

COVID-19 Resources

HOME BUILDERS ASSOCIATION OF VIRGINIA



The Home Builders Association of Virginia is dedicated to supporting Virginia's residential land development and construction industry, our industry's workforce, and home buyers, homeowners, and residents during the COVID-19 outbreak.

We have compiled information from various state and federal agencies, public health officials, local governments, and other stakeholders to help educate and inform our members of the outbreak's impact on land development, construction, and workplace safety. This document will be updated daily as new information emerges.

Home Builders Association of Virginia
1051 E. Cary Street
Richmond, Virginia 23229

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Recent Announcements (March 30th):

Governor Northam's Executive Order 55 – March 30th

On March 30th, Governor Northam issued Executive Order 55 to “reinforce the Commonwealth’s response to COVID-19 and in furtherance of Executive Orders 51 and 53. Among other things, Executive Order 55 directed that “all individuals in Virginia shall remain at their place of residence, except as provided...” by in the Executive Order. The list of exceptions can be found [here](#).

At this time, the Home Builders Association of Virginia believes that Executive Orders 53 (3/23) and 55 (3/30) will have limited impact on the residential land development and construction industry’s ability to continue operations. Although this is positive news for our industry, HBAV cannot emphasize enough how important it is for our member companies to continually identify and implement measures to protect their workforce, job sites, and offices. **This is NOT business as usual** – for the foreseeable future, we must all be proactive in protecting the health, safety, and welfare of all Virginians by implementing social distancing measures and other recommendations of Governor Northam and state health officials.

Click here to read HBAV’s update on the [March 23rd Executive Order 53](#).

COVID-19 - Impacts on Land Use & Development in Virginia

In response to the COVID-19 emergency, Governor Northam and various state and local officials have issued multiple orders and guidance concerning the continuance of critical state and local government functions during the pendency of the emergency. [Click here to read more.](#)

Williams Mullen: EPA Issues COVID-19 Guidance on Enforcement Discretion

Among the challenges faced by manufacturers and other regulated parties in dealing with the COVID-19 pandemic is ongoing compliance with environmental laws. For weeks, manufacturers and other regulated entities have asked what will happen if they miss a monitoring or reporting deadline due to employee absences or workplace restrictions attributable to COVID-19. On March 26, 2020, the United States Environmental Protection Agency issued guidance that seeks to answer this and related questions. EPA is quick to note, however, that the guidance is temporary and limited and may be updated or superseded as the pandemic evolves.

In its COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program, EPA acknowledges the constraints the pandemic will place on facility operations, and the availability of key staff, contractors and laboratories. In anticipation of these constraints affecting the ability of facilities to meet such things as enforceable limits on air emissions and water discharges, requirements for the management of hazardous waste and requirements to ensure and provide safe drinking water, EPA intends to use considerable discretion in pursuing enforcement for civil violations.

[Click here to read more.](#)

Federal Government Updates

Updated Department of Labor Families First Coronavirus Response Act Posters (3/31)

On March 26, 2020, Williams Mullen sent out an alert informing employers of the Department of Labor's (DOL's) issuance of two new posters notifying employees of the Families First Coronavirus Response Act (FFCRA), which must be posted or otherwise communicated to workers by April 1, 2020.

The DOL recently made minor updates to the non-federal employee poster. [Click here](#) to view the discrepancies between the earlier and later versions.

Below, please find the revised posters.

[Non-Federal Employee Rights](#) | [Spanish](#)

[Federal Employee Rights](#) | [Spanish](#)

More from Williams Mullen can be found [here](#).

Williams Mullen: Summary of SBA Loan Programs under the CARES Act (3/31)

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) makes important changes to the Small Business Administration (SBA) Economic Impact Disaster Loan (EIDL) program and creates the Paycheck Protection Program (PPP). Both programs provide potential financing options for small businesses impacted by the COVID-19 emergency.

The [chart here](#) highlights key differences between the two loan programs. Williams Mullen alerts published Friday, March 27, 2020, describe the EIDL and PPP programs in greater detail. SBA

implementing regulations, which are required to be issued within 15 days of the CARES Act becoming law, are expected to provide further details regarding both programs.

