

Effect of Supreme Court's Ruling on Emergency Order #15 (Temporarily Limiting Foreclosures & Evictions)

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On May 13, 2020, the Wisconsin Supreme Court invalidated the DHS's Safer at Home Order (Emergency Order #28). In the wake of this decision, lenders and landlords are eager to know if the Court's analysis extends to invalidate Governor Evers' order temporarily limiting foreclosures and evictions in Wisconsin due to the COVID-19 health crisis. The short answer is "no." The Court's decision focused solely on Palm's authority (or lack thereof) under Wis. Stat. § 252.02 to unilaterally issue the Safer at Home Order. While Emergency Order #15 was issued under this same statutory authority, it was also concurrently issued by Governor Evers using the authority granted to him under Wis. Stat. § 323.12(4). As a result, even if Palm lacked authority to issue Emergency Order #15 on her own, the order remains valid and enforceable under the governor's statutory authority. A court would need to determine that the governor lacked authority to issue Emergency Order #15 before it could be declared invalid and unenforceable. The Emergency Order expires on May 26, 2020.

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