

File No. 200345

Committee Item No. _____

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Prepared by: Lisa Lew
Prepared by: _____

Date: April 10, 2020
Date: _____

1 [Urging Immediate Passage of California State Assembly Bill No. 828 (Ting) and Senate Bill
2 No. 939 (Wiener, Gonzalez) - Eviction and Foreclosure Moratoriums for Residential and
3 Commercial Tenants During the COVID-19 State of Emergency]

4 **Resolution urging the State Legislature to immediately pass State Assembly Bill No.**
5 **828 as proposed to be amended, authored by Assembly Member Phil Ting, and Senate**
6 **Bill No. 939, authored by California State Senators Scott Wiener and Lena Gonzalez, to**
7 **prohibit foreclosures and the eviction of residential and commercial tenants during the**
8 **state of emergency related to the COVID-19 pandemic.**

9
10 WHEREAS, On February 25, 2020, Mayor London Breed issued a Proclamation
11 Declaring the Existence of a Local Emergency in San Francisco related to COVID-19; and

12 WHEREAS, On March 4, 2020, California Governor Gavin Newsom declared a State of
13 Emergency in California related to COVID-19; and

14 WHEREAS, On March 11, 2020, the San Francisco Health Officer issued a Declaration
15 of Local Health Emergency, Order No. C19-05; and

16 WHEREAS, On March 12, 2020, the Governor issued Executive Order N-25-20
17 ordering that residents heed the orders of state and local public health officials, including but
18 not limited to the imposition of social distancing measures; and

19 WHEREAS, On March 13, 2020, the Health Officer issued Order No. C19-05b
20 (revised), Declaration of Local Health Emergency in the City and County of San Francisco;
21 and

22 WHEREAS, On March 13, 2020, Mayor Breed issued a Supplement to the
23 Proclamation of Local Emergency to establish a moratorium on residential evictions for
24 nonpayment of rent arising from COVID-19 during the Local Emergency; and

25

1 WHEREAS, On March 16, 2020, the Health Officer issued Order No. C19-07, directing
2 all individuals living in the county to shelter at their place of residence except that they may
3 leave to provide certain essential services or engage in certain essential activities and work
4 for essential business and government services (shelter in place); and

5 WHEREAS, On March 18, 2020, Mayor Breed issued a Supplement to the
6 Proclamation of Local Emergency to establish a moratorium on commercial evictions for
7 nonpayment of rent arising from COVID-19 for businesses with gross receipts of less than \$25
8 million during the Local Emergency; and

9 WHEREAS, On March 19, 2020, Governor Newsom issued an Executive Order
10 requiring all California residents to stay at home indefinitely, except for essential activities; and

11 WHEREAS, On March 20, 2020, Assembly Member Phil Ting and Senator Scott
12 Wiener proposed amendments to Assembly Bill No. 828 to prohibit foreclosures and all
13 evictions, except in cases of nuisance or waste, of residential tenants for the duration of the
14 Governor’s declaration of emergency and for 15 days thereafter, including those initiated
15 since the declaration of emergency but before the effective date of the bill, and to establish a
16 one-year recovery period during which tenants may contest an eviction proceeding for non-
17 payment of rent on grounds of economic hardship related to COVID-19; and

18 WHEREAS, On March 20, 2020, Senators Scott Wiener and Lena Gonzalez amended
19 Senate Bill No. 939 to prohibit all evictions of commercial tenants for the duration of the
20 Governor’s declaration of emergency, including evictions initiated since the declaration of
21 emergency but before the effective date of the bill; and

22 WHEREAS, On March 23, 2020, Mayor Breed issued a Supplement to the
23 Proclamation of Local Emergency to expand the moratorium on residential evictions to include
24 other no-fault evictions, with the exception of Ellis Act evictions, during the Local Emergency;
25 and

1 WHEREAS, On March 24, 2020, the Board of Supervisors unanimously passed a
2 Resolution under Board File No. 200307 urging Governor Newsom to issue a moratorium on
3 evictions, including Ellis Act evictions, during the state of emergency; and

4 WHEREAS, As of March 25, 2020, over one million Californians had already filed new
5 claims for unemployment insurance over a two-week period; and

6 WHEREAS, Approximately 14,000 San Francisco businesses are required to close or
7 significantly limit operations indefinitely under the City’s shelter in place order, and these
8 businesses employ approximately 170,000 people; now, therefore, be it

9 RESOLVED, That the Board of Supervisors of the City and County of San Francisco
10 urges the immediate passage as an urgency measure of Assembly Bill No. 828 as proposed
11 to be amended to prohibit foreclosures and all evictions of residential tenants, except in cases
12 of nuisance or waste, for the duration of the Governor’s declaration of emergency and to
13 establish a one-year recovery period during which tenants may claim economic hardship due
14 to COVID-19 in response to residential eviction proceedings; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
16 Francisco urges the immediate passage as an urgency measure of Senate Bill No. 939 to
17 prohibit all evictions of commercial tenants for the duration of the Governor’s declaration of
18 emergency related to COVID-19; and, be it

19 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
20 Francisco directs the Clerk of the Board to transmit copies of this Resolution to the State
21 Legislature and the State Lobbyist for the City and County of San Francisco upon passage.

