for large

events and mass gatherings, recommending that organizers halt gatherings of fifty (50) people or more for the next eight weeks due to the public health threat of COVID-19, including conferences, social events, concerts and other types of assemblies; and

WHEREAS, on March 18, 2020 at 2:00 p.m. E.D.T., I issued the Second Modification to the COVID-19 State of Emergency declaration that modified the limitations on public gatherings of fifty (50) or more people and, among other things, placed certain restrictions on the operation of certain businesses and facilities in the State of Delaware; and

WHEREAS, on March 21, 2020 at 12:00 p.m. E.D.T., I issued the Third Modification to the COVID-19 State of Emergency declaration to close all Delaware beaches, except to persons using the beaches for exercise or to walk their dogs, subject to certain precautions recommended by the CDC on COVID-19, which became effective as of 5:00 p.m. E.D.T.; and

WHEREAS, on March 23, 2020 at 4:00 p.m. E.D.T. and 4:02 p.m. E.D.T., respectively, I issued the Fourth and Fifth Modifications to the COVID-19 State of Emergency declaration to close all non-essential businesses in Delaware, except those that can offer goods and services on the Internet, and to order a Shelter in Place for Delaware residents; and

WHEREAS, on March 24, 2020 at 4:00 p.m. E.D.T. I issued the Sixth Modification to the COVID-19 State of Emergency declaration to provide a moratorium on evictions and foreclosure proceedings to enable Delawareans to shelter in place safely, extended the presidential primary, provided for absentee balloting during the COVID-19 crisis, provided for a modified state procurement process, and placed a moratorium on cancellation of insurance policies for delay in premium payments caused by the economic uncertainty; and

WHEREAS, on March 29, 2020 at 4:30 p.m. E.D.T., I issued the Seventh Modification to the COVID-19 State of Emergency declaration to provide for the self-quarantine of travelers from areas severely impacted by COVID-19 outside the State of Delaware into the State; and

WHEREAS, on March 30, 2020 at 5:00 p.m. E.D.T., I issued the Eighth Modification to the COVID-19 State of Emergency declaration to permit a comprehensive approach to the provision of childcare in the State of Delaware during the State of Emergency to support essential workers; and

WHEREAS, on April 1, 2020 at 3:00 p.m. E.D.T., I issued the Ninth Modification to the COVID-19 State of Emergency declaration to prohibit gatherings of ten (10) or more people and increase safety precautions for businesses and their visitors; and

WHEREAS, on April 6, 2020 at 6:00 p.m. E.D.T., I issued the Tenth Modification to the COVID-19 State of Emergency declaration to further restrict the operation of non-essential businesses to limit the spread of COVID-19; and

WHEREAS, on April 10, 2020 at 3:30 p.m. E.D.T., I extended the COVID-19 State of Emergency declaration, as modified; and

WHEREAS, on April 15, 2020 at 9:00 a.m. E.D.T., I issued the Eleventh Modification to the COVID-19 State of Emergency declaration to provide increased guidance and support to long-term care facilities to protect our most vulnerable populations and to permit remote notarization under limited circumstances; and

WHEREAS, on April 23, 2020 at 4:15 p.m. E.D.T., I issued the Twelfth Modification to the COVID-19 State of Emergency declaration to allow the Public Health Authority to activate more out-of-state health care workers to assist in Delaware's fight against COVID-19; and

WHEREAS, on April 25, 2020 at 4:00 p.m. E.D.T., I issued the Thirteenth Modification to the COVID-19 State of Emergency declaration to require the use of cloth face coverings in public settings where other social distancing measures are difficult to maintain, including in grocery stores and pharmacies, especially in areas of significant community-based transmission; and

WHEREAS, on April 29, 2020 at 6:00 p.m. E.D.T., I issued the Fourteenth Modification to the COVID-19 State of Emergency declaration limiting the rent that may be charged to holdover tenants and preventing landlords from charging holdover tenants with losses not covered by the expired rental agreement; and

