

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)**