

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN RE: FILING REGARDING
COMPLIANCE WITH THE
CORONAVIRUS AID, AND ECONOMIC
SECURITY ACT (“CARES Act”)

AMENDED ADMINISTRATIVE ORDER 2020-1

This 19th day of August, 2020.

WHEREAS, on March 12, 2020, Governor Carney declared a State of Emergency for the State of Delaware Due to a Public Health Threat due to the public health threat of COVID -19, which became effective at 8:00 a.m. on March 13, 2020;

WHEREAS, on March 18, 2020, the US. Department of Housing and Urban Development – Federal Housing Administration (“HUD-FHA”), the United States Department of Veterans Affairs (“VA”), the Federal Finance Housing Agency (“FHFA”), the Federal National Mortgage Association (“Fannie Mae”), the Federal Home Loan Mortgage Corporation (“Freddie Mac”) and the United States Department of Agriculture Rural Development (“USDA”) (collectively, the Federal Moratoriums) each issued a separate moratorium to suspend foreclosures on residential property secured by mortgage loans backed, insured, or owned by these federal agencies or entities;

WHEREAS, on March 24, 2020, Governor Carney issued the Sixth Modification of the Declaration of the State of Emergency for the State of Delaware Due to a Public Health Threat (“Sixth Modification”), which provided a moratorium on evictions and foreclosure proceedings to enable Delawareans to shelter in place safely;

WHEREAS, on April 10, 2020, Governor Carney extended the COVID-19 State of Emergency declaration, as modified;

WHEREAS, on May 8, 2020, Governor Carney further extended the COVID-19 State of Emergency declaration, as modified;

WHEREAS, on June 6, 2020 Governor Carney further extended the COVID-19 State of Emergency;

WHEREAS, the original Federal Moratoriums were extended through June 30, 2020 and then further extended through August 31, 2020, excluding actions to evict occupants of legally vacant or abandoned properties;

WHEREAS, on June 30, 2020, Governor Carney issued the Twenty-Third Modification of the Declaration of the State of Emergency for the State of Delaware Due to a Public Health Threat, effective July 1, 2020, which modified the Sixth Modification deleting paragraph C therein related to foreclosures and substituting additional language;

WHEREAS after the issuance of Administrative Order 2020-1 on July 21, 2020, certain members of the Delaware Bar raised concerns regarding the

affidavit, the Court reviewed those concerns and modified the affidavit where necessary;

WHEREAS, this Amended Administrative Order 2020-1

NOW, THEREFORE, this 19th day of August, IT IS ORDERED that Administrative Order 2020-1 is superseded and replaced in its entirety by this Amended Administrative Order 2020-1, and that the Plaintiff, or an Authorized Agent of the Plaintiff file an Affidavit in Support of Compliance with the CARES Act pursuant to Amended Administrative Order 2020-1(*see* Exhibit 1), before any action in a mortgage foreclosure matter may proceed. Superior Court's Affidavit in Support of Compliance with the CARES Act pursuant to Amended Administrative Order 2020-1 is available on the Court's website.

/s/ Jan R. Jurden
President Judge Jan R. Jurden

EXHIBIT 1

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

[CASE CAPTION])
)
)
) C.A. No.
)
)

**AFFIDAVIT IN SUPPORT OF COMPLIANCE WITH THE CARES ACT
PURSUANT TO AMENDED ADMINISTRATIVE ORDER 2020-1**

My name is: _____.
 First Middle Last

I am (check one) the Plaintiff or an authorized agent of the Plaintiff in the above referenced matter. I hereby swear or affirm under penalty of perjury that the facts stated in this affidavit are within my personal knowledge and are true and correct.

Any mortgage(s) on this property has been satisfied, **or**

The foreclosure moratorium is not applicable pursuant to Section 4022 (c)(2) of the Coronavirus Aid, and Economic Security Act (“CARES Act”) because the Plaintiff is a servicer of a Federally backed mortgage loan on a vacant or abandoned property, **or**

There is an unsatisfied mortgage on this property, but it is not a “covered dwelling” as defined by Section 4024(a)(1) or a “covered property” as defined by Section 4024(a)(2) of the CARES Act. In support of this conclusion, I aver the following:

1) To the best of my knowledge and information, there is no mortgage on the property that has been granted deferral or forbearance since March 18, 2020 and there is no pending request for mortgage deferral or forbearance;

2) Neither the owner of the property, nor any tenant of the property, participates in or receives subsidies or benefits under any of the following programs:

HOUSING AND URBAN DEVELOPMENT (HUD)

- Public Housing
- Section 8 Housing Choice Voucher Program or Project-Based Housing
- Section 202 Housing for the Elderly
- Section 811 Housing for Persons with Disabilities
- Section 236 Multifamily Housing
- Below Market Interest Rate (BMIR) Housing

- HOME
- HOPWA
- Continuum of Care or other McKinney-Vento Act Homelessness Programs

DEPARTMENT OF AGRICULTURE

- Section 515 Rural Rental Housing
- Section 514 and 516 Farm Labor Housing
- Section 533 Housing Preservation Grants
- Section 538 Multifamily Rental housing

DEPARTMENT OF TREASURY

- Low-Income Housing Tax Credit (LIHTC)

RURAL HOUSING VOUCHER PROGRAM

- Section 542 of the Housing Act of 1949

- 3) The unsatisfied mortgage(s) on the property is /are not guaranteed or insured by the Federal Housing Administration, HUD, the Dept. of Veterans Affairs or the USDA;
- 4) I have attached the first page of every unsatisfied mortgage that is on the property; and
- 5) I, or my authorized agent, has searched for every unsatisfied mortgage on the property via the mortgage lookup tools of both Fannie Mae (KnowYourOptions.com/loanlookup) and Freddie Mac (FreddieMac.com/mymortgage) and have attached the results of these searches.

Date

Plaintiff's Signature

or

Date

Authorized Agent of the Plaintiff

**SWORN TO OR AFFIRMED AND SUBSCRIBED
TO BEFORE ME**

This _____ day of _____, 20__.

Notary Public
My commission expires: