



STATE OF FLORIDA
TWELFTH JUDICIAL CIRCUIT
DANIELLE L. BREWER
County Judge

10 August 2020

Dear DeSoto County Citizens,

I am writing to update the public on the newest information relating to mortgage foreclosure cases and residential eviction cases for non-payment of rent.

I previously published a letter on July 8, 2020 regarding the extensions that remained effective until August 1, 2020. This letter is on the DeSoto County Clerk's Website. The information in this letter supersedes the information contained in my prior correspondence.

On July 29, 2020, the Governor issued Executive Order 20-180. On August 6, 2020, Chief Judge Kimberly Bonner issued Administrative Order 2020-15b.1, in response to the Governor's Executive Order 20-180.

Executive Order 20-180 extends Executive Orders 20-121, 20-137, and 20-159, as amended, until 12:01 a.m. on September 1, 2020.

Further, Executive Order 20-180 amends the prior Orders as follows:

- Suspension and tolling of final action on mortgage foreclosure cases shall only occur when the proceeding arises from non-payment by a single-family mortgagor adversely affected by the COVID-19 emergency.
- Suspension and tolling of final action on residential evictions for non-payment of rent shall only occur when the proceeding arises from non-payment of rent by a tenant adversely affected by the COVID-19 emergency.
- "Adversely affected" is defined as loss of employment, diminished wages or business income, or other monetary loss realized during the Florida State of Emergency directly impacting the ability of a single-family mortgagor to make mortgage payments or a residential tenant to pay rent.

Administrative Order 2020-15b.1 amended and replaced AO 2020-15a.1 and provides additional instruction and guidance to the Judiciary and Clerk's Office.

Administrative 2020-15b.1 provides the following instruction:

FORECLOSURES

- The following foreclosure actions are no longer suspended:
 - Commercial mortgage foreclosures.

- Foreclosure actions unrelated to non-payment of single-family mortgages.
- Foreclosure actions related to non-payment of single-family mortgages in which no claim of adverse effects of COVID-19 appears in the pleadings.
- Foreclosure actions related to non-payment of single-family mortgages in which a default was entered.
- Foreclosure actions for non-payment of single-family mortgages where a borrower asserts an adverse effect due to COVID-19 under EO 20-180 in a pleading may be filed, have summonses issued, and have hearings up to the entry of final judgement. However, all summary judgements, final hearings, and trials are suspended, unless all parties agree, in writing, that they wish to proceed to final judgment.
- Parties wishing to reschedule a foreclosure sale that was previously suspended may do so by contacting the Judge's Judicial Assistant or the Clerk of Court.
- Borrowers are not relieved from their obligation to make mortgage payments.

EVICCTIONS

- The following eviction actions either were never suspended or are no longer suspended:
 - Commercial eviction proceedings
 - Eviction proceedings unrelated to non-payment of rent by a residential tenant.
 - Eviction proceedings arising from non-payment of rent by a residential tenant where a clerk's default has been entered.
 - Eviction proceedings arising from non-payment of rent by a residential tenant where the tenant's pleadings do not allege an adverse effect due to COVID-19.
- Eviction proceedings arising from non-payment of rent by a residential tenant where tenant's pleadings alleges an adverse effect due to COVID-19 under EO 20-180 may be filed, and have summonses and notices of action issued. However, defaults, summary judgments, final hearings, and trials are suspended, unless all parties agree, in writing, that they wish to proceed to final judgment.
- Parties wishing to proceed to final judgment that was previously suspended, but is no longer suspended under the amended order, may do so by contacting the Judge's Judicial Assistant or the Clerk of Court.
- Tenants are not relieved from their obligation to make rent payments.

IMPORTANT INFORMATION TO NOTE:

- All Executive Orders of the Governor can be viewed at <https://www.flgov.com/2020-executive-orders/>.
- All Florida Supreme Court Administrative Orders can be viewed at <https://www.floridasupremecourt.org/Practice-Procedures/Administrative-Orders>.
- All Twelfth Judicial Circuit Administrative Orders can be viewed at <http://www.jud12.flcourts.org/Documents/Administrative-Orders>.

- **For all foreclosure, eviction, and unlawful detainer actions, the Plaintiff will need to contact the DeSoto County Sheriff's Office to determine the Sheriff's policies on civil process service of these actions at this time, if the Plaintiff wishes the Sheriff's Office to serve process. The Sheriff's Office determines its own policies on performing civil process service (ie: service of summonses and/or writs of possession).**
- **The Court may not hear any case where the summons has not been properly served pursuant to Florida Statute.**

With this new guidance, the Judiciary and the DeSoto County Clerk's Office will begin moving forward on cases that were previously suspended. This task will require time as the suspensions caused a moderate backlog of cases that will need to be addressed on a first come, first served, basis. I continue to appreciate the patience and professionalism of all of the litigants within the DeSoto County Court System. If you have any questions or concerns, please feel free to contact my Judicial Assistant, Magan, at 863-993-4644, or the DeSoto County Clerk's Office.

Sincerely,

Danielle L. Brewer
DeSoto County Judge