



FROM: Maryland Underwriting

DATE: March 15, 2020

TYPE: Standard

TITLE: COVID-19 Statewide Closing of the Courts to the Public

Purpose: To alert First American personnel and its agents that effective March 16, 2020, Maryland Courts will be closed to the public.

Background: “Due to the outbreak of the novel coronavirus, COVID-19, and consistent with guidance issued by the Centers for Disease Control . . .” the Chief Judge of the Court of Appeals issued an order on March 13, 2020 that “[a]ll courts in the Maryland Judiciary, court offices, administrative offices, units of the Judiciary, and the Offices of the Clerks of the Circuit Courts shall be closed to the public on an emergency basis, effective March 16, 2020; however, Judiciary operations shall continue to the extent practicable.” (Order attached.) The order does not provide an end date for the closings.

Standard: If you can complete the recording process through e-recording, you may continue in the normal course. **In the event that a transaction is either not suitable for e-recording or the Clerk’s Office is unwilling or unable to accept e-recordings, in order to facilitate the orderly transfer and financing of real estate transactions in this difficult time, First American is willing to continue to insure titles for purchasers and lenders through the ultimate recording date of the deed, deed of trust or other insured title document, under the following conditions.**

1. All parties, including lenders, must acknowledge that neither First American nor its title agents can provide any estimate as to the date of recordation of such title documents in Maryland Land Records. The attached Affidavits of Understanding and Indemnity and Hold Harmless Agreement Due to the COVID-19 Emergency for Sale and Financing transactions include appropriate, written acknowledgments for execution by seller, buyer and borrower, as applicable. Satisfactory acknowledgments by lenders may be indicated through closing instructions or by email confirmation, to be retained in your file.
2. Add the following requirement in Schedule B1 of the Commitment: Execution of Affidavit of Understanding and Indemnity and Hold Harmless Agreement Due to the COVID-19 Emergency by the Parties to the Contemplated Transaction.

We understand that Courthouse closures may limit or prevent retrieval of relevant court file documents by title abstractors. In those cases, please reach out to the customer or their relevant counsel to obtain necessary copies. In instances where court file copies are not available, contact your Underwriter for guidance.

For commercial transactions, in addition to obtaining the relevant Affidavit of Understanding and lender confirmation, please make certain that any lender or customer instructions do not commit you to recording

the title documents within a specified time period. Understandably, if the customer in a commercial transaction proposes revisions to the Affidavit of Understanding due to the facts in the given case (e.g., the property is subject to tenancies) we will authorize appropriate revisions.

For all transactions, continue to follow all other underwriting standards, including bringing title to date before closing. All other Requirements must be satisfied prior to, or upon, closing as in any normal case. This Standard will remain in effect for each County in which the Courts remained closed to the public.

Contact: If you have any questions, please feel free to contact First American Underwriters at MDUnderwriting@firstam.com or Bill O'Connell at 410-443-3707 or at waoconnell@firstam.com.

Attachments: March 13, 2020 Order from Court of Appeals;
Affidavits of Understanding and Indemnity and Hold Harmless Agreement Due to the COVID-19 Emergency by the Parties to the Contemplated Transaction [Sale and Financing]

NOTE: This Underwriting Communication is confidential and intended solely for use by First American Title Insurance Company's ("First American") title issuing offices, policy issuing agents ("Agents"), and approved attorneys. This Communication may not be shared with third parties and no other person or entity is authorized to rely upon it. While the scope of agency for Agents is limited to the functions of underwriting and issuing title insurance policies on First American's behalf, and does not include closing or escrow services, First American sometimes provides information and recommendations with regard to Agents' ancillary closing or escrow business as a courtesy. Moreover, this Communication should be considered a directive if noncompliance could impact liability under First American's title insurance policies or closing protection letters. This Communication is being provided to Agents with those considerations in mind, and should become a permanent part of your records to assure compliance with the requirements set forth herein.

