

# VIRGINIA ACTS OF ASSEMBLY -- 2020 RECONVENED SESSION

## CHAPTER 1202

*An Act to amend the Code of Virginia by adding in Chapter 7 of Title 44 a section numbered 44-209, relating to emergency laws; civil relief; citizens of the Commonwealth furloughed or otherwise not receiving wages or payments due to closure of the federal government or declaration of emergency by the Governor.*

[H 340]

Approved April 22, 2020

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 7 of Title 44 a section numbered 44-209 as follows:**

**§ 44-209. Closure of United States government; civil relief for furloughed employees and contractors.**

A. As used in this section:

"Closure of the United States government" means a closure of the United States federal government for a period of 14 consecutive days or longer as a result of a lapse of appropriation that leads to (i) the curtailment of federal agency activities and services, (ii) a shutdown of nonessential operations, (iii) nonessential workers being furloughed, and (iv) only essential employees in departments covering the safety of human life or protection of property being retained.

"Written proof" means (i) a paystub issued by a federal government agency showing zero dollars in earnings for a pay period within the period of any closure of the United States government, (ii) a copy of a furlough notification letter or essential employee status letter indicating the employee's status as nonessential, or (iii) a letter from a company under contract with the United States government issued and signed by an officer or owner of the company or by the company's human resources director stating that the employee's not receiving payment from the contractor is directly attributable to a closure of the United States government.

B. Notwithstanding any provision of law to the contrary, any tenant as defined in § 55.1-1200 who is a defendant in an unlawful detainer for nonpayment of rent pursuant to § 55.1-1245 for rent due after the commencement of a closure of the United States government seeking a judgment for the payment of money or possession of the premises shall be granted a 60-day continuance of such unlawful detainer action from the initial court date if the tenant appears on such court date and provides written proof that he was furloughed or otherwise was or is not currently receiving wages or payments as a result of a closure of the United States government, and is (i) an employee of the United States government, (ii) an independent contractor for the United States government, or (iii) an employee of a company under contract with the United States government. The provisions of this subsection shall not apply if the landlord has filed a material noncompliance notice for a non-rent violation of the rental agreement or of the Code of Virginia.

C. Notwithstanding any provision of law to the contrary, any homeowner who, after the commencement of a closure of the United States government, defaults on a note that is secured by a one-family to four-family residential property located in the Commonwealth and is subject to a foreclosure proceeding on any mortgage or to the execution of or sale under any deed of trust shall be granted a 30-day stay of such proceeding if the homeowner, within 90 days of such closure or 90 days following the end of a closure of the United States government, whichever is later, requests a stay and provides written proof to his lender that he was furloughed or otherwise was or is not currently receiving wages or payments as a result of a closure of the United States government, and is (i) an employee of the United States government, (ii) an independent contractor for the United States government, or (iii) an employee of a company under contract with the United States government.

D. Notwithstanding any provision of law to the contrary, any owner who rents a one-family to four-family residential dwelling unit located in the Commonwealth to a tenant as defined in § 55.1-1200 and who, after the commencement of a closure of the United States government, defaults on a note that is secured by such dwelling unit and is subject to a foreclosure proceeding on any mortgage or to the execution of or sale under any deed of trust shall be granted a 30-day stay of such proceeding if the owner, within 90 days of such closure or 90 days following the end of a closure of the United States government, whichever is later, requests a stay and provides written proof to his lender that his tenant was furloughed or otherwise was or is not currently receiving wages or payments as a result of a closure of the United States government, and is (i) an employee of the United States government, (ii) an independent contractor for the United States government, or (iii) an employee of a company under contract with the United States government.

E. The provisions of this section shall not (i) apply in an instance where a separate, signed legal

agreement exists between a landlord and tenant or homeowner and mortgage holder to stay legal action or defer the filing of an unlawful detainer motion for nonpayment of rent or foreclosure proceeding on any mortgage or to the execution of or sale under any deed of trust for a term of 30 days or greater or (ii) affect any other terms of a valid rental agreement or note secured by a one-family to four-family residential property, mortgage, or deed of trust unrelated to nonpayment of rent or default of a mortgage caused by a closure of the United States government.

**2.** § 1. That the provisions of subsections B, C, and D of § 44-209, as created by this act, with respect to a continuance or stay of (i) an unlawful detainer action or (ii) a foreclosure proceeding on a mortgage or an execution of or sale under any deed of trust shall also be applicable to any tenant, homeowner, or owner, respectively, affected by the novel coronavirus (COVID-19) pandemic public health crisis during the period for which the Governor has declared a state of emergency (the Emergency). The provisions of subsection D of § 44-209, as created by this act, shall be expanded during the Emergency to include any owner who (a) rents a residential dwelling unit, regardless of its size or capacity, located in the Commonwealth, and (b) is affected by the Emergency.

§ 2. Homeowners and owners shall be excluded from the provisions of this enactment if they are subject to protection from foreclosure under the provisions of a federal, state, or local law, regulation, or action enacted in response to the COVID-19 pandemic or the Emergency.

§ 3. Any continuance or stay period provided by this enactment shall be tolled during the period of any judicial emergency declared pursuant to § 17.1-330 of the Code of Virginia due to the Emergency.

§ 4. The 60-day continuance provided by this enactment shall run concurrently with any period of eviction protection provided by any other state or federal law.

§ 5. For purposes of this enactment:

"Affected by" means to experience a loss of income from a public or private source due to the Emergency, such that the affected party must request a stay or continuance, as applicable, by providing written proof to a court or lender, as applicable, stating that he is not currently receiving wages or payments from a public or private source as a result of the Emergency.

"Written proof" means (i) a paystub showing zero dollars in earnings for a pay period within the period for which the Governor has declared a state of emergency (the Emergency) in response to the novel coronavirus (COVID-19) pandemic public health crisis, (ii) a copy of a furlough notification letter or essential employee status letter indicating the employee's status as nonessential due to the Emergency, or (iii) any other documentation deemed appropriate by a court or lender.

**3. That an emergency exists and this act is in force from its passage.**

**4. That the provisions of the second enactment of this act shall expire 90 days following the end of a state of emergency declared by the Governor in response to the novel coronavirus (COVID-19) pandemic public health crisis.**