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GOVERNOR LAURA KELLY

EXECUTIVE ORDER NO. 20-61

Temporarily prohibiting certain foreclosures and evictions

WHEREAS, securing the health, safety, and economic well-being of residents of the State of Kansas is this Administration's top priority;

WHEREAS, Kansas is facing a crisis—the pandemic and public health emergency of COVID-19—resulting in illness, quarantines, school closures, and temporary closure of businesses resulting in lost wages and financial hardship to Kansas citizens;

WHEREAS, the United States Departments of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 2020, with now more than 5,340,000 cases of the illness and more than 168,696 deaths as a result of the illness across the United States;

WHEREAS, the World Health Organization declared a pandemic on March 11, 2020;

WHEREAS, a State of Disaster Emergency was proclaimed for the State of Kansas on March 12, 2020;

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 50 l (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act");

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 outbreak in the United States constitutes a national emergency beginning March 1, 2020;

WHEREAS, as of this date, there have been over 33,885 positive cases of COVID-19 in Kansas, spread among 103 counties and 402 deaths as a result of the illness;

WHEREAS, the COVID-19 pandemic threatens the stability of local, state, national, and global economies, and has caused layoffs, furloughs, and significant decreases in pay;

WHEREAS, Kansas law states that "[e]conomic insecurity, due to unemployment, is a serious menace to health, morals, and welfare of the people of this state";

WHEREAS, in March of 2020, the unemployment rate in Kansas was 2.8 percent, in April and May the unemployment rate skyrocketed to 11.9 and 10.0 percent, respectively, and during June 2020 the rate remained at a discouraging 7.5 percent;

WHEREAS, in light of the heightened unemployment rate and unprecedented public health challenges facing our state, on March 23, 2020, I issued Executive Order 20-10, prohibiting certain foreclosures and evictions;

WHEREAS, when the federal government responded to the economic crisis created by the COVID-19 pandemic by increasing financial support for those who lost jobs or wages as a result of the pandemic and implementing protections against foreclosures and evictions, and as Kansas was poised to follow the Ad Astra Plan for a phased re-opening of our economy, I allowed Executive Order 20-10 (as extended by Executive Order 20-28) to expire;

WHEREAS, on August 8, 2020, the President issued an "Executive Order on Fighting the Spread of COVID-19 by Providing Assistance to Renters and Homeowners," instituting some limited federal measures to discourage or prevent some evictions and foreclosures, but acknowledging that federal protections against evictions and foreclosures in the Coronavirus Aid, Relief, and Economic Security ("CARES") Act have expired;

WHEREAS, the President's executive order also acknowledges that "homelessness poses multiple challenges that can exacerbate and amplify the spread of COVID-19";

WHEREAS, during a pandemic emergency it becomes more important than ever for citizens to be safe and secure in their homes, and any interruption in housing threatens the public health and safety through increased burdens on social services, increased health risks, and increased spread of COVID-19;

WHEREAS, when the COVID-19 pandemic is stressing health care, local and state support systems, and our economy, any disruption in housing is likely to create additional and unnecessary burdens that will impede the response to the COVID-19 pandemic and potentially exacerbate it;
WHEREAS, in order to promote and secure the safety and protection of the civilian population in these unprecedented circumstances it is necessary to prevent housing disruption caused by the COVID-19 pandemic, and the provisions of Executive Order 20-10 are again necessary to secure the safety and protection of the civilian population; and

WHEREAS, this Administration will do whatever it can to assist Kansans in these challenging times, especially vulnerable Kansans in danger of losing their homes because of the COVID-19 pandemic.

NOW, THEREFORE, pursuant to the authority vested in me as Governor of the State of Kansas, including the authority granted me by K.S.A. 48-924 and K.S.A. 48-925(c)(11), in order to mitigate the spread and the effects of the spread of COVID-19 I hereby direct and order the following:

1. As used in this order, a "financial hardship resulting from the COVID-19 pandemic" occurs when (1) an individual or family suffers a significant loss of income, significant increase in necessary expenses, or inability to work as a direct or indirect result of the COVID-19 pandemic, and (2) the individual's or family's financial resources are depleted to the extent that making mortgage or rent payments would leave them unable to purchase food, medicine, or other goods, supplies, or services necessary to their health and safety.

2. This order does not prohibit the continuation of any judicial foreclosure or judicial eviction proceedings filed before the effective date of this order.

3. No bank or financial lending entity operating in Kansas shall foreclose on a residential property in Kansas when all defaults or violations of the mortgage are substantially caused by a financial hardship resulting from the COVID-19 pandemic.

    a. The provisions of paragraph 3 and paragraph 5 do not apply to foreclosures on multi-family residential properties in which residential tenants rent from a landlord, as long as the foreclosure will not result in the eviction of any tenants.

4. No landlords—whether individuals, companies, banks, financial lending entities, nursing homes, long-term care facilities, or other entities—shall evict a residential tenant when all defaults or violations of the rental agreement are substantially caused by a financial hardship resulting from the COVID-19 pandemic.

5. Any bank, financial lending entity, or landlord initiating judicial foreclosure or judicial eviction proceedings after the effective date of this order shall have the burden of pleading and proving that the foreclosure or eviction proceeding is not being initiated solely because of defaults or violations of mortgages or rental agreements substantially caused by a financial hardship resulting from the COVID-19 pandemic.

6. This order does not relieve mortgage borrowers or tenants who have not suffered a financial hardship resulting from the COVID-19 pandemic from the obligation to comply with mortgage or rental agreements or to continue making required mortgage or rent payments.

7. This order does not prevent foreclosures or evictions for mortgage or rental agreement defaults or violations not due to a financial hardship resulting from the COVID-19 pandemic.

8. After the statewide State of Disaster Emergency proclaimed on March 12, 2020, relating to COVID-19 expires and financial hardships resulting from the COVID-19 pandemic abate, borrowers, lenders, renters, and landlords are encouraged to negotiate payment plans or other agreements to allow borrowers or renters to address any defaults, missed payments, or late fees substantially caused by a financial hardship resulting from the COVID-19 pandemic.

9. This order does not apply to foreclosures initiated by the United States government.

10. All other laws or regulations relating to foreclosures and landlord-tenant rights remain in effect.

11. This order supersedes any contrary order by any local health department regarding foreclosures or evictions and should be read in conjunction with previous executive orders responding to the COVID-19 pandemic. Any contrary provision in previous orders is superseded by this order.

This document shall be filed with the Secretary of State as Executive Order No. 20-61. It shall become effective immediately and remain in force until rescinded, until September 15, 2020, or until the statewide State of Disaster Emergency extended by House Bill 2016 enacted during the June 2020 special session relating to COVID-19 expires, whichever is earlier.

THE GOVERNOR'S OFFICE BY THE GOVERNOR Laura Kelly

DATED 8.17.2020

Scott J. Schwab
Secretary of State

Assistant Secretary of State

FILED
AUG 17 2020
SCOTT SCHWAB
SECRETARY OF STATE