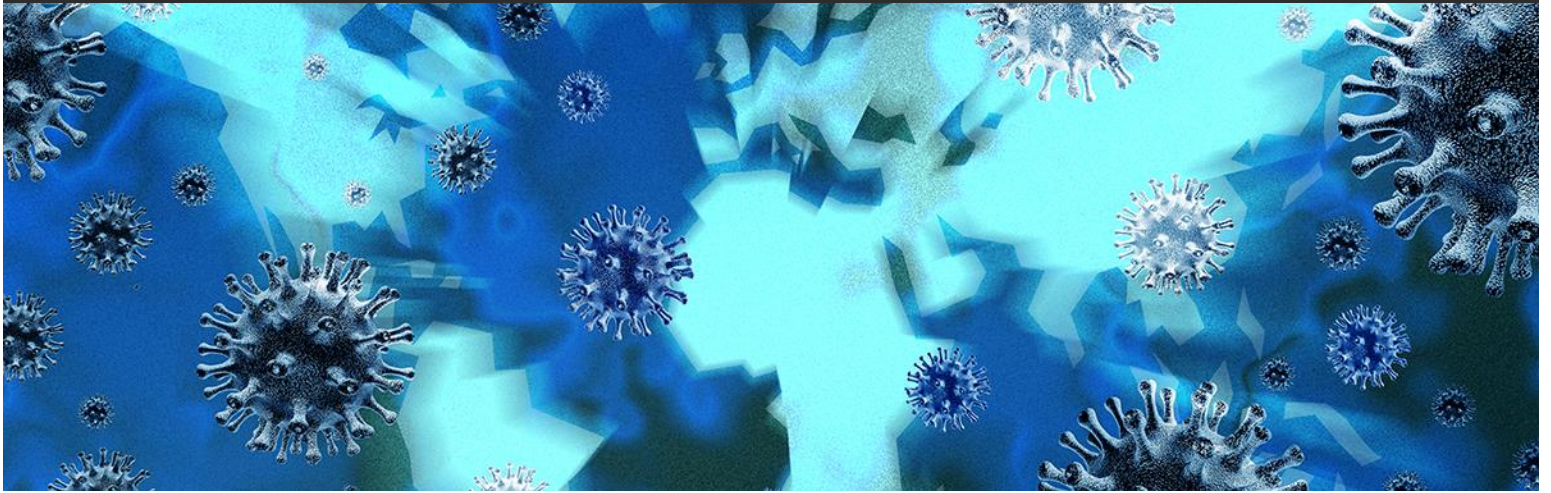


Alert | Health Emergency Preparedness Task Force: Coronavirus Disease 2019



March 2020

NYDFS Limits Mortgage Relief to Residential Borrowers

On March 21, 2020, Governor Andrew Cuomo of New York issued [Executive Order 202.9](#), which, among other things, stated that due to the Coronavirus Disease 2019 (COVID-19) Pandemic, the Banking Law of the State of New York was modified to deem it “an unsafe and unsound business practice...[if] any bank which is subject to the jurisdiction of the Department [of Financial Services] shall not grant a forbearance to any person or business who has a financial hardship...for a period of 90 days.” The Executive Order went on to call on the Superintendent of the New York Department of Financial Services (NYDFS) to promulgate regulations to effect the Executive Order.

On March 24, 2020, pursuant to the Executive Order, the Superintendent of NYDFS issued [a new Part 119 to 3 NYCRR](#) providing emergency relief to New Yorkers who can demonstrate financial hardship as a result of COVID-19. Both the Executive Order and Part 119 are set to expire after April 20, 2020, unless extended further. To the surprise of many, the regulations explicitly do not provide any relief to commercial borrowers and apply exclusively to residential mortgage borrowers. Part 119 also introduces a new term to describe the institutions to which it applies, “Regulated Institution,” which is defined as a “New York regulated banking organization” or mortgage servicer. This term appears to be broader than simply bank chartered in the State of New York, and may include all banks (except institutions that are governed by federal banking regulators) making residential mortgage loans in New York. The NYDFS has not provided any official guidance on the breadth of the term.

Pursuant to Part 119, Regulated Institutions must: “(i) make applications for forbearance of any payment due on a residential mortgage of a property located in New York, widely available to any individual who resides in New York and who demonstrates financial hardship as a result of the COVID-19 pandemic; and (ii) subject to the safety and soundness requirements of the regulated institution, grant such forbearance for a period of ninety (90) days to any such individual.”

Part 119 discusses the manner for notifying consumers about how to apply for this relief, which institutions must do as soon as reasonably practicable, but no later than 10 business days after the promulgation of this regulation. In addition, Part 119 establishes standards and procedures with regard to institutions reviewing and making decisions concerning such applications. On a tangential note, Part 119 also requires banks regulated by the DFS to eliminate ATM fees, overdraft fees, and credit card late payment fees.

For more information and updates on the developing situation, visit [GT’s Health Emergency Preparedness Task Force: Coronavirus Disease 2019](#).

Authors

This GT Alert was prepared by:

- [Kristen J. Lonergan](#) | +1 212.801.6927 | lonergank@gtlaw.com
- [Steve Lazar](#) | +1 212.801.9200 | lazars@gtlaw.com

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