



# COVID-19 – Stay Home, Work Safe and other Emergency Orders

Presentation to Houston BOMA  
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# Governor Abbott COVID-19 Executive Orders

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- Order No. 1: In accordance with the Guidelines from the President and the CDC, every person in Texas shall avoid social gatherings in groups of more than 10 people.
- Order No. 2: In accordance with the Guidelines from the President and the CDC, people shall avoid eating or drinking at bars, restaurants, and food courts, or visiting gyms or massage parlors; provided, however, that the use of drive-thru, pickup, or delivery options is allowed and highly encouraged throughout the limited duration of this executive order.

# Harris County Order – Stay Home, Work Safe

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- Issued by County Judge Lina Hidalgo
- Effective 11:59 p.m. on March 24, 2020
- Continues through 11:59 p.m. on April 3, 2020
- Any law enforcement is authorized to enforce the order and failure to comply is punishable by a \$1,000 fine or up to 180 days in jail.

# Harris County Order – Stay Home, Work Safe

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- The Order requires that all businesses operating within Harris County, except Essential Businesses, cease all activities. Essential Businesses include the sixteen (16) sectors identified under the Cybersecurity and Infrastructure Security Agency (“CISA”)’s Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response, issued March 19, 2020 (the “Guidance”) (included at the end of the attached Order).

# Harris County Order – Stay Home, Work Safe

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- Nowhere does the Order say commercial office buildings must close. Most commercial office buildings will have tenants who are Essential Businesses, and the Guidance states “Certain critical infrastructure industries have a special responsibility in these times to continue operations.” The order thereby implicitly recognizes that commercial office buildings should remain open.

# Harris County Order – Stay Home, Work Safe

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- The Order also requires all individuals to stay at their residence except for Essential Activities. Section 2.a.iv of the Order states that Essential Activities include “To perform work . . . at an Essential Business or to otherwise carry out activities specifically permitted in this Order.”

# Harris County Order – Stay Home, Work Safe

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- The CISA sector “Other Community-Based Government Operations and Essential Functions” includes:
  - Workers to ensure continuity of building functions; and
  - Security staff to maintain building access control and physical security measures.
- These workers are defined as Essential Critical Infrastructure Workforce.

# Harris County Order – Stay Home, Work Safe

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- Section 2.b.vii of the Order defines Essential Businesses to include “building cleaning, maintenance and security . . .”
- Accordingly, individuals are allowed to leave their residences and perform these functions at commercial office buildings.
- The order does not restrict travel or movement in Harris County.
- Commercial construction such as building capital improvements and tenant improvement work is allowed.



# Harris County Order – Stay Home, Work Safe

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- Note, however, that Section 1.c of the Order requires Essential Businesses to comply with social distancing requirements of six feet for both employees and the general public to the greatest extent possible.
- Additionally, Section 3 of the Order requires Essential Businesses to also provide access to hand washing facilities with soap and water or hand sanitizer; and “post a sign in a conspicuous place at the public entrance to the venue instructing members of the public not to enter if they are experiencing symptoms of respiratory illness, including fever or cough.”

# Changes to Building Operations

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- Post a sign in a conspicuous place at the public entrance to the venue instructing members of the public not to enter if they are experiencing symptoms of respiratory illness, including fever or cough.
- Consider allowing badge-access-only in order to control your building environment while the order is in place.
- Need to close conference centers and fitness centers.

# Changes to Building Operations

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- Any restaurants need to be for take-out service only.
- Facilitate social distancing and allow no prolonged gatherings in your lobby and common areas.
- Continue to provide elevated cleaning and disinfecting of your building because the virus has the ability to attach to surfaces for prolonged periods of time.
- Consider having hand sanitizer available in common areas.

# Changes to Building Operations

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- Consider Essential Critical Infrastructure Workforce letters for employees.
- Consider Essential Critical Infrastructure placards for employee vehicles.
- You will receive requests for rent relief – there is no law requiring that you grant it at this time.

# Changes to Building Operations

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- The Texas Supreme Court suspended all actions on residential evictions through April 19, 2020.
- The Harris County Justices of the Peace have suspended all eviction dockets through April 19, 2020, including commercial. New filings will be accepted, but no action on them will occur until after April 19.
- Lockouts are still governed by the terms of your lease and the Texas Property Code.

# Force Majeure

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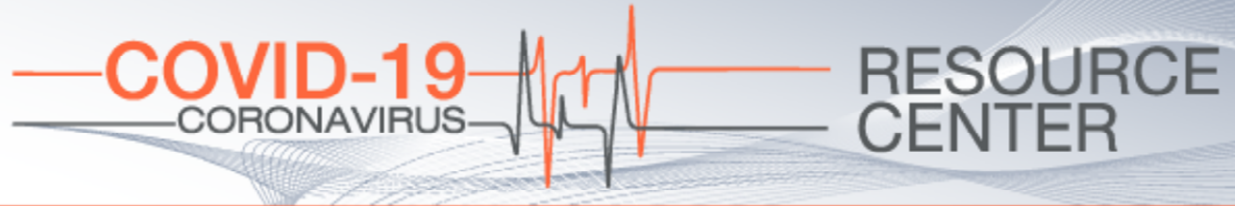
- Force majeure is a doctrine that excuses performance under a contract when a supervening event prevents that performance.
- Texas courts generally look to the terms force majeure clause agreed upon by the parties.
- At present, it is unclear whether a Texas court would hold that COVID-19 is an “act of God,” particularly because of the human element surrounding transmission of this virus.

# Force Majeure

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<https://www.lockelord.com/newsandevents/publications/2020/03/locke-lord-quickstudy-force-majeure>

<https://www.lockelord.com/covid19resourcecenter>



The safety and well-being of our clients, personnel and families are paramount, and we continue to monitor the overall impact of the COVID-19 coronavirus (COVID-19) outbreak closely. Our preparedness plans have been evaluated and activated to ensure we continue serving our clients with little to no disruption during these unprecedented times.

We've also mobilized across disciplines to create a COVID-19 Task Force that provides a coordinated response to our clients' range of needs. This includes an FAQ section covering a host of issues, as well as links to recent QuickStudies.

We encourage you to regularly visit this page for the most up-to-date information. You will also find access to key contacts at Locke Lord who can put you in touch with appropriate team members.

## **FAQs**

[\*\*Read our list of Q&As\*\*](#)



# Q&A/Conclusion

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