AMENDED IN SENATE MARCH 25, 2020

AMENDED IN SENATE MARCH 12, 2020

SENATE BILL

No. 939

**Introduced by Senators ~~Wiener and Umberg~~ Wiener and Lena
Gonzalez**

(Principal coauthor: Senator Skinner)

(Principal coauthors: Assembly Members Bonta, Burke, Chiu, and Ting)

February 6, 2020

An act to amend Sections 828, 829, and 830 of, and to add Sections 831, 831.5, 832, 833, 834, and 835 to, the Public Resources Code, relating to aquaculture; add Section 396.1 to the Penal Code, relating to evictions, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 939, as amended, Wiener. ~~Mariculture: master permitting program: designation of suitable state waters. Emergencies: COVID-19: evictions.~~

Existing law permits the Governor to proclaim a state of emergency during conditions of disaster or of extreme peril to the safety of persons and property, including epidemics. Existing law provides that the proclamation takes effect immediately, affords specified powers to the Governor, and terminates upon further proclamation by the Governor. Existing law prohibits the eviction of residential tenants during the pendency of a state of emergency, except as specified.

This bill would prohibit the eviction of tenants of commercial real property, including businesses and non-profit organizations, during the pendency of the state of emergency proclaimed by the Governor on March 4, 2020, related to COVID-19. The bill would make it a

misdeemeanor, an act of unfair competition, and an unfair business practice to violate the foregoing prohibition. The bill would render void and unenforceable evictions that occurred after the proclamation of the state of emergency but before the effective date of this bill. The bill would not prohibit the continuation of evictions that lawfully began prior to the proclamation of the state of emergency, and would not preempt local ordinances prohibiting or imposing more severe penalties for the same conduct.

By adding a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law provides for the regulation and development of aquaculture and requires the owner of each aquaculture facility to register with the Department of Fish and Wildlife. Existing law authorizes the department, among other powers, to assess annual registration fees on owners of aquaculture facilities and to prohibit an aquaculture operation or the culturing of any species at any location where it would be detrimental to adjacent native wildlife. Existing law authorizes the Fish and Game Commission to lease state water bottoms or the water column to any person for aquaculture, as prescribed, and requires the department to notify the State Lands Commission of all applications for water bottom leases and of all leases for aquaculture executed, renewed, or assigned. Under existing law, the California Coastal Act of 1976, the California Coastal Commission is responsible for the implementation of the act and for state coastal zone planning and management.~~

~~This bill would require the department to, by January 1, 2022, create, as prescribed, a master permitting program with 3 permit types, as specified, for shellfish, seaweed, and other low-trophic mariculture production and restoration projects. The bill would require the master permitting program to include and incorporate all necessary information and materials required by the State Lands Commission and the Fish and Game Commission to apply for, prepare, review, and finalize a~~

~~water bottom lease or ground lease of state lands required by a proposed mariculture project. The bill would require the department to approve, deny, or return for revision a master permit application within 4 months and similarly require that the State Lands Commission or the Fish and Game Commission, or both, if applicable, approve or deny a water bottom lease or ground lease within 4 months, as prescribed. The bill would provide an administrative appeal process for applicants to contest the denial of a water bottom lease or ground lease.~~

~~The bill would require the department, in consultation with the National Oceanic and Atmospheric Administration, if feasible, to develop best management practices for shellfish, seaweed, and other low-trophic mariculture production and restoration projects, as prescribed, and incorporate these practices into the master permitting program.~~

~~The bill would require the department to incorporate all duties and responsibilities over shellfish, seaweed, and other low-trophic mariculture production and restoration currently possessed and implemented by the California Coastal Commission into the master permitting program, and, commencing January 1, 2022, would provide the department with all jurisdiction, duties, and responsibilities over shellfish, seaweed, and other low-trophic mariculture production and restoration projects, and eliminate the California Coastal Commission's authority and jurisdiction to approve, deny, or otherwise affect those projects.~~

~~The bill would require, on or before January 1, 2023, the department, in consultation with several specified entities, to produce a comprehensive, publicly available map of state waters indicating the suitability of particular areas and sites for shellfish, seaweed, and other low-trophic mariculture production and restoration.~~

~~The bill would require, commencing January 1, 2023, and each year for 5 years thereafter, the department, in consultation with several specified entities, to annually designate, as prescribed, at least 5 square miles of state waters as suitable for shellfish, seaweed, and other low-trophic mariculture production and restoration projects.~~

~~The bill would require the department to ensure the inclusion of socially disadvantaged mariculturists in the development, adoption, implementation, and enforcement of laws, regulations, and policies and programs relating to shellfish, seaweed, and other low-trophic mariculture production and restoration.~~

The bill would also make legislative findings and declarations and adopt definitions to implement its provisions.

Vote: majority ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 396.1 is added to the Penal Code, to read:
2 396.1. (a) It shall be unlawful for a person, business, or other
3 entity to evict a tenant of commercial real property, including a
4 business or non-profit organization, during the pendency of the
5 State of Emergency proclaimed by the Governor on March 4, 2020,
6 related to COVID-19.

7 (b) (1) A violation of this section is a misdemeanor punishable
8 by imprisonment in a county jail for a period not exceeding one
9 year, or by a fine of not more than ten thousand dollars (\$10,000),
10 or by both that fine and imprisonment.

11 (2) A violation of this section shall constitute an unlawful
12 business practice and an act of unfair competition within the
13 meaning of Section 17200 of the Business and Professions Code.
14 The remedies and penalties provided by this section are cumulative
15 to each other, the remedies under Section 17200 of the Business
16 and Professions Code, and the remedies or penalties available
17 under all other laws of this state.

18 (c) An eviction in violation of this section that occurred after
19 the Proclamation of the State of Emergency but before the effective
20 date of this section shall be deemed void, against public policy,
21 and unenforceable.

22 (d) It is not a violation of this section for a person, business, or
23 other entity to continue an eviction process that was lawfully begun
24 prior to the Proclamation of the State of Emergency.

