



**First American Title™**  
NATIONAL COMMERCIAL SERVICES

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# Current Developments Special Edition

First American Title  
National Commercial Services

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On March 15, 2021, the Chief Administrative Judge of the Courts of the State of New York, pursuant to the authority of the "COVID-19 Protect Our Small Business Act of 2021" (Chapter 73 of the Laws of 2021) (the "Act"), issued the following Administrative Orders:

#### EXECUTIVE ORDER 95/21

1. **Stay of Pending Commercial Foreclosure Proceedings:** Any action to foreclose a mortgage relating to commercial real property as defined in the Act ("Action") pending on March 9, 2021, and any Action commenced on or before April 8, 2021, shall be stayed for at least 60 days (Act, Part B, Subpart A, §§1, 3).
2. **Requirement of Additional Affidavits in Newly-Commenced Actions:** No court shall accept for filing commencement papers in an Action unless those papers include affidavits as required by Part B, Subpart A, §6 of the Act.
3. **Stay of Actions in Which the Mortgagor Provides a Hardship Declaration:** In any Action in which a judgment of sale has not been issued and a commercial mortgagor as defined in the Act ("Mortgagor") submits a hardship declaration as defined in the Act ("Hardship Declaration") to the foreclosing party, the court, or an agent of the foreclosing party or the court, the Action shall be stayed until at least May 1, 2021 (Act, Part B, Subpart A, §§2, 7).
4. **Stay of Actions in Which a Judgment of Sale Has Been Issued But Not Yet Executed:** If a judgment of sale has been issued in any Action on or before March 9, 2021 but has not yet been executed, execution of the judgment shall be stayed until the court has held a status conference with the parties. If a Mortgagor submits a Hardship Declaration to the foreclosing party, an agent of the foreclosing party or the court prior to the execution of the judgment, the Action shall be stayed until at least May 1, 2021 (Act, Part B, Subpart A, §8).
5. Paragraphs 2, 3, and 4 of this order shall expire May 1, 2021.
6. All Actions shall be conducted as required by the further provisions of the Act.

#### EXECUTIVE ORDER 96-21

1. **Stay of Commercial Eviction Proceedings:** Any commercial eviction proceeding pending on March 9, 2021, and any commercial eviction proceeding commenced on or before April 8, 2021, shall be stayed for 60 days (Act, Part A, §3). Notwithstanding the foregoing, a pending or newly-filed proceeding in which a petitioner has alleged that a tenant is persistently and unreasonably engaging in behavior that substantially infringes upon the use and enjoyment of other tenants or occupants, or causes a substantial safety hazard to others, may continue to be heard in accordance with the Act (Act, Part A, §§9, 9[5]).
2. **Requirement of Additional Affidavits in Newly-Commenced Proceedings:** No court shall accept for filing any petition or other commencement papers in an eviction proceeding unless those papers include affidavits as required by Part A, §6 of the Act.
3. **Stay of Execution of Warrants in Commercial Eviction Proceedings:** In any commercial eviction proceeding in which a warrant of eviction has been issued but has not yet been executed as of March 9, 2021, execution of the warrant shall be stayed until the court has held a status conference with the parties (Act, Part A, §8[a][i]).

4. **Prior Judgments Based on Objectionable or Nuisance Behavior:** If the court has awarded judgment against a respondent on or prior to March 9, 2021 on the basis of objectionable or nuisance behavior, the court shall hold a hearing to determine whether the tenant is continuing to persist in engaging in unreasonable behavior that substantially infringes on the use and enjoyment of other tenants or occupants or causes substantial safety hazard to others ( Act, Part A, §9[2]).
5. Paragraphs 2, 3, and 4 of this order shall expire May 1, 2021.
6. All commercial eviction proceedings shall be conducted as required by the further provisions of the Act.

The Executive Orders can be obtained at the following links:

[AO 95.pdf \(nycourts.gov\)](#)

[AO 96.pdf \(nycourts.gov\)](#)

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