

COVID-19 Pandemic Response: New York State Tolls Statutes of Limitation, Suspends Other Legal Deadlines

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On March 20, 2020, New York Governor Andrew M. Cuomo issued Executive Order No. 202.8 (EO 202.8) suspending and tolling “any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or proceeding, as prescribed by the procedural laws of the state.” (EO 202.8 contained other directives and provisions not discussed in this writing.) This affects statutes of limitation for the commencement of legal actions as well as the time limits governing all actions and proceedings in civil, criminal and surrogate’s courts. The toll is effective from March 20, 2020 until April 19, 2020.

EO 202.8 also directs that, “[t]here shall be no enforcement of either an eviction of any tenant residential or commercial, or a foreclosure of any residential or commercial property for a period of ninety days.”

Judicial Administrative Orders

One of the purposes of EO 202.8 is to implement the directive of Chief Administrative Judge Marks, first announced March 15, 2020 “postponing all non-essential functions of the courts.” A copy of the March 15, 2020 directive is available [here](#).

The Chief Administrative Judge expounded on the postponement of non-essential judicial function in an Administrative Order dated March 22, 2020 (AO-78-20), which directed that “effective immediately and until further notice, no papers shall be accepted for filing by a county clerk or a court in any matter of a type not included on the list of essential matters.” A copy of AO-78-20 is available [here](#). The full list of essential matters is available [here](#) and provides for the following matters in Supreme Court Civil proceedings:

1. Mental Hygiene Law (MHL) applications and hearings addressing patient retention or release
2. MHL hearings addressing the involuntary administration of medication and other medical care
3. Newly filed MHL applications for an assisted outpatient treatment (AOT) plan
4. Emergency applications in guardianship matters
5. Temporary orders of protection (including but not limited to matters involving domestic violence)
6. Emergency applications related to the coronavirus
7. Emergency Election Law applications

8. Extreme risk protection orders (ERPO)

The list also includes applications addressing landlord lockouts, serious code violations, and serious repair orders in housing court—over which the Supreme Court has co-extensive jurisdiction. Finally, the last part of the list contains a catch-all allowing for “any other matter that the court deems essential.”

Significantly, and unlike EO 202.8, AO-78-20 is effective indefinitely “until further order of the court.” This means that, unless EO 202.8 is extended, claimants and parties will be unable to actually file necessary papers with the courts after April 19, 2020.

Implications of the Executive Order and Administrative Order

Any deadline set to expire during the specified time period will be tolled until April 19, 2020. For example, under EO 202.8, if a 120-day deadline for filing a motion for summary judgment in a civil action expired on March 20, 2020, the parties would now have until April 19, 2020 to file their respective motions. Similarly, if on March 20, 2020, parties had 2 weeks to commence a lawsuit under the statute of limitations, on April 19, 2020 those parties will still have that same 2-week period.

AO-78-20 broadly directs that, “no papers shall be accepted for filing by a county clerk” if the case is not deemed an essential matter on the list. It is unclear why the directive broadly applied to all papers in “any matter” that is not on the list of essential matters. However, litigants can rest assured that the deadline to file a document in a non-essential matter has been tolled by EO 202.8.