25 (e) This section does not preempt any local ordinance
26 prohibiting the same or similar conduct or imposing a more severe
27 penalty for the same conduct prohibited by this section.

28 SEC. 2. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of

1 *the Government Code, or changes the definition of a crime within*
2 *the meaning of Section 6 of Article XIII B of the California*
3 *Constitution.*

4 *SEC. 3. This act is an urgency statute necessary for the*
5 *immediate preservation of the public peace, health, or safety within*
6 *the meaning of Article IV of the California Constitution and shall*
7 *go into immediate effect. The facts constituting the necessity are:*

8 *In order to mitigate the economic hardships to tenants of*
9 *commercial real property, including businesses and non-profit*
10 *organizations, resulting from COVID-19, it is necessary that this*
11 *act take effect immediately.*

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Senate, March 12, 2020. (JR11)**

AB 828

Preventing Homelessness During the COVID-19 Pandemic

Assemblymember
Phil Ting
19TH DISTRICT



SUMMARY

Hundreds of Californians have tested positive for COVID-19 and thousands more are now out of work because they are hospitalized, quarantined, ordered to shelter in place by their local government, or laid off as businesses shut down. During this time of crisis, worrying about making rent or paying for a mortgage should not be prioritized over public health. AB 828 will place a moratorium on evictions and foreclosures due to inability to pay, preventing additional homelessness and community spread of COVID-19.

BACKGROUND

On March 4, 2020, Governor Newsom declared a state of emergency in order to help California prepare for additional cases of COVID-19. Since then, the virus has rapidly spread, with hundreds of confirmed cases in California.

On March 16, 2020, the U.S. stock market had its worst day since the 1987 market crash. While the announcement of federal economic dollars might help stabilize the market, financial analysts are predicting a recession. California's Rainy Day Fund puts the state in better shape than ever before to weather a coming recession, but many Californians have found themselves out of work or quarantined, and unable to pay their bills.

COVID-19-related job losses in the travel industry alone are projected to total 4.6 million this year. Every Disney park in the world has closed its doors. Large events and conferences such as Coachella and Broadway shows have been canceled or postponed. The NBA has suspended their season and many other professional sports leagues are either canceling or postponing their seasons.

On March 19, 2020, Governor Newsom issued a "stay at home" order for the entire state. While people will still be able to leave their home for essentials like groceries and medicine, all other businesses not deemed as essential are closed.

On March 17, Governor Newsom announced that nearly 99 percent of California's school-age children are not in school and that school districts may not open again until the fall. This leaves parents who don't have regular childcare forced to choose between caring for their kids or going to work.

The cities of San Jose, San Francisco, Los Angeles, Sacramento, Oakland, and Santa Monica have all declared or proposed a moratorium on evictions related to COVID-19.

THIS BILL

AB 828 would place a moratorium on evictions and foreclosures. The moratorium would be during the declared state of emergency and provide a framework for repayment of past-due payments.

- **State of Emergency:** During any declared state of emergency related to COVID-19 and for 15 days afterwards, no action may take place on a foreclosure or eviction, except evictions pertaining to waste or nuisance.
- **Recovery Period:** Until March 2021, for any eviction action taken related to unpaid rent, an individual may provide the court with evidence of economic hardship due to COVID-19 between the time of filing and entry of judgment. Upon receipt of this information, the court shall convene a hearing to determine whether or not there is evidence that COVID-19 was a source of economic hardship and the reason a tenant could not pay rent.

If the individual is deemed to have been unable to pay due to economic hardship related to COVID-19, then the court shall allow them to remain in the residence and set up a payment plan for the tenant to pay back the past-due rent or mortgage payments.

SUPPORT

Voices for Progress

STAFF CONTACT

Tara Gamboa-Eastman
Tara.gamboa-eastman@asm.ca.gov

Jessica Duong
Jessica.duong@asm.ca.gov

AMENDED IN SENATE APRIL 8, 2020

AMENDED IN ASSEMBLY MARCH 27, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 828

**Introduced by Assembly Member Ting Members Ting, Gipson, and
Kalra**

(Principal coauthor: Senator Wiener)

**(Coauthors: Assembly Members Bonta, Burke, Gonzalez, Kamlager,
and Mullin)**

(Coauthor: Senator Skinner)

February 20, 2019

An act to amend Section 1038.2 of the Evidence Code, relating to ~~privileges~~; add and repeal Section 2944.11 of the Civil Code, to add and repeal Sections 730.7, 1161.05, and 1174.10 of the Code of Civil Procedure, to add and repeal Section 27212 of the Government Code, and to add and repeal Section 3732 of the Revenue and Taxation Code, relating to property rights, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 828, as amended, Ting. ~~Human trafficking caseworker-victim privilege~~. Temporary moratorium on foreclosures and unlawful detainer actions: coronavirus (COVID-19).

Existing law confers a power of sale upon a mortgagee, trustee, or any other person to be exercised after a breach of the obligation for which the mortgage or transfer is a security. Existing law requires a trustee, mortgagee, or beneficiary to first file a record in the office of

the recorder a notice of default, and establishes other requirements and procedures for completion of a foreclosure sale.

This bill would prohibit a person from taking any action to foreclose on a residential real property while a state or locally declared state of emergency related to the COVID-19 virus is in effect and until 15 days after the state of emergency has ended, including, but not limited to, causing or conducting the sale of the real property or causing recordation of a notice of default.

Existing property tax law attaches taxes that are owed on that property as a lien against that property. Existing law generally requires the tax collector to attempt to sell residential property that has become tax defaulted 5 years or more after that property has become tax defaulted.

