

### New York Executive Order 202.8 March 21 Updated Guidance

Bond has been able to obtain and review a copy of the latest Executive Order 202.8. This is the order that we have been expecting since the Governor's press briefing the morning of Friday, March 20.

The Order takes effect at 8:00 p.m. Sunday, March 22. The Order requires a 100% reduction in the in-person workforce in any business location for businesses that are not deemed essential. In English, that means no employees are to work from any workforce location unless the business has been placed on the exception list published by Empire State Development Corporation (ESDC). However, in the event that certain support services are necessary to enable a business not on the exception list to continue its operations (e.g., I.T. functions supporting remote work), the Order might provide some flexibility in the following language: "An entity providing essential services or functions whether to an essential business or a non-essential business shall not be subject to the in-person work restriction, but may operate at the level necessary to provide such service or function." We are working to get clarity on the meaning of that sentence. The "business location" language in the Order is also different than the Governor's statement yesterday, which referenced "in office." The language of the Executive Order controls.

The list of excepted businesses can be found [here](#). The list has not been updated today. Please note that some changes were made to the list yesterday, so if you have not looked since Thursday, you should look again. Also keep in mind that since the list is not yet updated, it does not reflect the 100% workforce reduction that is included in this new Executive Order. We expect ESDC to issue a revised document. We do not know when that will happen. Please note that colleges and universities have been separately identified in a Department of Health document as essential businesses.

A SPECIAL NOTE TO EDUCATIONAL INSTITUTIONS, INCLUDING HIGHER EDUCATION: The New York State Department of Health posted Interim Guidance on the Executive Orders, dated March 19, 2020, stating "Note: Pursuant to prior Governor actions and announcements, educational institutions, including public pre-kindergarten through 12th grade schools, colleges, and universities, have ceased in-person instruction, but would otherwise be considered essential." The Interim Guidance can be found [here](#).

There are other important points in this latest Executive Order. Most importantly, this order includes penalties. Businesses violating the order can be punished as a misdemeanor.

Here is the remainder:

- Statutes of limitations are tolled until April 19, 2020.
- The requirement that shareholder meetings be conducted in person is suspended.
- All State and County DMV offices will be closed to in-person transactions. All transactions will be limited to on-line.
- All expiring driver's licenses and non-license ID cards will remain in effect.
- All vehicle registration documents and licenses expiring after March 1 will be automatically extended until further notice. Temporary dealer registration documents will also remain in effect.
- For sales and use taxes due by March 20 for the sales tax quarter ending February 29, the Commissioner of Taxation and Finance is authorized to abate late payments, penalties and interest for a period of sixty days.
- Evictions are stayed for ninety days.

The attorneys at Bond, Schoeneck and King can help you determine if you are considered an essential business and apply to the Empire State Development Corporation for such determination. Please contact the attorney at the firm with whom you are regularly in contact, [Hermes Fernandez](#) or [Caitlin Anderson](#).



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