The State of Maryland

Executive Department

ORDER

OF THE

GOVERNOR OF THE STATE OF MARYLAND

NUMBER 20-10-16-01

AMENDING AND RESTATING THE ORDER DATED APRIL 3, 2020, TEMPORARILY PROHIBITING EVICTIONS OF TENANTS SUFFERING SUBSTANTIAL LOSS OF INCOME DUE TO COVID-19, AND ADDITIONALLY PROHIBITING CERTAIN REPOSSESSIONS, RESTRICTING INITIATION OF RESIDENTIAL MORTGAGE FORECLOSURES, AND PROHIBITNG COMMERCIAL EVICTIONS

WHEREAS, A state of emergency and catastrophic health emergency was proclaimed on March 5, 2020, and renewed on March 17, April 10, May 6, June 3, July 1, July 31, August 10, September 8, and October 6, 2020, to control and prevent the spread of COVID-19 within the state, and the state of emergency and catastrophic health emergency still exists;

WHEREAS, COVID-19, a respiratory disease that spreads easily from person to person and may result in serious illness or death, is a public health catastrophe and has been confirmed throughout Maryland;

WHEREAS, The spread of COVID-19 is likely to result in loss of work and loss of income for some residents of Maryland, which may impact their ability to pay for rental housing or repay mortgages, potentially resulting in loss of housing due to eviction or foreclosure;

WHEREAS, The spread of COVID-19 is likely to result in loss of business and income for some businesses in Maryland, which may impact their ability to pay for rental real estate, potentially resulting in eviction;

WHEREAS, To treat, prevent, or reduce the spread of COVID-19 caused by the transmission of the novel coronavirus, it may become medically necessary and reasonable to require individuals to remain in isolation or quarantine at their homes or to remain indoors;

WHEREAS, To protect the public health, welfare, and safety, it is necessary to suspend the effect of certain states, rules, or regulations of agencies of the State or political subdivisions relating to real property and breach of leases;

WHEREAS, To protect life and property, and control the public health catastrophe in Maryland, it is necessary to control the occupancy and use of buildings; and

WHEREAS, To avoid the serious health, welfare, and safety consequences that may result if Marylanders lose their housing as a result of COVID-19, it is necessary and reasonable to restrict certain evictions and residential foreclosures;

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, INCLUDING BUT NOT LIMITED TO TITLE 14 OF THE PUBLIC SAFETY ARTICLE, AND IN AN EFFORT TO PROTECT THE PUBLIC HEALTH, WELFARE, AND SAFETY, DO HEREBY ORDER:

I. The Order of the Governor of the State of Maryland, dated March 16, 2020, entitled "Temporarily Prohibiting Evictions of Tenants Suffering Substantial Loss of Income Due to COVID-19", as amended and restated by Order of the Governor of the State of Maryland Number 20-04-03-01, dated April 3, 2020, is further amended and restated in its entirety as set forth herein.

II. Definitions. As used herein, the following terms have the following meaning:

a. "Borrower" means, with respect to a mortgage or deed of trust, the mortgagor or grantor.

b. "CARES Act" means the CARES Act, Pub. L. 116-136, as it may be amended from time to time.

c. "Chattel Home" means personal property used as a person's residence, including without limitation, mobile homes, trailers, and live-aboard boats.

d. "CL" means the Commercial Law Article of the Maryland Code.

e. "Commissioner" means the Commissioner of Financial Regulation of the State of Maryland.

f. "Creditor" means a lender, credit grantor, lessor, or secured party.

g. "Federal Mortgage Loan" means a loan secured by a mortgage or deed of trust that is a "federally backed mortgage loan", as defined in Section 4022(a)(2) of the CARES Act.

h. "Mortgage Loan" means, interchangeably and collectively, a Federal Mortgage Loan or a Non-Federal Mortgage Loan.

i. "Non-Federal Mortgage Loan" means a loan secured by a mortgage or deed of trust that is not a Federal Mortgage Loan.

j. "RP" means the Real Property Article of the Maryland Code.

k. "Servicer" means the person responsible for the servicing of a Mortgage Loan (including

the person who makes or holds such loan if such person also services the loan).

l. "Substantial Loss of Income" means (i) with respect to an individual, a substantial loss of income resulting from COVID-19 or the related proclamation of a state of emergency and catastrophic health emergency, including, without limitation, due to job loss, reduction in compensated hours of work, closure of place of employment, or the need to miss work to care for a home-bound school-age child; and (ii) with respect to an entity, a substantial loss of income resulting from COVID-19 or the related proclamation of a state of emergency and catastrophic health emergency, including, without limitation, due to lost or reduced business, required closure, or temporary or permanent loss of employees.

III. Prohibition on Certain Repossessions. To the extent any statute, rule or regulation of the State of Maryland or any political subdivision would permit a Creditor to repossess any Chattel Home by self-help (including, without limitation, CL §§ 9-609, 12-115, 12-624, 12-1021, or 14-2008), such statute, rule, or regulation is hereby suspended until the state of emergency is terminated and the catastrophic health emergency is rescinded.