This bill would require a tax collector to suspend the sale, and not attempt to sell, tax-defaulted properties while a state or locally declared state of emergency related to the COVID-19 virus is in effect and until 15 days after the state of emergency has ended.

Existing law requires a county recorder to record any instrument, paper, or notice that is authorized or required to be recorded upon payment of proper fees and taxes.

This bill would prohibit a county recorder from recording any instrument, paper, or notice that constitutes a notice of default, a notice of sale, or a trustee's deed upon sale during the above-specified declared state of emergency relating to the COVID-19 virus. The bill would also prohibit a court from accepting a complaint in an action to foreclose.

Existing law establishes a procedure, known as an unlawful detainer action, that a landlord must follow in order to evict a tenant. Existing law provides that a tenant is subject to such an action if the tenant continues to possess the property without permission of the landlord in specified circumstances, including when the tenant has violated the lease by defaulting on rent or failing to perform a duty under the lease.

This bill would prohibit a state court, county sheriff, or party to a residential unlawful detainer case from accepting for filing, or taking any further action including executing a writ of possession or otherwise proceeding with an unlawful detainer action during the timeframe in which a state of emergency related to the COVID-19 virus is in effect and 15 days thereafter, except as specified.

The bill would also authorize a defendant, for any residential unlawful detainer action that includes a cause of action for a person continuing in possession without permission of their landlord, to notify the court

of the defendant's desire to stipulate to the entry of an order. The bill would require the court, upon receiving that notice from a defendant, to notify the plaintiff and convene a hearing to determine whether to issue an order, as specified. The bill would require the court, if it determines that the tenant's inability to stay current on the rent is the result of increased costs in household necessities or decreased household earnings attributable to the COVID-19 virus, to make an order for the tenant to remain in possession, to reduce the rent for the property by 25% for the next year, and to require the tenant to make monthly payments to the landlord beginning in the next calendar month in accordance with certain terms. The bill would require declarations under these procedures to be filed under penalty of perjury.

The bill would make these provisions effective in a jurisdiction in which a state or locally declared state of emergency is in effect until 15 days after the state of emergency ends and would repeal these provisions on January 1, 2022.

By imposing new duties on county officials and also expanding the crime of perjury, the bill would impose a state-mandated local program.

The bill would contain related findings regarding the economic hardships imposed by the COVID-19 virus.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law governs the admissibility of evidence in court proceedings and permits a trafficking victim to claim an evidentiary privilege for confidential communications between the victim and a human trafficking case worker. Existing law defines "human trafficking caseworker" as, among other things, a person who is employed by an organization that provides domestic violence shelter-based programs and who has specified training or experience. Existing law requires domestic violence shelter-based programs to provide certain basic~~

~~services to victims of domestic violence and their children, including shelter on a 24 hours a day, 7 days a week basis, and a drop-in center that operates during normal business hours to assist victims of domestic violence who have a need for support services.~~

~~This bill would expand the definition of a human trafficking caseworker to include a person who is employed by a human trafficking victim services program, as defined, and who has the training and experience described above. The bill would expand the scope of the privilege by making each of these changes to the definition of a human trafficking caseworker.~~

~~The California Constitution requires that a statute that would exclude relevant evidence in any criminal proceeding be enacted by a $\frac{2}{3}$ vote of each house of the Legislature.~~

~~Because this bill would exclude certain communications between a victim of human trafficking and a human trafficking caseworker in criminal proceedings, the bill would require a $\frac{2}{3}$ vote.~~

~~Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.~~

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature finds and declares as follows:*
- 2 (a) *In late December 2019, several cases of unusual pneumonia*
- 3 *began to emerge in the Hubel province of China. On January 7,*
- 4 *2020, a novel coronavirus now known as COVID-19 was identified*
- 5 *as the likely source of the illness.*
- 6 (b) *Infections have rapidly spread to other countries throughout*
- 7 *the world, including the United States.*
- 8 (c) *On January 30, 2020, the World Health Organization (WHO)*
- 9 *declared COVID-19 a Public Health Emergency of International*
- 10 *Concern, and on January 31, 2020, the United States Secretary*
- 11 *of Health and Human Services declared a Public Health*
- 12 *Emergency.*
- 13 (d) *On March 4, 2020, California Governor Gavin Newsom*
- 14 *declared a State of Emergency to make additional resources*
- 15 *available, formalize emergency actions already underway across*
- 16 *multiple state agencies and departments, and help the state prepare*
- 17 *for a broader spread of COVID-19. The proclamation comes as*
- 18 *the number of positive COVID-19 cases and related deaths in*
- 19 *California rises.*

1 (e) Public health officials have indicated that people displaying
2 symptoms that could be consistent with coronavirus as well as
3 people in close contact with people displaying symptoms should
4 self-quarantine by remaining in their homes.

5 (f) Public health officials have emphasized the critical
6 importance of proper sanitation and good hygiene to slow and
7 prevent the spread of the coronavirus.

8 (g) Most children who are unable to attend school because of
9 closures will have to remain at home.

10 (h) Individuals and families who become homeless will not be
11 able to self-quarantine at home, will not have access to proper
12 sanitation and the facilities for maintaining good hygiene, and
13 will not be able to care for their children at home.

14 (i) Both large and smaller events across California and the
15 United States have been canceled or postponed in response to
16 official government orders and public health recommendations at
17 all levels of government to cancel large gatherings amid concerns
18 over spread of the virus. These cancellations and postponements
19 cause loss in revenue for the event, as well as surrounding local
20 businesses that rely on such events to bring in patrons to their
21 businesses.