Click [here](#) to view the complete update from Williams Mullen

[Economic Injury Disaster Advance Loan](#)

In response to the Coronavirus (COVID-19) pandemic, small business owners in all U.S. states, are eligible to apply for an Economic Injury Disaster Loan advance of up to \$10,000.

This advance will provide economic relief to businesses that are currently experiencing a temporary loss of revenue if used for the following purposes.

1. Provide sick leave to employees unable to work due to the effects of COVID-19;
2. Maintain payroll to retain employees;
3. Cover increased costs of materials due to interrupted supply chains;
4. Make rent or mortgage payments; or
5. Repay other obligations that cannot be met due to revenue losses.

Funds will be made available within three days of a successful application. This loan advance will not have to be repaid. Apply for the Loan Advance [here](#).

[SBA's Expanded 7 \(a\) Loan Program](#)

Small and medium sized businesses (with fewer than 500 employees) are also eligible to apply for SBA's expanded 7(a) loan program. This program is not provided through SBA directly, so the first step to qualifying for a 7(a) loan is to find an SBA approved lender in your community. Your lender can guide you through the application process and determine which 7(a) loan product will work best for your business.

Allowable uses of these loans include:

1. Payroll costs;
2. Certain costs related to the continuation of group health care benefits;
3. Employee salaries (including commissions);
4. Mortgage, rent and utilities payments; and
5. Interest on any other debt obligations that were incurred before the covered period.

A loan recipient may be eligible for forgiveness on a covered loan used for costs including payroll, mortgage and rent obligations, and utility payments.

If you have questions about the 7(a) loan program, you can contact the SBA at 1-877-475-2435 or email 7aquestions@sba.gov. If you are having trouble getting through to, or getting your questions answered by, the SBA, please submit this form and NAHB staff will follow up and provide additional guidance as needed.

Resources for SBA Loans:

[NAHB](#)

[Small Business Administration](#)

National Association of Home Builders (NAHB) Resources

NAHB is committed to keeping members informed and advocating for the housing industry to minimize the economic impact of the COVID-19 outbreak. NAHB has created a list of resources available on their website for protecting your business, working with local officials, an economic outlook, and how to connect with NAHB. HBAV members are encouraged to complete the membership survey that allows NAHB and HBAV to learn more about the specific challenges facing your business during these difficult times. [Visit the NAHB resources by clicking here.](#)

NAHB Publishes Construction Job Site Guidance for Coronavirus

The Construction Industry Safety Coalition (CISC) [published guidance](#) for construction employers, employees and contractors on coronavirus exposure prevention, preparedness and response. NAHB is a key member of CISC.

The guidance describes how to prevent worker exposure to coronavirus, protective measures to be taken on the job site, personal protective equipment and work practice controls to be used, cleaning and disinfecting procedures, and what to do if a worker becomes sick. The documents are specifically tailored to construction job sites.

The materials include a customizable response plan, notifications for employees, a checklist and quick reference guide, and a toolbox talk for employers. The guidance is organized into sections that include:

- Responsibilities of Managers and Supervisors
- Responsibilities of Employees
- Job Site Protective Measures
- Job Site Cleaning and Disinfecting
- Job Site Exposure Situations
- OSHA Recordkeeping
- “Essential” Industry Designations by States with Business Closure Orders

Home builders, general contractors, contractors and other companies conducting work on construction job sites are encouraged to download the guidance, customize it for their companies, and distribute or display to workers.

Examples of guidance specific to the construction industry include:

- Clean shared spaces such as trailers and break/lunchrooms at least once per day.
- Disinfect shared surfaces (door handles, machinery controls, etc.) on a regular basis.
- Avoid sharing tools with co-workers. If not, disinfect before and after each use.
- Arrange for any portable job site toilets be cleaned by the leasing company at least twice per week and disinfected on the inside.

Access the resources in the [Coronavirus Preparedness and Response section](#) of NAHB’s website.

Workplace Safety and Human Resources

Below you will find various links to state and national information about workplace safety and human resources.

[Williams Mullen: Employers Must Post New FFCRA Notice by April 1, 2020](#)

Following the passage earlier this week of the **Families First Coronavirus Response Act (FFCRA or Act)**, the U.S. Department of Labor (DOL) issued new posters to notify employees of the paid sick leave and expanded family and medical leave options available to them for specified reasons related to COVID-19. [Click here to read more.](#)

[Virginia Dept of Labor and Industry: Coronavirus \(COVID-19\) Hazard Alert \(link\)](#)

[OSHA Guidance on Preparing Workplaces for COVID-19 \(link\)](#)

[Virginia Department of Health Coronavirus \(COVID-19\) FAQs \(link\)](#)

[Centers for Disease Control Print Resources \(link\)](#)

[Centers for Disease Control Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 \(link\)](#)

[COVID-19 Human Resources Advisory Hub](#)

HBAV's insurance partner, One Digital Health and Benefits has created the [COVID-19 Human Resources Advisory Hub](#) for navigating workplace solutions that stem from Coronavirus. The OneDigital Coronavirus Advisory Hub provides businesses with practical solutions that are actionable, timely and helpful in shaping workforce decision-making. As the workforce responds to the evolving coronavirus pandemic, organizations must understand and plan for the impact by adopting policies and programs to mitigate repercussions while proactively managing their workforce and the care and safety of employees.

[HBAV's 10 Point Plan to Building a Safer Jobsite \(English\)](#) | [Spanish Version \(link\)](#)

[HBAV / Virginia REALTORS® Guidance on Open Houses](#)

In response to Governor Northam's Executive Order 53 and the emerging public health emergency, the Home Builders Association of Virginia and the Virginia REALTORS® are strongly recommending that members refrain from holding "traditional" in-person open houses for the foreseeable future – ie, the type of open houses where the general public is free to tour a home during business hours, without an appointment, and where there are no restrictions on the number of individuals that can be inside a home at a given time. Instead, we are urging members to transition to "by-appointment only" tours of model homes and also asking that appointments be staggered to allow staff time to sanitize the home prior to the next scheduled tour. We'd also advise our members to implement extended sanitation protocols at the beginning and end of the business day. Virtual and/or video tours are also encouraged.

The Virginia Department of Health has also issued guidance, [which can be found here.](#)

We understand that this may cause disruptions to your day-to-day business operations, however, given the severity of this emergency and our ability to proactively minimize the risk of transmission and community spread, we believe that these measures are prudent at this time.

HBAV will update you if any additional information or guidance is released by the Virginia Department of Health (VDH).

Local Governing Bodies; Boards and Commissions

HBAV Letter to Gov. Northam: Permit Expirations/ Extension of Plan Validity/“Essential Business”

On March 21st, HBAV contacted Governor Northam’s Administration regarding the COVID-19 outbreak’s impact on the residential land development and construction industry’s ability to continue delivering a diversity of housing stock to the market. HBAV’s letter can be found [here](#).

In that letter, HBAV expressed several concerns:

First, following the recommendations of Governor Northam and state health officials, we are anticipating that office closures, alternative working arrangements and employee absences among the state and local government workforce will impact essential local government functions in planning, permitting and inspections, public works, public utilities, and environmental engineering departments, as well as the county/city/town attorneys and their staff. These departments, and others, play an essential role in evaluating, modifying, and approving various aspects of land development and construction projects.

Second, there is also a great deal of uncertainty related to the ability for local governing bodies, planning commissions and other public bodies to meet, hold public hearings, and deliberate on applications and matters related to development and construction.

With those issues in mind, HBAV recommended several temporary state policy changes to stabilize the housing sector, ensure that projects currently in the pipeline were given additional time to be reviewed, and provide some “relief” to local governments who are currently confronted with a great deal of uncertainty

1. Designation of the residential construction industry as “essential” in the event that additional declarations or public health orders are issued.
2. Extend the date of expiration of all existing approvals issued by the Commonwealth or any agency or political subdivision thereof, including without limitation, any permits, licenses, registrations and other authorizations due to expire during the state of emergency under applicable laws and regulations for a period equal to the number of days comprising the duration of the state of emergency (i.e. March 12, 2020 until the date upon which the state of emergency is ordered terminated), and
3. Toll for a period commencing on March 12, 2020 and terminating on the date upon which the state of emergency is ordered terminated the running of any applicable period or deadline imposed by the governing body of any agency or subdivision of the Commonwealth pursuant to any general or special law enacted by the General Assembly or the governing body of any subdivision of the Commonwealth, which shall expressly include, without limitation, the period of validity of all special use permits, conditional use permits, preliminary and final site plans and subdivision plats, and building permits.

HBAV has been in communication with the Governor’s office regarding these requests and will continue to provide updates as they become available.

Electronic Meetings – Attorney General Opinion

Over the last several weeks, local governing bodies have been determining how to conduct their day-to-day business while also implementing the public health measures as recommended by Governor Northam and state health officials. Currently, the Code of Virginia only allows local governing bodies to meet by electronic communications without a quorum of the public body **physically** assembled at one location during a state of emergency provided that “(i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) **the purpose of the meeting is to address the emergency.**” This code section places significant restrictions on the ability for local governing bodies to utilize modern technology during these unprecedented times.

Recognizing the significant impact that these restrictions could have on local government’s ability to budget/appropriate funds and evaluate/take action on various land-use applications, the Virginia Municipal League (VML) proactively sought an Attorney General’s opinion regarding the ability for localities to implement electronic meeting technology. Last week, the Attorney General issued his opinion which can be found [here](#). To summarize, the Attorney General opined that:

Virginia State Code § 2.2-3708.2(A)(3) permits public bodies that are unable to assemble in person because of the unique characteristics of the COVID-19 virus to meet electronically to make decisions that must be made immediately and where failure to do so could result in irrevocable public harm. **Whether any particular action by a public body fits within that description requires a fact-specific determination that should be made in consultation with that public body’s counsel.** It is also my opinion that Code § 44-146.21 does not authorize local governing bodies to hold meetings solely by electronic communication during the pendency of the emergency, but that **Code § 15.2-1413 provides additional authority for localities to ensure continuity of government during the declared emergency.** Even when a public body is authorized to meet via electronic communication means, Virginia State Code § 2.2-3708.2(A)(3) details further procedural steps such bodies must take to comply with the Virginia Freedom of Information Act, including arrangements for public access to such meeting. (emphasis added)

HBAV urges our members to proactively partner with local government officials and local government attorneys to determine how to implement electronic meetings for local Boards of Supervisors, City/Town Councils, and Planning Commissions. We have included some resources below from the Virginia Municipal League, the Local Government Attorneys of Virginia, and specific local governments that we hope you will share with local government contacts in your area.

City of Alexandria – Continuity of Operations/Electronic Meeting Ordinance

On March 24th, the Alexandria City Council adopted an electronic meeting ordinance - [that ordinance can be found here](#).

Virginia Municipal League – Electronic Meeting Information/Guidance/Local Examples

The Virginia Municipal League has posted an extensive list of information and guidance related to [electronic meetings here](#).

- Local Government Attorneys of Virginia: [Committee Report on Electronic Meetings](#) (March 24)

- County of James City: [An Ordinance to Ensure the Continuity of Government](#) (March 24)

State Government Updates

Governor Northam's Executive Order 53 (March 23)

On March 23rd, Governor Ralph Northam issued Executive Order 53, implementing several “long term action(s) to mitigate the impacts of this virus on our Commonwealth.” After reviewing the text of the Executive Order and the “Frequently Asked Questions” document released by the Administration today, as well as public comments that were made during the Governor’s announcement, **it is the belief of the Home Builders Association of Virginia that the Executive Order will have a limited impact on the construction industry’s ability to continue operations.**

Although this is positive news for our industry, HBAV cannot emphasize enough how important it is for our member companies to continually identify and implement measures to protect their workforce, job sites, and offices. This is NOT business as usual – for the foreseeable future, we must all be proactive in protecting the health, safety, and welfare of all Virginians by implementing social distancing measures and other recommendations of Governor Northam and state health officials.

As stated in today’s Executive Order:

"7. All businesses shall, to the extent possible, adhere to social distancing recommendations, enhanced sanitizing practices on common surfaces, and other appropriate workplace guidance from state and federal authorities while in operation"

"8. Although business operations offering professional rather than retail services may remain open, they should utilize teleworking as much as possible. Where telework is not feasible, such business must adhere to social distancing recommendations, enhanced sanitizing practices on common surfaces, and apply the relevant workplace guidance from state and federal authorities."

Executive Order 53 also contains provisions that designate “home improvement, hardware, building material, and building supply” businesses (among others) as “essential retail business” that may remain open during their normal business hours.

The Governor was explicit in his press conference and his Executive Order that this public health emergency is changing on an hourly basis – and that his Administration and state health officials will continue to evaluate the situation and implement additional measures, if necessary.

HBAV is in the process of compiling information from builders, developers, engineers, and the various trades about policies, procedures, and protocols that are being implemented to protect their offices, employees, job sites, and customers from the COVID-19 outbreak. This information will be shared with the Governor’s office and advisors to demonstrate the proactive measures that our industry is pursuing to address this public health emergency.

Additional Guidance from Governor Northam’s Executive Order

Professional businesses not listed above must utilize telework as much as possible. Where telework is not feasible, such businesses must adhere to social distancing recommendations, enhanced sanitizing procedures, and apply relevant workplace guidance from state and federal authorities, including [CDC](#),

[OSHA](#), and the [Virginia Department of Labor and Industry](#). Businesses in violation of this order may be charged with a Class 1 misdemeanor.

The full text of Executive Order 53 can be found [here](#). Additional guidance and a Frequently Asked Questions guide can be found [here](#). Watch the video of the Governor’s announcement [here](#). [Full Release](#)

Local Building Departments; Permits and Inspections

Status of Local Building Departments

Local building departments around Virginia have been continually evaluating their procedures and protocols to help ensure the health and safety of staff and the general public while also maintaining core services. The best way to get the most current information about the status of your local building department is to visit the local department’s website.

HBAV and the Department of Housing and Community Development (DHCD) have compiled a list of the website for every locality, local building department, and any pages that local governments have created specifically for the COVID-19 updates for their locality. [You can download a copy of the document here](#). Please make sure to review the links contained in columns K – M for information about the current status of local building departments. The document also contains the contact information for every building official in the Commonwealth. We will continue to update this page as new information is made available.

The Department of Housing and Community Development and the Virginia Building Code Officials Associations (VBCOA) has pulled together a "snapshot in time" spreadsheet of the current status of local building departments as well as information about approved third-party inspectors for that locality. That document can be found [here](#) and will be updated as often as possible.

Virtual Inspections

Local government leaders continue to monitor the COVID-19 outbreak and adjust their office hours and department services to reflect the most current recommendations from Governor Northam and health officials. We’ve received reports that many local building departments have re-opened and are conducting plan reviews and inspections or are doing so on a limited basis. In these unprecedented times, it is important that our members work in partnership with local building departments to determine the best protocols and practices.

As the situation continues to evolve and local departments make decisions about services/office hours, **please keep in mind that virtual inspections are an efficient alternative for some inspections**. Feel free to share the information below with your local departments, as needed.

Arlington County recently announced that “virtual inspections will be the only building-related inspections available until further notice. “Virtual inspections, an efficient alternative to in-person inspections, enable prompt service, productive follow-ups, and more specific scheduling. Virtual inspections are conducted between a customer and County inspector by using a video call on a smart phone or tablet.” More information about the requirements and process can be found here: <https://building.arlingtonva.us/inspections/virtual-inspections/>

Arlington County Requirements for Virtual Inspections:

- All building-related inspections (building, electrical, mechanical, plumbing, energy, and Certificate of Occupancy) may be considered for virtual inspections, however, based on the size and/or complexity of the project it may not be possible to conduct virtually.
 - Note: Inspection complexity will be determined by the inspector.
 - For inspections deemed too complex for virtual completion, the County will accept third-party inspections per the County’s policy on Third-Party Inspectors.
- Customers must have a smartphone or tablet connected to WiFi or 4G wireless service.
- Google Duo (all devices), FaceTime (Apple OS devices), or Microsoft Teams (all devices) is required to host the video call. Check your mobile device’s app store to download. Additional apps may be offered as this program expands.
- Third party engineers or third party agencies must obtain approval prior to conducting a virtual inspection. For approval, submit resumes and proof of certification to inspections@arlingtonva.us.

Here are some other examples of virtual inspection programs around the country – links are below:

- [City of Austin, Texas - Modified Inspections](#)
- [North Carolina Code Officials Qualification Board \(guidance on live Remote Inspections\)](#)
- [North Carolina Department of Insurance \(guidance on licensed architect/engineer inspections\)](#)
- [North Las Vegas Video Inspection Process](#)
- [Los Angeles County Video Inspection Process and inspection guide](#)

FAQ’s, Updates, and Resources for Local Building Department

The Department of Housing and Community Development has posted a [COVID-19 FAQs, Updates and Resources for local building departments](#).