IV. Residential Foreclosures.

a. Until the state of emergency is terminated and the catastrophic health emergency is rescinded, the effect of RP § 7-105(c) is hereby suspended as follows: A sale of Residential Property (as defined in RP § 7-105.1(a)(12)) made pursuant to RP § 7-105, RP §§ 7-105.1 through 7-105.10, or the Maryland Rules, shall not have the effects described in RP § 7-105(c) unless:

i. with respect to a property securing a Federal Mortgage Loan:

1. at least 30 days prior to sending a notice of intent to foreclose pursuant to RP § 7-105.1(c), the Servicer has sent a written notice to the Borrower stating the Borrower's right to request a forbearance on the Federal Mortgage Loan under Section 4022(b) of the CARES Act; and

2. the Servicer has complied with all of its obligations with respect to the Federal Mortgage Loan (A) owed to the Borrower under the CARES Act, or (B) otherwise imposed by the federal government or a government sponsored enterprise; and

ii. with respect to a property securing a Non-Federal Mortgage Loan:

1. the Servicer has notified the Borrower, in writing, that if the Borrower is experiencing a financial hardship due, directly or indirectly, to the COVID-19 emergency, the Borrower may request a forbearance on the Non-Federal Mortgage Loan, regardless of delinquency status, for a period up to 180 days, which may be extended for an additional period up to 180 days at the request of the Borrower (if such request is made during the initial 180 day forbearance period); *provided*, that, at the Borrower's request, either the initial or extended period of forbearance

may be shortened;

2. if the Borrower requests a forbearance on the Non-Federal Mortgage Loan as described in paragraph IV.a.ii.1, the Servicer has provided such forbearance without requiring the Borrower to provide additional documentation other than the Borrower's attestation to a financial hardship caused by COVID-19 and without requiring any fees, penalties, or interest (beyond the amounts scheduled or calculated as if the Borrower made all contractual payments on time and in full under the terms of the Non-Federal Mortgage Loan); and

3. during a forbearance period described in paragraph IV.a.ii.1, the Servicer has not accrued on the Borrower's account any fees, penalties, or interest beyond the amounts scheduled or calculated as if the Borrower made all contractual payments on time and in full under the terms of the Non-Federal Mortgage Loan.

b. The Commissioner is hereby ordered to:

i. until January 4, 2021, suspend the operation of the Commissioner's Notice of Intent to Foreclose Electronic System, and to discontinue acceptance of Notices of Intent to Foreclose; and

ii. effective January 4, 2021, until the state of emergency is terminated and the catastrophic health emergency is rescinded, with each submission of a Notice of Foreclosure (as defined in RP § 7-105.2(a)(4)), obtain a certification from the Servicer or secured party to the effect that the Servicer has complied with paragraph IV.a with respect to a Mortgage Loan secured by the property subject to foreclosure.

V. Prohibition on Residential and Commercial Evictions.

a. Until the state of emergency is terminated and the catastrophic health emergency is rescinded, the effect of RP § 8-401 is hereby suspended as follows:

i. No court shall give any judgment for possession or repossession, or warrant for restitution of possession or repossession of residential, commercial, or industrial real property, if the tenant can demonstrate to the court, through documentation or other objectively verifiable means, that the tenant suffered a Substantial Loss of Income.

b. Until the state of emergency is terminated and the catastrophic health emergency is rescinded, the effect of RP § 8-402.1 is hereby suspended as follows:

i. No court shall give any judgment for possession or repossession, or warrant for restitution of possession or repossession of residential, commercial, or industrial real property, if the tenant can demonstrate to the court, through

documentation or other objectively verifiable means, that the tenant suffered a Substantial Loss of Income.

ii. The fact that the tenant, or any person permissibly cohabiting with the tenant in accordance with the terms of the lease, has a confirmed diagnosis of COVID-19 or is under investigation for COVID-19, shall not constitute a "clear and imminent danger" for purposes of RP § 8-402.1(a)(1)(i)2.B.

c. Except as specifically suspended in paragraph V.a above, RP § 8-401 remains in effect in accordance with its terms. Except as specifically suspended in paragraph V.b above, RP § 8-402.1 remains in effect in accordance with its terms.

VI. General Provisions.

a. No provision of this Order shall be construed as relieving any person or entity of any obligation to make payments or to comply with any other obligation that such person or entity may have pursuant to a note, loan agreement, or lease.

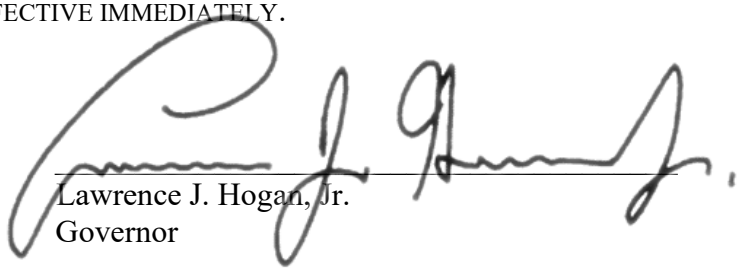
b. This Order remains effective until the state of emergency is terminated and the proclamation of the catastrophic health emergency is rescinded, or until rescinded, superseded, amended, or revised by any subsequent order(s).

c. The effect of any statute, rule, or regulation of an agency of the State or a political subdivision inconsistent with this Order is hereby suspended to the extent of such inconsistency.

d. The underlined headings in this Order are for convenience of reference only and shall not affect the interpretation of this Order.

e. If any provision of this Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of the Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Order are severable.

ISSUED UNDER MY HAND THIS 16TH DAY OF OCTOBER, 2020, AND EFFECTIVE IMMEDIATELY.



Lawrence J. Hogan, Jr.
Governor