WHEREAS, on May 7, 2020 at 10:00 a.m. E.D.T., I issued the Fifteenth Modification to the COVID-19 State of Emergency declaration to permit minimum operations by certain small businesses to begin a gradual process toward businesses reopening, and to extend deadlines for statewide, municipal, and school district elections due to the ongoing public health concerns caused by COVID-19; and

WHEREAS, on May 8, 2020 at 12:30 p.m. E.D.T., I extended the COVID-19 State of Emergency declaration a second time; and

WHEREAS, on May 10, 2020 at 1:15 p.m. E.D.T., I issued the Sixteenth Modification to the COVID-19 State of Emergency declaration to suspend end-of-year evaluations for educators, professional development requirements and assessments due to the suspension of the school year caused by COVID-19; and

WHEREAS, on May 14, 2020 at 5:00 p.m. E.D.T., I issued the Seventeenth Modification to the COVID-19 State of Emergency declaration to reopen Delaware beaches, boardwalks, certain

on-premise businesses, and swimming facilities, subject to precautions needed to protect public health; and

WHEREAS, on May 18, 2020 at 12:30 p.m. E.D.T., I issued the Eighteenth Modification to the COVID-19 State of Emergency declaration encouraging virtual services but expanding the ability of houses of worship and places of religious expression to conduct in-person services with safety precautions; and

WHEREAS, on May 22, 2020 at 4:00 p.m. E.D.T., I issued the Nineteenth Modification to the COVID-19 State of Emergency declaration to allow restaurants to expand outdoor seating capacity and provide the parameters of the Phase 1 Reopen Plan; and

WHEREAS, on May 31, 2020 at 3:30 p.m. E.D.T., I issued the Twentieth Modification to the COVID-19 State of Emergency declaration to expand and clarify the Phase 1 Reopen Plan; and

WHEREAS, on June 6, 2020 at 12:30 p.m. E.D.T., I extended the COVID-19 State of Emergency declaration a third time; and

WHEREAS, on June 14, 2020 at 5:00 p.m. E.D.T., I issued the Twenty-First Modification to the COVID-19 State of Emergency declaration to set forth the parameters for the Phase 2 Reopen Plan; and

WHEREAS, on June 19, 2020 at 3:30 p.m. E.D.T., I issued the Twenty-Second Modification to the COVID-19 State of Emergency declaration to expand and clarify the Phase 2 Reopen Plan; and

WHEREAS, as the State continues its reopening plan, moratoriums put in place at the height of the COVID-19 pandemic to help ensure the state's shelter in place mandate no longer apply; and

WHEREAS, on June 8, 2020 the Delaware courts reopened to conduct business, but eviction and foreclosure matters continue to be stayed per the 6th Modification to the State of Emergency; and

WHEREAS, it is necessary to enable our courts to conduct its business as usual and work with landlords and tenants and homeowners and lenders to resolve housing matters; and

WHEREAS, it is necessary to give policyholders, granted a grace period from cancellation of insurance policies due to nonpayment of premiums caused by the COVID-19 State of Emergency**,** a reasonable timeframe within which to repay premium payments in order to maintain coverage under the policies; and

WHEREAS, reopening the State in a phased approach allows for officials to continue to monitor the spread of COVID-19 and react appropriately; and

WHEREAS, as part of that reopening, the State must respond if a resurgence of COVID-19 positive cases is detected to stop the spread of the virus and avoid its harmful impact on the state's public health; and

WHEREAS, it is necessary to limit use of certain taprooms and restaurants where an increase in COVID-19 cases has been documented; and

WHEREAS, the Phase 2 Reopen Plan, like the interim steps before it, and the steps taken afterwards, were formulated in close consultation with public health officials to ensure that the core principle of controlling the spread of COVID-19 is considered at a time when the State must continue to exercise heightened caution.