22 (j) Due to the cancellation of local conferences and other
23 large-attendance events, there has been a significant loss of
24 business opportunities. Also, there is a projected loss of indirect
25 spending – the ripple effect of incremental spending within the
26 community that would have occurred from the direct spending in
27 local businesses.

28 (k) The effects of COVID-19 on the global economy and supply
29 chains are impacting many companies across the United States.
30 Several large, California-based companies have indicated that
31 quarterly earnings will be negatively impacted due to overseas
32 factories operating at two-thirds their capacity, thus leading to
33 missing their growth targets, potentially leading to personnel and
34 other expense cuts. Some companies are having their employees
35 work remotely or from home in order to prevent exposure in the
36 workplace. With more businesses moving towards working from
37 home, less of the workforce will be patronizing restaurants and
38 other retail establishments that employ hourly workers, which is
39 expected to lead to hourly cutbacks and potentially employee
40 terminations.

1 *(l) Many California public school districts have temporarily*
2 *closed. These school closures will cause children to have to remain*
3 *at home, leading to many parents adjusting their work schedules*
4 *to take time off work, whether paid or unpaid. Other parents may*
5 *be forced to absorb additional costs to pay for child care coverage.*
6 *Hourly wage earners are unlikely to be paid for time off. The*
7 *inability to work due to school closures will economically strain*
8 *those families who cannot afford to take off time from work to stay*
9 *at home.*

10 *(m) The economic hardships brought on by the COVID-19*
11 *pandemic mean that many California individuals and households*
12 *are likely to have difficulty remaining current on their rental or*
13 *mortgage housing payments through no fault of their own.*

14 *(n) Without emergency action to prevent it, this likely inability*
15 *to stay current on rental and mortgage housing payments is likely*
16 *to lead to a significant increase in homelessness, exacerbating*
17 *what is already considered a crisis.*

18 *(o) On March 18, 2020, the Federal Housing Finance Agency*
19 *directed the federal National Mortgage Association (Fannie Mae)*
20 *and the Federal Home Loan Mortgage Corporation (Freddie Mac)*
21 *to impose a 60-day moratorium on (1) foreclosures on single-family*
22 *home mortgages that they back and (2) evictions from such home*
23 *mortgages that have already been foreclosed on. This directive*
24 *still leaves millions of home mortgages subject to potential*
25 *foreclosure because they are not backed by Fannie Mae or Freddie*
26 *Mac.*

27 *(p) The Legislature hereby finds and declares that there is a*
28 *current and immediate threat to the public health, safety, and*
29 *welfare and a need for immediate preservation of the public peace,*
30 *health, or safety that warrants this urgency legislation, which*
31 *finding is based upon the facts stated in the recitals above.*

32 SEC. 2. Section 2944.11 is added to the Civil Code, to read:
33 2944.11. (a) Notwithstanding the provisions authorizing
34 nonjudicial foreclosure in this article, the provisions authorizing
35 judicial foreclosure in Chapter 1 (commencing with Section 725a)
36 of Title 10 of the Code of Civil Procedure, or any other general
37 or special law authorizing nonjudicial or judicial foreclosure, no
38 person shall take any action to foreclose on residential real
39 property during the period specified in subdivision (c), including,
40 but not limited to, the following actions:

1 (1) Causing or conducting the sale of real property pursuant
2 to a power of sale.

3 (2) Causing recordation of notice of default pursuant to Section
4 2924.

5 (3) Causing recordation, posting, or publication of a notice of
6 sale pursuant to Section 2924f.

7 (4) Recording a trustee’s deed upon sale pursuant to Section
8 2924h.

9 (5) Initiating or prosecuting an action to foreclose, including,
10 but not limited to, actions pursuant to Section 725a of the Code
11 of Civil Procedure.

12 (6) Enforcing a judgment by sale of real property pursuant to
13 Section 680.010.

14 (b) For purposes of this section, “person” includes, but is not
15 limited to, the following:

16 (1) A beneficiary or trustee named in a deed of trust or
17 mortgagee named in a mortgage with power of sale upon real
18 property or any interest therein to secure a debt or other
19 obligation.

20 (2) An association, as defined in Section 4080.

21 (3) A judgment creditor, as defined in Section 680.240 of the
22 Code of Civil Procedure.

23 (4) Any successor in interest or agent of a party specified in
24 paragraphs (1) to (3), inclusive.

25 (c) This section shall be operative only while there is a state or
26 locally declared state of emergency related to the COVID-19 virus
27 in the jurisdiction in which the residential real property is located,
28 and shall become inoperative 15 days after the state or locally
29 declared state of emergency ends.

30 (d) This section is repealed on January 1, 2022.

31 SEC. 3. Section 730.7 is added to the Code of Civil Procedure,
32 to read:

33 730.7. (a) Notwithstanding the provisions of this chapter or
34 any other law, no court shall accept for filing a complaint in an
35 action to foreclose any residential real property in a jurisdiction
36 subject to a state or locally declared state of emergency on account
37 of the COVID-19 virus until 15 days after the state or locally
38 declared state of emergency ends.

