

Illinois Shelter-in-Place Order and its Impact on Illinois Business Operations

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A FREEBORN & PETERS LLP CLIENT ALERT



ABOUT THIS CLIENT ALERT

In response to the growing number of COVID-19 cases in Illinois, Governor J.B. Pritzker followed in the steps of New York and California and announced a state-wide shelter-in-place order for all Illinois citizens and businesses on March 20, 2020. This Alert details what the order means for Illinois businesses in the coming weeks.

The Governor found that Executive Order 2020-10 in Response to COVID-19 (the “shelter-in-place order”) was necessary to preserve the public health and safety and to ensure that Illinois’ healthcare system is capable of continuing to serve those who are sick. The requirements of the shelter-in-place order are set to expire after April 7, 2020 unless the continuing progression of the COVID-19 pandemic requires an extension of the policy (the “shelter-in-place period”).

Under the shelter-in-place order all Illinois citizens must continue practicing social distancing and with limited exception must remain at home at all times.

Governor Pritzker explained in his press release that citizens may only leave their homes for essential activities and explained that these include: health and safety (e.g. to obtain medical services or supplies, or for pets); to obtain necessary supplies and services (e.g. food or household supplies); outdoor activities (e.g. running or walking for exercise); to take care of others; or to perform work for essential businesses.

The shelter-in-place order also has significant business implications for Illinois that were not discussed in detail during the Governor’s press release. Importantly, the shelter-in-place order requires all “non-essential” business operations within the State to cease operations during the shelter-in-place period. We understand that complying with the shelter-in-place order may have significant impacts on your business; however, we must remind you that the shelter-in-place order has no impact on any business’ employees ability to work from home as long as they can maintain the social distancing. We will provide a summary of:

- (1) businesses and operations are considered essential to and that will remain mostly exempt from the shelter-in-place order requirements;
- (2) ongoing actions that all businesses may undertake during the shelter-in-place period; and
- (3) how the shelter-in-place order may apply to you.

Essential Businesses and Operations

As noted previously and in the shelter-in-place order, all businesses and operations in the State of Illinois, except Essential Businesses and Operations (as defined below), are required to cease all activities except Minimum Basic Operations (also defined below). This shelter-in-place order affects all businesses across the State of Illinois, and thus necessitates business-owners to determine whether their businesses constitute “Essential Businesses” or engage in “Essential Operations.” To that end, the Executive Order provides guidance on which businesses and activities fall into those categories, and generally includes any for-profit, non-profit, or education entities, regardless of the nature of the services, the function it performs, or its corporate or entity structure. More specifically, **Essential Businesses and Operations consist of the following: Healthcare and Public Health Operations, Human Services Operations, Essential Infrastructure, Essential Governmental Functions, and Other Businesses.**

Each of these categories is discussed in further detail:

Essential Governmental Functions.

Essential Governmental Functions means all services provided by the State of Illinois or any local government, and include the following employees: first responders, emergency management personnel, emergency dispatchers, court personnel, law enforcement and corrections personnel, hazardous materials responders, child protection and child welfare personnel, housing and shelter personnel, military personnel, and other government employees.

Essential Infrastructure.

Employees may leave their residences for work in Essential Infrastructure, which includes: food production, distribution, and sale; construction; building management and maintenance; airport operations; operation and maintenance of utilities; distribution centers; oil and biofuel refining; roads, highways, railroads, and public transportation; ports; cyber-security operations; flood control; solid waste and recycling collection and removal; and internet, video, and telecommunications systems.

Healthcare and Public Health Operations.

Employees who work in Healthcare and Public Health Operations may leave their residences for work in the following businesses: hospitals; clinics; dental offices; pharmacies; public health entities; veterinary care facilities; pharmaceutical, pharmacy, medical device and equipment, and biotechnology companies; organizations collecting blood, platelets, plasma, and other necessary materials; licensed medical cannabis dispensaries and cultivation centers; reproductive health care providers; eye care centers; home healthcare services providers; mental health and substance use providers; entities that transport and dispose of medical materials and remains; and other healthcare facilities, suppliers, and providers of any related healthcare services.

This also includes manufacturers, technicians, logistics, warehouse operators, and distributors of medical equipment, personal protective equipment, medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, and tissue and paper towel products. Notably, Healthcare and Public Health Operations excludes gyms, spas, salons, barber shops, tattoo parlors, and similar facilities.

Human Service Operations.

Human Service Operations are also broadly defined, and include: long-term care facilities; entities licensed under the Child Care Act; residential settings and shelters for adults, seniors, children, and people with disabilities, substance use disorders, and mental illness; transitional facilities; home-based settings to provide services to individuals with disabilities, seniors, adults, and children; field offices that provide and help to determine eligibility for basic needs; developmental centers; adoption agencies; businesses that provide food, shelter, and social services.



Other Businesses.

In addition to the categories identified previously, the Executive Order provides that the following types of businesses also constitute Essential Businesses and Operations:

- Critical labor union functions
- Critical trades, including building and construction tradespeople, plumbers, electricians, exterminators, cleaning and janitorial staff, security staff, operating engineers, HVAC, painting, moving and relocation services, and other similar service workers
- Educational institutions
- Financial institutions
- Food, beverage, and cannabis production and agriculture
- Funeral services
- Gas stations and businesses needed for transportation
- Hardware and supply stores
- Home-based care and services
- Hotels and motels
- Laundry services
- Mail, post, shipping, logistics, delivery, and pick-up services
- Manufacture, distribution, and supply chain for critical products and industries
- Media
- Organizations that provide charitable and social services
- Professional services
- Residential facilities and shelters
- Restaurants for off-premises consumption
- Suppliers of supplies needed to work from home and to support other Essential Businesses and Operations
- Stores that sell groceries and medicine
- Transportation

Minimum Basic Operations

Notwithstanding the requirement that all non-Essential Businesses and Operations must cease, and that all employees of those businesses must remain home, the Executive Order does provide that certain Minimum Basic Operations may continue, regardless of designation. Minimum Basic Operations consist of the following, and employees must comply with social-distancing requirements and best practices when performing these functions:

- The minimum necessary activities to maintain the value of a business' inventory, preserve the condition of the business' physical plant and equipment, ensure security, process payroll and employee benefits, or related functions.
- The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences.

Application to Your Business

Clearly, the definition of Essential Businesses and Operations is broad and all-encompassing. The Executive Order does not set forth a formula for determining whether your business constitutes an Essential Business or Operation, and thus likely requires business-owners to self-determine based on the categories identified above. If you are struggling to determine whether your business is covered by this Executive Order, the attorneys at Freeborn are ready to help you navigate the uncertainty ahead.

Visit [Freeborn's COVID-19 webpage](#) for more information as this situation develops.

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