

File No. 200345

Committee Item No. \_\_\_\_\_

Board Item No. 22

## COMMITTEE/BOARD OF SUPERVISORS

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Board of Supervisors Meeting

Date: \_\_\_\_\_  
Date: April 7, 2020

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Prepared by: Lisa Lew  
Prepared by: \_\_\_\_\_

Date: April 3, 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**

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**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

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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~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: ~~no~~<sup>yes</sup>.

*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.*

12  
13  
14  
15  
16  
17

**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](mailto:Tara.gamboa-eastman@asm.ca.gov)

Jessica Duong  
[Jessica.duong@asm.ca.gov](mailto:Jessica.duong@asm.ca.gov)

## 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](mailto: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](mailto: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