NOW, THEREFORE, I, JOHN C. CARNEY, pursuant to Title 20, Chapter 31 of the Delaware Code, to control and prevent the spread of COVID-19 within the State of Delaware, do

hereby order that the COVID-19 State of Emergency declaration, as modified by the First through Twenty-Second Modifications and extended on April 10, 2020, May 8, 2020, and on June 6, 2020, shall remain in effect until further notice, with the following modifications and additions:

A. PHASE 2 TEMPORARY BUSINESS RESTRICTIONS. Notwithstanding the provisions of the Twenty-First Modification and the Phase 2 Reopen Plan, effective July 3, 2020 at 8:00 a.m. E.D.T., the following additional restrictions shall apply to taprooms and bar service in restaurants in the towns of Lewes, Rehoboth Beach, Dewey Beach, Long Neck, Bethany Beach, South Bethany, Fenwick Island, West Fenwick Island, Ocean View, Millville and/or the following zip codes: 19966 east of Rt. 24 and Rt. 5; 19945 east of Rt. 17; 19975 east of the intersection of Rts. 20 and 54, and the entirety of 19944, 19967, 19970, 19930, 19971, and 19958:

1. Taprooms, brewpubs and restaurants may not permit patrons to sit or stand at a bar, but may open the bar to prepare drinks to be brought to diners seated at tables. Taprooms, brewpubs and restaurants that choose to use designated bar space for seating patrons must arrange tables consistent with the Phase 2 Reopen Plan to allow for minimum social distancing, including the following:
    i. Tables and booths must be arranged in a way that ensures seated patrons at one table are at least six (6) feet apart from seated customers at another table. For booths, this typically will mean seating patrons at every other booth. For freestanding tables (with pull out chairs), there should be eight (8) feet apart to ensure that a seated patron is six feet from seated guests at other tables. Inside and outside seating must both comply with these standards. Tables must be disinfected in between each party.

ii. Patrons from different households may sit at a table together as long as they are socially distanced. Patrons must all have seats. Orders should be placed from a table and received at a table unless an alternative exists that ensures patrons who are not of the same household are socially distanced at all times while placing and receiving an order. All patrons must wear face coverings upon entering and exiting and when getting up from the table to use the restrooms, as required by the Thirteenth Modification.

iii. Patrons must have a reservation unless the establishment has a system for ensuring that patrons without a reservation do not gather while waiting to be seated. Takeout can still continue under pre-Phase 1 guidelines, but should be done without those ordering entering the dining facility when picking up the order.

iv. Any common areas where people would typically stand or engage in other activities must be off limits if not otherwise occupied by tables with seated patrons. This includes dance floors, arcade/bar game areas, pool tables, and similar spaces.

B. INSURANCE. Effective July 1, 2020 at 8:00 a.m. E.D.T., paragraph E. of the Sixth Modification of the Declaration of the State of Emergency, dated March 24, 2020, relating to the payment of insurance premiums, and paragraph 5. of the Ninth Modification, dated March 30, 2020, which modified paragraph E. of the Sixth Modification, are hereby stricken and replaced with the following:

1. Beginning July 1, 2020, every insurer shall provide a 90-day payment plan for past due premiums to individual policyholders who demonstrate a loss of job/termination of

employment due to the COVID-19 State of Emergency, or, if the policyholder is a business, the business demonstrates it was required to close or significantly reduce its business operations due to the COVID-19 State of Emergency. Repayment of the unpaid premium shall, at a minimum, be amortized over said 90-day period in up to 3 equal installments, except that an insurer may permit a longer repayment period to assist policyholders.