First American routinely issues Underwriting Communications through the Underwriting Workbench, AgentNet®, and other means. Communications are typically classified as one of the following types: Standard, Guideline, Advisory, Caveat, Fraud Alert, or Transaction Alert. Generally, Standards establish mandatory procedures and protocols that must be followed when issuing a First American policy; Guidelines establish best practices that are encouraged, but not required; and Advisories simply provide information. Caveats, Fraud Alerts, and Transaction Alerts generally provide information and instructions related to specific parties, properties, or other matters.

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**AFFIDAVIT OF UNDERSTANDING AND
INDEMNITY AND HOLD HARMLESS AGREEMENT
DUE TO THE COVID-19 EMERGENCY - SALE**

Property: _____

Date of Closing: _____

Seller(s): _____

Buyer(s): _____

File No: _____

Commitment No: _____

In response to the outbreak of the Coronavirus and the declared states of national and local emergency, Maryland Courts and other governmental offices have been closed or have had their access significantly limited. As a result, the processing and recording of deeds and other title documents in some jurisdictions has been, and will be, impacted. Although First American Title Insurance Company ("First American") is willing to continue to insure titles for purchasers and lenders through the ultimate recording date of the deed, deed of trust or other insured title document, neither First American nor its title agents can provide any estimate as to the date of recordation of such title documents in Maryland land records.

NOW THEREFORE, as a result of the aforementioned closures and access restrictions and as an inducement to _____ (hereafter "Title Agent") to conduct settlement and to First American to issue it policy or policies of title insurance, the undersigned agree as follows:

Seller(s) certify:

- (a) There are no unrecorded and/or outstanding leases, contracts, options, agreements, trusts or other inchoate rights or interests affecting the Property which have not been disclosed to First American or its agent in writing.
- (b) All labor and materials used in construction of improvements, repairs, or modifications to the Property have been paid for and there are now no unpaid bills for labor or material against the improvements or Property. The Sellers have received no notice of any mechanic's lien claim.
- (d) There are no unrecorded liens or encumbrances affecting the Property, which are

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not being paid or adjusted as part of the current transaction.

(e) Sellers have received no written notice of a proposed or pending special assessment or a pending taking of any portion of the Property by any governmental body; Sellers have no knowledge or notice that work has been or will be performed by any governmental body including, but not limited to, the installation of water or sewer lines or of other utilities, or for improvements such as paving or repaving of streets or alleys, or the installation of curbs and sidewalks.

(f) Sellers agree to neither allow, nor take any action, following settlement that may result in a lien, encumbrance or other objectionable matter of title being placed against the Property. In the event any lien, encumbrance or objectionable matter of title arises or occurs between the date of settlement and the date of the recording of the deed or other title document, Sellers agree to immediately take action to clear and discharge the same and further agree to hold harmless and indemnify Title Agent and First American Title Insurance Company against all expenses, costs and attorneys fees which may arise out of Sellers failure to so remove, bond or otherwise dispose of any such liens, encumbrances or objectionable matters of title to the satisfaction of First American.

Buyer(s) understand and agree:

(a) Neither Title Agent nor First American can provide any estimate as to the date of recordation of the deed or other title documents in the Land Records.

(b) Among other things, Buyers may not be able to refinance or sell the Property, obtain building permits, or demonstrate recorded ownership of, and legal title to, the Property until the date that the deed or title document is recorded in the Land Records.

The undersigned solemnly affirm(s) under the penalties of perjury and upon personal knowledge that the contents of this Affidavit are true and that this Affidavit is executed in order to induce Title Agent to make and complete settlement on the Property and to induce First American to issue its policy or policies of title insurance, insuring title to the Property.

Sellers:

Signature

Print:

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Signature

Print:

Buyers

Signature

Print:

Signature

Print:

SUBSCRIBED, SWORN TO, and acknowledged before me this ___ day of ____,
2020.

