

## **FAQ: Interpretation of Governor Hogan's Amended and Restated Executive Order, March 30, 2020**

UPDATED March 31, 2020

On Monday, March 30, 2020, Governor Hogan issued an Amended and Restated Executive Order addressing the COVID-19 virus and implementing certain practices intended to control the spread of the virus. What does this mean for you and your business? Here are a few quick takeaways, with a more detailed response below.

- The Governor's Order incorporates the CISA Guidance, listing 16 sectors or categories of businesses and workers as "Essential Critical Infrastructure Workforce."
- The sector of "OTHER COMMUNITY- OR GOVERNMENT-BASED OPERATIONS AND ESSENTIAL FUNCTIONS" was expanded to include:
  - Staff at government offices who perform title search, notary, and recording services in support of mortgage and real estate services and transactions.
  - Residential and commercial real estate services, including settlement services.
- Even though residential real estate services have now been classified as "essential," this does NOT mean you may conduct business as usual. The clear intent of the Governor's Order is that Maryland residents stay at home. **That means that consumers cannot meet you at a house.**
- You may continue to do business, embracing technology and whatever methods you choose that allow you to conduct business in a manner that is safe and responsible for you and your clients. **For example, you may meet a client at their house and conduct a virtual tour.**
- Although residential and commercial real estate services have been deemed "essential," you should not take any action which makes you or your client uncomfortable or which may jeopardize your or your client's health or safety. You should make every effort to conduct your business remotely and, of course, continue to follow the CDC recommendations regarding group size (no more than 10), physical distancing, and hygiene.

### **What do the Governor's Executive Orders say about Real Estate?**

- The Governor issued an emergency declaration to control and prevent the spread of COVID-19 on March 5<sup>th</sup>, which he renewed on March 17<sup>th</sup>. He issued an order concerning the emergency declaration on March 12<sup>th</sup>, which was amended and restated March 16<sup>th</sup>, 19<sup>th</sup>, 23<sup>rd</sup>, and on March 30.
- The order restricts social, community, spiritual, religious, recreational, leisure, sporting activities as well as gatherings of more than 10 people.
- The Executive orders do not expressly mention residential real estate brokerage services or residential real estate transactions.
- The Governor's March 30 Executive Order, like the earlier versions of the Executive Order, states that it controls the use and occupancy of businesses that are **not part** of the critical infrastructure sectors identified by the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA), i.e., essential businesses).

- Although the Governor’s March 30 Executive Order did not change the definition of essential or non-essential businesses, it is important to note that on March 28, 2020, CISA updated its Guidance on what constitutes an “Essential Business.” The Updated CISA Guidance lists sixteen (16) categories or sectors of businesses which are part of the “Essential Critical Infrastructure Workforce.”
- As of March 28, 2020, one of these sectors, “OTHER COMMUNITY- OR GOVERNMENT-BASED OPERATIONS AND ESSENTIAL FUNCTIONS” was expanded to include the following:
  - **Staff at government offices who perform title search, notary, and recording services in support of mortgage and real estate services and transactions.**
  - **Residential and commercial real estate services, including settlement services.**
  - As of March 30, 2020, residential and commercial real estate services are therefore excluded from Governor Hogan’s order.
- The Governor’s March 30 Executive Order, however, is clearly intended to reduce the spread of COVID-19, utilizing measures to prevent exposures and transmissions, to reduce the threat to vulnerable populations, to reduce the threat to human health and to protect and save lives. To that end, the Executive Order directs all persons living in the State of Maryland to stay in their home/residence except:
  - **Staff and owners of businesses and organizations that are not required to close may travel:** (1) between their homes and those businesses and organizations; and (2) to and from customers for the purpose of delivering goods or performing services.
  - All persons living in the State of Maryland are to stay in their homes except to participate in the following “essential activities:”
    - Obtaining necessary supplies or services for one’s self, family, household members, pets or livestock, including, without limitation: groceries, supplies for household consumption or use, supplies and equipment needed to work from home, laundry, and products needed to maintain safety, sanitation, and essential maintenance of the home. Although residential and commercial real estate services have been deemed “essential,” you should not take any action which makes you or your client uncomfortable or which may jeopardize your or your client’s health or safety.

### **What do Governor Hogan’s orders mean for my business?**

- The inclusion of residential and commercial real estate services in CISA’s definition of “essential services” means that your brokerage office could technically remain open; however, clients should be staying at home as much as possible, only leaving for very limited purposes, such as of obtaining groceries, or supplies for household consumption. As just one example, it would be irresponsible and contrary to the intent of the Governor’s Executive Order to make 8 appointments to meet your buyer client at 8 different properties to show those 8 homes. Instead, you should embrace technology and incorporate virtual or video tours to the greatest

extent possible, allowing your clients to “tour” their new home from the comfort of their current home.

- Since residential and commercial real estate services are deemed essential by CISA, the Executive Order would permit licensees to travel “to and from customers for the purpose of . . . performing services.” If you choose to do so, you should continue to follow the CDC guidelines for group size (no more than 10), hygiene, and physical distancing.
- Electronic and virtual marketing are not restricted under any of the Governor’s orders. You can spend as much time as you wish speaking to clients and members of the public over the telephone or by video conference.
- You can send and receive emails, texts, and digital communications through any internet portal you prefer.
- You can record and distribute digital photographs and video.
- It is strongly recommended by the Governor’s office as well as the Center for Disease Control and the REALTOR® community that real estate agents limit their contact with others in the community. When interactions occur, everyone should practice social distancing and frequent hand washing.