39 (b) This section shall be operative only while there is a state or
40 locally declared state of emergency related to the COVID-19 virus

1 *in the jurisdiction in which the residential real property is located,*
2 *and shall become inoperative 15 days after the state or locally*
3 *declared state of emergency ends.*

4 *(c) This section is repealed on January 1, 2022.*

5 *SEC. 4. Section 1161.05 is added to the Code of Civil*
6 *Procedure, to read:*

7 *1161.05. (a) Notwithstanding any other law, a state court,*
8 *county sheriff, or party to an unlawful detainer case in California*
9 *shall not accept for filing or take any further action, including,*
10 *but not limited to, executing a writ of possession, or otherwise*
11 *proceed with any unlawful detainer action except for those stating*
12 *a cause of action pursuant to paragraph (3) or (4) of Section 1161*
13 *of this code or Section 798.56 of the Civil Code. If a residential*
14 *unlawful detainer action is based on multiple causes of action*
15 *including paragraph (3) or (4) of Section 1161 of this code or*
16 *subdivisions (b) or (c) of Section 798.56 of the Civil Code, a state*
17 *court in California shall not enter judgment for possession in favor*
18 *of the plaintiff unless that judgment is based on either paragraph*
19 *(3) or (4) of Section 1161 of this code or subdivisions (b) or (c) of*
20 *Section 798.56 of the Civil Code.*

21 *(b) For any residential unlawful detainer action that is filed*
22 *after March 4, 2020, that includes a cause of action under*
23 *paragraph (3) or (4) of Section 1161 of this code or subdivision*
24 *(b) or (c) of Section 798.56 of the Civil Code, if, by the deadline*
25 *for filing an answer to the complaint, no answer has been filed*
26 *with the court, the court shall proceed as though all named*
27 *defendants had filed an answer denying each and every allegation*
28 *in the complaint.*

29 *(c) For any residential unlawful detainer matter that does not*
30 *include a cause of action under paragraph (3) or (4) of Section*
31 *1161 of this code or subdivision (b) or (c) of Section 798.56 of the*
32 *Civil Code, and for which a trial, hearing, settlement conference,*
33 *or other in-person appearance has been set as of the date of*
34 *enactment of this section are hereby continued until further notice*
35 *from the court.*

36 *(d) This section shall be operative only while there is a state or*
37 *locally declared state of emergency related to the COVID-19 virus*
38 *in the jurisdiction in which the property is located, and shall*
39 *become inoperative 15 days after the state or locally declared state*
40 *of emergency ends.*

1 (e) *This section is repealed on January 1, 2022.*

2 SEC. 5. *Section 1174.10 is added to the Code of Civil*
3 *Procedure, to read:*

4 1174.10. (a) *For any residential unlawful detainer action that*
5 *includes a cause of action under paragraph (2) of Section 1161,*
6 *any defendant may, at any time between the filing of the complaint*
7 *and entry of judgment, notify the court of that defendant's desire*
8 *to stipulate to the entry of an order pursuant to this section.*

9 (b) *Upon receiving notice from the defendant in accordance*
10 *with subdivision (a), the court shall notify the plaintiff and convene*
11 *a hearing to determine whether to issue an order pursuant to*
12 *subdivision (c).*

13 (1) *At the hearing, the court shall first determine whether the*
14 *defendant's inability to stay current on the rent resulted from*
15 *increased costs for household necessities or reduced household*
16 *earnings due to the COVID-19 virus. The defendant shall bear the*
17 *burden of producing evidence of increased costs for household*
18 *necessities or reduced household earnings due to the COVID-19*
19 *virus. In the absence of evidence to the contrary, if the increased*
20 *costs for household necessities or decreased earnings took place*
21 *at any point between March 4, 2020, and March 4, 2021, then the*
22 *court shall presume that the increased household costs or*
23 *decreased household earnings was due to the COVID-19 virus.*

24 (2) *If the court finds that the defendant's inability to stay current*
25 *on the rent resulted from increased costs for household necessities*
26 *or reduced household earnings due to the COVID-19 virus, the*
27 *court shall next permit the plaintiff to show cause for why the court*
28 *should not issue an order pursuant to subdivision (c) due to*
29 *material economic hardship on the plaintiff. If the plaintiff has an*
30 *ownership interest in just one or two rental units, then the court*
31 *shall presume that issuance of an order pursuant to subdivision*
32 *(c) would constitute a material economic hardship.*

33 (3) *If the plaintiff has an ownership in 10 or more rental units,*
34 *the court shall presume that the issuance of an order pursuant to*
35 *subdivision (c) would not constitute a material economic hardship.*
36 *The formal rules of evidence shall not apply to the introduction of*
37 *evidence at this hearing, but the court may look to the formal rules*
38 *of evidence in determining the weight that it shall give to the*
39 *documentation presented by each side.*

1 (c) *If the court determines that the tenant's inability to stay*
2 *current on the rent is the result of increased costs in household*
3 *necessities or decreased household earnings due to the COVID-19*
4 *virus and the court finds that it would not be an material economic*
5 *hardship to the plaintiff and if the court determines that no cause*
6 *exists after review of a timely response from the plaintiff, then the*
7 *court shall make the following order:*

8 (1) *The tenant shall remain in possession.*

9 (2) *The rent for the rental property at issue shall be reduced by*
10 *25 percent for the next 12-month period.*

11 (3) *The tenant shall make monthly payments to the landlord*
12 *beginning in the next calendar month, in strict compliance with*
13 *all of the following terms:*

14 (A) *The payment shall be in the amount of the monthly rent as*
15 *adjusted pursuant to paragraph (2), plus 10 percent of the unpaid*
16 *rent owing at the time of the order, excluding late fees, court costs,*
17 *attorneys fees, and any other charge other than rent.*

18 (B) *The payment shall be delivered by a fixed day and time to*
19 *a location that is mutually acceptable to the parties or, in the*
20 *absence of an agreement between the parties, by no later than*
21 *11:59 pm on the fifth day of each month.*

22 (C) *The payment shall be made in a form that is mutually*
23 *acceptable to the parties or, in the absence of agreement between*
24 *the parties, in the form of a cashier's check or money order made*
25 *out to the landlord.*