Information from the Virginia REALTORS®

Sales, Contracts, Property Management, and Broker FAQs

The Virginia REALTORS® have published a comprehensive list of frequently asked questions related to sales, contracts, property management, and brokers. That information can be found [here](#).

Department of Environmental Quality

General Information

Please visit the [Department of Environmental Quality’s website](#) for the most current status of their regulatory functions.

March 24 - Public Meetings and Public Hearings Canceled Through April

“All public meetings and hearings have been canceled through the end of April due to COVID-19 health concerns and the Governor’s Declaration of a State of Emergency. Additionally, the State Water Control Board will not have a regular meeting this spring. We will notify the public of all rescheduled meetings through the [Virginia Regulatory Town Hall website](#).”

Temporary Suspension of Field Work; Emergency Response Continues (March 18th)

“The well-being of our employees, volunteers, stakeholders and the public is a top priority for DEQ. In support of Governor Northam’s direction to combat COVID-19 in Virginia, DEQ is taking further

precautionary steps, suspending routine field activities, including inspections and monitoring, for the next two weeks. DEQ's [Pollution Response Program](#) will continue to respond to statewide environmental emergencies.

Additionally, DEQ will continue to investigate significant [pipeline concerns](#). Daily monitoring, inspections and field activities will continue through the agency's contract staff during this time. For more updates on DEQ activities, visit the [Public Calendar](#)."

Virginia Department of Health

General Information

Please visit the [Virginia Department of Health's website](#) for the most current status of their regulatory functions.

Department of Housing and Community Development

2018 Code Development Process

At this time, the 2018 Code Development Cycle is moving forward in accordance with the approved schedule. Due to restrictions on public gatherings and to help slow the spread of COVID-19, the Division of Building and Fire Regulations will not be conducting in-person meetings until further notice. Scheduled workgroup and sub-workgroup meeting dates have not changed, but all of these meetings will be virtual (no in-person meetings). Additionally, it is likely that the regular workgroup scheduled for April 15 will not include all Workgroups 1-4. We are currently looking at dividing the regular online sessions into four separate days. The first will remain April 15 and will be for Workgroup 1.

All meeting information and important updates on meetings can be found on [cdpVA](#). Dates and times for all meetings that are currently scheduled can be found in [cdpVA](#) under "Upcoming Events." Meeting agendas, including the virtual meeting information, are typically posted on [cdpVA](#) under "Latest Updates," one week prior to the meetings. Login credentials for cdpVA are the same as your ICC website login.

We are closely monitoring the situation and will post updates on the [DHCD website](#) and on [cdpVA](#) as things change. Current changes and updates:

- The public hearing (Board of Housing and Community Development) that was scheduled for Monday, March 16, 2020 was canceled. The public hearing will be conducted at their next meeting on May 11.
- The State Technical Review Board meeting scheduled for March 20 was canceled.
- The Residential Uses meeting on March 26 will be conducted remotely with Google Hangouts Meet. [Click here to access the meeting](#).
- The Energy Sub-workgroup meeting on March 31 from 9:30 a.m.-3:30 p.m. is now available on Adobe Connect. [Click here to access the meeting](#).

As always, please contact DHCD at sbco@dhcd.virginia.gov with questions or concerns.

Additional Information

- [COVID-19 FAQs, Updates and Resources for Local Building Departments](#)

- A list of all building officials (by jurisdiction) can be found [here](#). This directory contains contact information for the building official for each jurisdiction, links to the jurisdiction's website, building department site, and if applicable, COVID-19 updates from the locality.
- Local Building Department Operating Status document from the Virginia Building Code Officials Association (VBCOA) on the [VBCOA website](#)

Circuit Court Clerks

Issues with Recording, Indexing and Scanning Local Land Records

The Chief Justice of the Supreme Court of Virginia recently issued a declaration of judicial emergency, which suspended all non-essential, non-emergency Circuit and District court proceedings with some exceptions, which can be found here. The Chief Justice's declaration also stated that "the courts and clerks' offices shall remain operational and provide essential services while balancing the health and safety needs of court visitors and personnel."