NOTARY PUBLIC

My Commission Expires:

**AFFIDAVIT OF UNDERSTANDING AND
INDEMNITY AND HOLD HARMLESS AGREEMENT
DUE TO THE COVID-19 EMERGENCY – FINANCING**

Property: _____

Date of Closing: _____

Borrower(s): _____

File No: _____

Commitment No: _____

In response to the outbreak of the Coronavirus and the declared states of national and local emergency, Maryland Courts and other governmental offices have been closed or have had their access significantly limited. As a result, the processing and recording of deeds, deeds of trust and other title documents in some jurisdictions has been, and will be, impacted. Although First American Title Insurance Company (“First American”) is willing to continue to insure titles for purchasers and lenders through the ultimate recording date of the deed, deed of trust or other insured title document, neither First American nor its title agents can provide any estimate as to the date of recordation of such title documents in Maryland land records.

NOW THEREFORE, as a result of the aforementioned closures and access restrictions and as an inducement to _____ (hereafter “Title Agent”) to conduct settlement and to First American to issue it policy or policies of title insurance, the undersigned agree as follows:

Borrower(s) certify:

- (a) There are no unrecorded and/or outstanding leases, contracts, options, agreements, trusts or other inchoate rights or interests affecting the Property which have not been disclosed to First American or its agent in writing.
- (b) All labor and materials used in construction of improvements, repairs, or modifications to the Property have been paid for and there are now no unpaid bills for labor or material against the improvements or Property. The Borrowers have received no notice of any mechanic’s lien claim.
- (d) There are no unrecorded liens or encumbrances affecting the Property, which are not being paid or adjusted as part of the current transaction.
- (e) Borrowers have received no written notice of a proposed or pending special

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assessment or a pending taking of any portion of the Property by any governmental body; Borrowers have no knowledge or notice that work has been or will be performed by any governmental body including, but not limited to, the installation of water or sewer lines or of other utilities, or for improvements such as paving or repaving of streets or alleys, or the installation of curbs and sidewalks.

(f) Borrowers agree to neither allow, nor take any action, following settlement that may result in a lien, encumbrance or other objectionable matter of title being placed against the Property. In the event any lien, encumbrance or objectionable matter of title arises or occurs between the date of settlement and the date of the recording of the deed of trust or other title document, Borrowers agree to immediately take action to clear and discharge the same and further agree to hold harmless and indemnify Title Agent and First American Title Insurance Company against all expenses, costs and attorneys fees which may arise out of Borrowers failure to so remove, bond or otherwise dispose of any such liens, encumbrances or objectionable matters of title to the satisfaction of First American.

Borrower(s) understand and agree:

(a) Neither Title Agent nor First American can provide any estimate as to the date of recordation of the deed of trust or other title documents in the Land Records.

(b) Among other things, Borrowers may not be able to refinance or sell the Property, or provide recorded evidence of the status liens against the Property until the date that the deed of trust or title document is recorded in the Land Records.

The undersigned solemnly affirm(s) under the penalties of perjury and upon personal knowledge that the contents of this Affidavit are true and that this Affidavit is executed in order to induce Title Agent to make and complete settlement on the Property and to induce First American to issue its policy or policies of title insurance, insuring title to the Property.

Borrowers:

Signature

Print:

**AFFIDAVIT OF UNDERSTANDING AND
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DUE TO THE COVID-19 EMERGENCY – FINANCING**

Signature

Print:

SUBSCRIBED, SWORN TO, and acknowledged before me this __ day of ____,
2020.

NOTARY PUBLIC

My Commission Expires:

IN THE COURT OF APPEALS OF MARYLAND
ADMINISTRATIVE ORDER ON
STATEWIDE CLOSING OF THE COURTS TO THE PUBLIC
DUE TO THE COVID-19 EMERGENCY

WHEREAS, Pursuant to the Maryland Constitution, Article IV § 18, the Chief Judge of the Court of Appeals is granted authority as the administrative head of the Judicial Branch of the State; and

WHEREAS, In instances of emergency conditions, whether natural or otherwise, that significantly disrupt access to or the operations of one or more courts or other judicial facilities of the State or the ability of the Judiciary to operate effectively, the Chief Judge of the Court of Appeals may be required to determine the extent to which court operations or judicial functions shall continue; and

