

## **Statement of Virginia Court Clerks Association On COVID-19 Virus Emergency/March 20, 2020**

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.