We believe that the Chief Justice's declaration and underlying judicial protocols hold that indexing, scanning and recording by the Clerks' Offices are deemed "essential functions" of the Virginia court system. However, we have received several reports of challenges with the recording, indexing and scanning of local land records.

We have been in frequent communication with the Virginia REALTORS and the Virginia Court Clerks Association to resolve any challenges that arise during these unprecedented times. In order to resolve these issues in a timely manner, it is helpful to consolidate our communications to the relevant stakeholders through HBAV. **If you run into any challenges with local Circuit Court Clerks and the recording, indexing, and scanning of land records, please contact HBAV's Vice President of Government Affairs, Andrew Clark, at AClark@HBAV.com as soon as possible.**

On March 20th, the Virginia Court Clerk Association (VCCA) issued the below statement re: Circuit Court Clerk operations during this state of emergency:

The Virginia Court Clerks Association (the "VCCA") is a professional organization representing the 120 Circuit Court Clerks who are elected constitutional officers directly accountable to the citizens. Like other governmental officials at all levels of federal, state and local government, the COVID-19 virus is impacting our ability to provide important services to citizens, and conduct business as usual. The Circuit Court Clerks are committed to serving each of our constituents within the emergency parameters set by the President of the United States and the Governor of the Commonwealth of Virginia.

The Chief Justice of the Virginia Supreme Court entered an order on Monday, March 16, 2020, declaring a "judicial emergency" to protect the health and safety of court-related staff, litigants, judges and the general public. The Chief Justice suspended all non-essential judicial proceedings, with certain exceptions, for 21 days with the right under Section 17.1-330 to "extend such order for the duration of the threat". This order further states that "except as provided in this order, to the extent possible, the courts and clerks' offices shall remain operational and provide essential services while balancing the health and safety needs of court visitors and personnel". Finally, this order states that local chief judges are not prohibited from "implementing additional local policies as needed."

Under Virginia Code, only the Chief Judge or Presiding Judge of a Judicial Circuit is authorized to close a local courthouse pursuant to a court order entered under Section 17.1-207. The Virginia Code recognizes that what may justify closure of a courthouse may well vary from locality to locality, which is the reason discretion is left to the Chief Judge or Presiding Judge of each Judicial Circuit. Section 17.1-207 (A)(3) states that the Chief Judge or Presiding Judge may close the local courthouse by court order when such Judge decides that the “operation of the clerk’s office, under prevailing conditions, would constitute a threat to the health and safety of the clerk’s office personnel or the general public”.

If a local courthouse is closed, pursuant to Section 17.1-207, no official business may be conducted. In the land records context, closing a local courthouse means that while the Clerk may receive land records for recordation online or by an alternative method, the Clerk would not be able to actually record and index any such land records document during the period the local courthouse is closed by order of that court.

In response to the COVID-19 virus, we are not yet seeing most of the local courthouses being closed under Section 17.1-207, but some have been closed for a day or two. At this time, we are not seeing any extended closings of local courthouses by local court orders under Section 17.1-207. Most local court orders are “implementing additional policies” as authorized in the order of declaration of “judicial emergency” by the Chief Justice of the Supreme Court, under Section 17.1-330. Local court orders often include closing the local courthouse to the general public for most matters but authorizing the Clerk to continue to perform essential functions including land record transactions. In instances where technology systems do not exist or are not adequate to provide a particular service, the Clerk may adopt alternative methods during the period for which the general public is not allowed to enter the local courthouse.

Department of Professional and Occupational Regulation

Extension of Licenses, Certifications, and Other Credentials

The Department of Professional and Occupational Regulation (DPOR) announced that they will be extending the validity of licenses, certifications, and other credentials issued by its regulatory boards that would otherwise expire during the declared state of emergency or be eligible for renewal or reinstatement during the state of emergency under applicable regulations, until the 30th day after the date by which the state of emergency is lifted.

DPOR also announced that they will be waiving any regulations of regulatory boards under the DPOR that prohibit or limit online, electronic, or distance theoretical instruction, in order to prevent and mitigate the spread of the coronavirus (COVID-19). This waiver does not waive statutory requirements or limitations, nor does it waive practical (hands-on) instruction required by a board’s regulations. This waiver shall take effect on March 18, 2020 and shall remain in full force and in effect until June 10, 2020, unless sooner amended or rescinded by further executive order.

[More information from DPOR can be found here.](#)