26 (4) *If the tenant fails to make a payment in full compliance with*
27 *the terms of paragraph (2), the landlord may, after 48 hours' notice*
28 *to the tenant by telephone, text message, or electronic mail, as*
29 *stipulated by the tenant, file with the court a declaration under*
30 *penalty of perjury containing all of the following:*

31 (A) *A recitation of the facts constituting the failure.*

32 (B) *A recitation of the actions taken to provide the 48 hours'*
33 *notice required by this paragraph.*

34 (C) *A request for the immediate issuance of a writ of possession*
35 *in favor of the landlord.*

36 (D) *A request for the issuance of a money judgment in favor of*
37 *the landlord in the amount of any unpaid balance plus court costs*
38 *and attorneys fees.*

39 (5) *The case is dismissed with the court retaining jurisdiction*
40 *to enforce the terms of the order pursuant to Section 664.6.*

1 (d) For purposes of this section, “material economic hardship”
2 mean that persons enduring the economic hardship would have
3 to limit spending on household necessities. Reduction in savings,
4 profit margins, discretionary spending, or nonessential assets shall
5 not constitute material economic hardship. In determining whether
6 issuance of an order pursuant to subdivision (c) would constitute
7 an material economic hardship for the plaintiff, the court shall
8 bear in mind the Legislature’s intent that the common economic
9 hardship resulting from the COVID-19 virus is not the fault of any
10 one person or group of people and so must ordinarily be born by
11 both landlords and tenants.

12 (e) This section shall be operative only while there is a state or
13 locally declared state of emergency related to the COVID-19 virus
14 in the jurisdiction in which the residential real property is located,
15 and shall become inoperative 15 days after the state or locally
16 declared state of emergency ends.

17 (f) This section is repealed on January 1, 2022.

18 SEC. 6. Section 27212 is added to the Government Code, to
19 read:

20 27212. (a) Notwithstanding this chapter or any general or
21 special law to the contrary, for the period specified in subdivision
22 (b), a county recorder shall not accept for recordation any
23 instrument, paper, or notice that constitutes a notice of default
24 pursuant to Section 2924 of the Civil Code, a notice of sale
25 pursuant to Section 2924f of the Civil Code, or a trustee’s deed
26 upon sale pursuant to Section 2924h of the Civil Code for any
27 residential real property located in a jurisdiction in which a state
28 or locally declared state of emergency relating to the COVID-19
29 virus is in effect.

30 (b) This section shall be operative only while there is a state or
31 locally declared state of emergency related to the COVID-19 virus
32 in effect in the jurisdiction in which the residential real property
33 is located, and shall become inoperative 15 days after the state or
34 locally declared state of emergency ends.

35 (c) This section is repealed on January 1, 2022.

36 SEC. 7. Section 3732 is added to the Revenue and Taxation
37 Code, to read:

38 3732. (a) Notwithstanding the provisions of this chapter or
39 any general or special law to the contrary, a tax collector shall

1 *suspend the sale of tax-defaulted residential real property for the*
 2 *period specified in subdivision (b).*

3 *(b) This section shall be operative only while there is a state or*
 4 *locally declared state of emergency related to the COVID-19 virus*
 5 *in the jurisdiction in which the residential real property is located,*
 6 *and shall become inoperative 15 days after the state or locally*
 7 *declared state of emergency ends.*

8 *(c) This section is repealed on January 1, 2022.*

9 *SEC. 8. No reimbursement is required by this act pursuant to*
 10 *Section 6 of Article XIII B of the California Constitution for certain*
 11 *costs that may be incurred by a local agency or school district*
 12 *because, in that regard, this act creates a new crime or infraction,*
 13 *eliminates a crime or infraction, or changes the penalty for a crime*
 14 *or infraction, within the meaning of Section 17556 of the*
 15 *Government Code, or changes the definition of a crime within the*
 16 *meaning of Section 6 of Article XIII B of the California*
 17 *Constitution.*

18 *However, if the Commission on State Mandates determines that*
 19 *this act contains other costs mandated by the state, reimbursement*
 20 *to local agencies and school districts for those costs shall be made*
 21 *pursuant to Part 7 (commencing with Section 17500) of Division*
 22 *4 of Title 2 of the Government Code.*

23 *SEC. 9. This act is an urgency statute necessary for the*
 24 *immediate preservation of the public peace, health, or safety within*
 25 *the meaning of Article IV of the California Constitution and shall*
 26 *go into immediate effect. The facts constituting the necessity are:*

27 *The COVID-19 virus presents severe economic hardships for*
 28 *the people of California, and in order to preserve the public peace,*
 29 *health, and safety, it is necessary for this act to take effect*
 30 *immediately.*

31 ~~SECTION 1. Section 1038.2 of the Evidence Code is amended~~
 32 ~~to read:~~

33 ~~1038.2. As used in this article, the following terms have the~~
 34 ~~following meanings:~~

35 ~~(a) “Confidential communication” means information~~
 36 ~~transmitted between the victim and the caseworker in the course~~
 37 ~~of their relationship and in confidence by a means which, so far~~
 38 ~~as the victim is aware, discloses the information to no third persons~~
 39 ~~other than those who are present to further the interests of the~~
 40 ~~victim in the consultation or those to whom disclosures are~~

1 reasonably necessary for the transmission of the information or an
2 accomplishment of the purposes for which the human trafficking
3 counselor is consulted. It includes all information regarding the
4 facts and circumstances involving all incidences of human
5 trafficking.