2. This Order is intended to grant policyholders an extension of time for the payment of premium which was past due between March 25, 2020 through July 1, 2020 without penalty or interest. Except as required herein, the provisions in this Order are not intended to vary the terms and conditions of an insurance policy. No provision contained in this Order is intended to be considered a forgiveness of premium due by a policyholder under an insurance policy prior to-, post-, or during the pendency of this State of Emergency. Failure to make payment under the payment plan may be the basis for cancellation or nonrenewal of a policy. Policyholders are encouraged to contact their insurer regarding payment of past-due premium. Pursuant to 20 Del. C. § 3116(a)(1), I delegate to the Insurance Commissioner of the State of Delaware the authority to issue guidance to insurers and policyholders regarding the content of this Order.

C. EVICTIONS. Effective July 1, 2020 at 8:00 a.m. E.D.T., Paragraph B of the Sixth Modification of the Declaration of the State of Emergency related to evictions, as clarified by Paragraph 1 of the Fourteenth Modification of the Declaration of the State of Emergency, is modified by deleting it in its entirety, including Paragraph 1 of the Fourteenth Modification, and substituting the following language:

1. Actions for summary possession may be filed with respect to any residential unit located within the State, and shall be stayed to permit the Justice of the Peace Court to determine whether the parties would benefit from participating in court supervised mediation or alternative dispute resolution, which process may include appropriate housing support services, as determined by the Delaware State Housing Authority, if requested by either party or the Court. Sheriffs, constables, court officers, and their agents shall refrain from acting to remove individuals from residential properties through the eviction process during the time this Order is in effect, unless the court determines on its own motion or motion of the parties that enforcement is necessary in the interest of justice. With respect to any past due balance for a residential rental unit, no late fee or interest may be charged or accrue on the account for the residential unit during the COVID-19 State of Emergency. Actions filed should include supporting documents, as directed by the court and supplied by the landlord, that demonstrate that the subject property is not covered by a federal moratorium on evictions.
2. Any action for summary possession with respect to any residential unit located within the State that was filed before the State of Emergency for which no final judgment had been entered shall be further stayed to permit the Justice of the Peace Court to determine whether the parties would benefit from participating in court supervised mediation or alternative dispute resolution, which process may include appropriate housing support services, as determined by the Delaware State Housing Authority, if requested by either party or the Court. Sheriffs, constables, and their agents shall refrain from acting to remove individuals from residential properties through the eviction process during the time this Order is in effect, unless the court determines on

its own motion or motion of the parties that enforcement is necessary in the interest of justice. With respect to any past due balance for a residential rental unit, no late fee or interest may be charged or accrue on the account for the residential unit during the COVID State of Emergency.

D. FORECLOSURES. Effective July 1, 2020 at 8:00 a.m. E.D.T., Paragraph C. of the Sixth Modification of the Declaration of a State of Emergency related to foreclosures is modified by deleting it in its entirety and substituting the following language:

1. The provisions of the Delaware Code relating to residential mortgage foreclosures, including Subchapter XI, Chapter 49 of Title 10 notwithstanding, for any residential mortgage foreclosure action commenced prior to the declaration of the state of emergency due to COVID-19, any stay of a deadline in that action pursuant to paragraphs C.2, C.3, and C.4 of the Sixth Modification is lifted, unless the court determines that a longer period is necessary in the interest of justice. Sheriffs, constables, and their agents shall refrain from acting to remove individuals from residential properties as a result of a mortgage foreclosure process by way of sheriff's sale, writ of possession, or action for ejectment during the time this Order is in effect, unless the court determines on its own motion or motion of the parties that enforcement is necessary in the interest of justice; provided, however, a party may act to remove individuals from residential properties, subject to a residential mortgage foreclosure action, where a judgment of foreclosure was issued prior to the declaration of the COVID State of Emergency. Any actions taken pursuant to this subsection should include supporting documents, as directed by the court and supplied by the lender, that

demonstrate that the subject property is not covered by a federal moratorium on foreclosures.

2. Except as modified in this section, all other provisions of Chapter 49 of Title 10 of the Delaware Code remain in effect in accordance with their terms.
3. Except as provided above, no provision contained in this Order shall be construed as relieving any individual of the obligation to make mortgage payments or to comply with any other obligation that an individual may have under a residential mortgage.