WHEREAS, Due to the outbreak of the novel coronavirus, COVID-19, and consistent with guidance issued by the Centers for Disease Control, an emergency exists that poses a threat of imminent and potentially lethal harm to individuals who come into contact with a court or judicial facility and personnel; and

WHEREAS, To the extent possible, the courts and judicial offices and units have remained operational and provided scheduled and required events while balancing the health and safety needs of court visitors and personnel during the early stage of this emergency; and

WHEREAS, Escalation of the emergency now requires further measures to protect the health and safety of Maryland residents and Judiciary personnel,

NOW, THEREFORE, I, Mary Ellen Barbera, Chief Judge of the Court of Appeals and administrative head of the Judicial Branch, pursuant to the authority conferred by Article IV, § 18 of the Maryland Constitution, do hereby order this 13th day of March, 2020, as follows:

- (a) All courts in the Maryland Judiciary, court offices, administrative offices, units of the Judiciary, and the Offices of the Clerks of the Circuit Courts shall be closed to the public on an emergency basis, effective March 16, 2020; however, Judiciary operations shall continue to the extent practicable. Maryland Judiciary personnel shall report as scheduled, unless otherwise excused by their administrative head.
- (b) The following mandatory matters shall continue to be scheduled and heard in keeping with the urgency of those matters and consistent with statutory requirements, either in person or remotely pursuant to the Administrative Order on Remote Electronic Participation in Judicial Proceedings, June 18, 2018, with the court to notify all participants necessary to the proceeding:
 - (1) In the Court of Appeals:
 - (A) certain election law matters
 - (B) certain petitions for Writs of Mandamus
 - (C) certain certified questions of law
 - (D) quarantine and isolation matters
 - (2) In the Court of Special Appeals:
 - (A) requests for injunctive relief pending appeal
 - (B) appeals in cases in which a lack of action would result in a dispositive outcome
 - (C) appeals from quarantine and isolation petitions
 - (3) In the Circuit Courts:
 - (A) bail reviews
 - (B) arraignments
 - (C) emergency Habeas Corpus petitions
 - (D) juvenile detention hearings
 - (E) CINA shelter care and adjudication on shelter care
 - (F) emergency delinquency

- (G) domestic violence protective petitions
 - (H) appeals from peace orders
 - (I) family law emergencies including petitions for guardianship
 - (J) temporary restraining orders
 - (K) emergency evaluation petitions
 - (L) quarantine and isolation petitions
 - (M) extradition cases
 - (N) Rule 4-271 determinations (*Hicks*)
 - (O) search warrants
 - (P) body attachments
 - (Q) contempt
- (4) In the District Court:
- (A) bail reviews
 - (B) emergency evaluation petitions
 - (C) emergency risk protective order petitions
 - (D) domestic violence protective petitions
 - (E) peace order petitions
 - (F) quarantine and isolation violations
 - (G) initial appearances
 - (H) search warrants
 - (I) applications for statement of charges
 - (J) acceptance of bail bonds
 - (K) bench warrant satisfactions
 - (L) body attachments
 - (M) contempt
- (c) To the extent that an individual court has the capacity to hear additional matters, this Administrative Order does not prohibit such proceedings, with access to members of the public as justice requires. Courts shall notify all participants to the proceeding if a matter will proceed.

- (d) This Administrative Order does not affect the courts' consideration or resolution of matters that can be addressed without a proceeding that involves testimony or argument.
- (e) All other matters scheduled to be heard between March 16, 2020, through April 3, 2020, are postponed pending further order of the Chief Judge of the Court of Appeals.
- (f) Court personnel will be available by telephone and mail and paper filings will be received. MDEC continues to be available for electronic filings.
- (g) To the extent this Administrative Order conflicts with any other extant administrative order, whether local or statewide, this Administrative Order shall prevail.
- (h) This Administrative Order will be revised as circumstances warrant.

/s/ Mary Ellen Barbera
Mary Ellen Barbera
Chief Judge
Court of Appeals of Maryland

Filed: March 13, 2020

/s/ Suzanne C. Johnson
Suzanne C. Johnson
Clerk
Court of Appeals of Maryland