6 (b) ~~“Holder of the privilege” means the victim when the victim~~
7 ~~has no guardian or conservator, or a guardian or conservator of~~
8 ~~the victim when the victim has a guardian or conservator.~~

9 (e) ~~“Human trafficking caseworker” means any of the following:~~

10 (1) ~~A person who is employed by a a human trafficking victim~~
11 ~~services program, whether financially compensated or not, for the~~
12 ~~purpose of rendering advice or assistance to victims of human~~
13 ~~trafficking, who has received specialized training in the counseling~~
14 ~~of human trafficking victims, and who meets one of the following~~
15 ~~requirements:~~

16 (A) ~~Has a master’s degree in counseling or a related field; or~~
17 ~~has one year of counseling experience, at least six months of which~~
18 ~~is in the counseling of human trafficking victims.~~

19 (B) ~~Has at least 40 hours of training as specified in this~~
20 ~~paragraph and is supervised by an individual who qualifies as a~~
21 ~~counselor under subparagraph (A), or is a psychotherapist, as~~
22 ~~defined in Section 1010. The training, supervised by a person~~
23 ~~qualified under subparagraph (A), shall include, but need not be~~
24 ~~limited to, the following areas: history of human trafficking, civil~~
25 ~~and criminal law as it relates to human trafficking, societal attitudes~~
26 ~~toward human trafficking, peer counseling techniques, housing,~~
27 ~~public assistance, and other financial resources available to meet~~
28 ~~the financial needs of human trafficking victims, and referral~~
29 ~~services available to human trafficking victims. A portion of this~~
30 ~~training must include an explanation of privileged communication.~~

31 (2) ~~A person who is employed by any organization providing~~
32 ~~the programs specified in Section 13835.2 of the Penal Code,~~
33 ~~whether financially compensated or not, for the purpose of~~
34 ~~counseling and assisting human trafficking victims, and who meets~~
35 ~~one of the following requirements:~~

36 (A) ~~Is a psychotherapist as defined in Section 1010, has a~~
37 ~~master’s degree in counseling or a related field, or has one year of~~
38 ~~counseling experience, at least six months of which is in rape~~
39 ~~assault counseling.~~

1 ~~(B) Has the minimum training for human trafficking counseling~~
 2 ~~required by guidelines established by the employing agency~~
 3 ~~pursuant to subdivision (c) of Section 13835.10 of the Penal Code,~~
 4 ~~and is supervised by an individual who qualifies as a counselor~~
 5 ~~under subparagraph (A). The training, supervised by a person~~
 6 ~~qualified under subparagraph (A), shall include, but not be limited~~
 7 ~~to, law, victimology, counseling techniques, client and system~~
 8 ~~advocacy, and referral services. A portion of this training must~~
 9 ~~include an explanation of privileged communication.~~

10 ~~(d) “Human trafficking victim services program” means one of~~
 11 ~~the following:~~

12 ~~(1) A nongovernmental organization or entity that provides~~
 13 ~~shelter, program, or other support services to victims of human~~
 14 ~~trafficking and their children and does all of the following:~~

15 ~~(i) Employs staff that meets the requirements of a human~~
 16 ~~trafficking caseworker set forth in this section.~~

17 ~~(ii) Operates a telephone hotline, advertised to the public, for~~
 18 ~~survivor crisis calls.~~

19 ~~(iii) Offers psychological support and peer counseling provided~~
 20 ~~in accordance with this section.~~

21 ~~(iv) Makes staff available during normal business hours to assist~~
 22 ~~victims of human trafficking who need shelter, programs, or other~~
 23 ~~support services.~~

24 ~~(2) A domestic violence victim service organization as defined~~
 25 ~~in subdivision (b) of Section 1037.1.~~

26 ~~(e) “Victim” means a person who consults a human trafficking~~
 27 ~~caseworker for the purpose of securing advice or assistance~~
 28 ~~concerning a mental, physical, emotional or other condition related~~
 29 ~~to their experience as a victim of human trafficking.~~

Lew, Lisa (BOS)

From: Mandelman, Rafael (BOS)
Sent: Tuesday, March 31, 2020 2:47 PM
To: Bintliff, Jacob (BOS)
Cc: BOS Legislation, (BOS); Temprano, Tom (BOS)
Subject: Re: Introduction: Urging the State Legislature to Enact Eviction and Foreclosure Moratoriums

Categories: 200345

Thank you Jacob. Approval confirmed.
Rafael

Sent from my iPhone

On Mar 31, 2020, at 2:43 PM, Bintliff, Jacob (BOS) <jacob.bintliff@sfgov.org> wrote:

Dear Madam Clerk,

Attached please find the following documents re: Supervisor Mandelman's Resolution urging immediate action by the State legislature to enact eviction and foreclosure moratoriums for residential and commercial tenants during the COVID-19 state of emergency.

- 1) Introduction Form (Supervisor Mandelman is the signatory and is CC'd here to confirm his approval)
- 2) Resolution in Word Format
- 3) Resolution in PDF Format

Please confirm receipt of this email and let us know if any other documents need to be submitted via email. We will submit physical copies to the clerks office within 48 hours per the Clerk's instructions.

Thank you,

Jacob

Jacob Bintliff
Legislative Aide

Office of Supervisor Rafael Mandelman
City Hall, 1 Dr. Carlton B. Goodlett Place, Room 284
San Francisco, California 94102
(415) 554-7753 | jacob.bintliff@sfgov.org

Pronouns: he, him, his

<Introduction Form_Resolution for State eviction moratoriums legislation_Mandelman 3.31.20.pdf>

<RESOLUTION - AB 828 SB 939 eviction moratorium support 3.31.doc>

<RESOLUTION - AB 828 SB 939 eviction moratorium support 3.31.pdf>

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Subject:

The text is listed:

Signature of Sponsoring Supervisor:

For Clerk's Use Only