E. UTILITIES. Effective July 1, 2020 at 8:00 a.m. E.D.T., Paragraph D. of the Sixth Modification of the Declaration of a State of Emergency related to utilities is modified by deleting it in its entirety and substituting the following language:

1. Beginning July 1, 2020, every public utility, not for profit utility, and municipal utility that operates water, wastewater, gas, or electric utility service in Delaware shall, at a minimum, extend a four month payment plan ("COVID extended payment plan") for past due accounts to customers that indicate they have been affected by the impacts of COVID-19 which may include, but is not limited to, loss of employment. Such utilities shall not apply eligibility criteria, such as installment plan history, and customers may enroll in the COVID extended payment plan with no deposit/payment. Utilities may request proof of COVID impact, such proof to be the least minimal necessary to show the customer has been impact by COVID-19.

F. MISCELLANEOUS:

1. Effective immediately, Paragraph E.3. of the Twentieth Modification regarding emergency rules by the Secretary of Labor is hereby stricken. Paragraph 7 of the First Modification to the COVID-19 State of Emergency declaration remains effective, and it states: "The

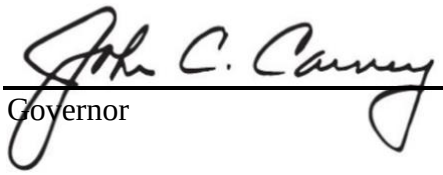
Delaware Secretary of Labor is authorized to develop emergency rules, amending the Delaware Unemployment Insurance Code, effective Monday, March 16, 2020, such emergency rules to remain in effect until the State of Emergency declaration has been rescinded. These rules should enhance the flexibility of the unemployment insurance program in response to COVID-19, and alleviate some of the burden of temporary layoffs, isolation, and quarantine by ensuring unemployment benefits are available to individuals whose employment has been impacted directly by COVID-19."

2. Effective July 1, 2020, at 8:00 a.m. E.D.T., any authority granted to the Secretary of the Department of Services for Children, Youth, and Their Families ("DSCYF") in the COVID-19 State of Emergency declarations or in Executive Order Number 38, issued on March 19, 2020, to suspend or modify the state's childcare rules and regulations prescribed by DSCYF's Office of Child Care Licensing ("OCCL") shall be granted to the Secretary of the Department of Education.
3. The Public Health Authority is hereby authorized to conduct inspections, as it deems necessary, of any business operating during the COVID-19 State of Emergency to determine if the business is in compliance with the COVID-19 State of Emergency declaration, plans approved pursuant to this or prior Modifications, and Delaware law, in an effort to prevent, reduce the spread of, and suppress COVID-19. Refusal to admit the regulatory authority and provide reasonable access to the facility may result in the immediate closure of the business until an inspection is completed or the COVID-19 State of Emergency has ended. The Public Health Authority is further authorized to enforce the requirements found in the COVID-19 State of Emergency declaration, the Phased Reopen Plan, individual plans approved by government authorities, or other applicable State of

Delaware guidance. The Public Health Authority is authorized to impose occupancy and other restrictions on any business that it finds to be non-compliant. The Secretary of the Department of Health and Social Services shall issue an order further defining the enforcement of this Order. Any state agencies with primary regulatory authority over such entities and the Secretary of the Department of Safety and Homeland Security shall provide resources as requested to assist in the enforcement of this Order.

4. This Order has the force and effect of law. Any failure to comply with the provisions contained in a Declaration of a State of Emergency or any modification to a Declaration of the State of Emergency may constitute a criminal offense. 20 Del. C. §§ 3115 (b); 3116 (9); 3122; 3125. State and local law enforcement agencies are authorized to enforce the provisions of any Declaration of a State of Emergency.

APPROVED this 30th day of June 2020 at 4:00 p.m.



Governor