

S.2631, AN ACT PROVIDING FOR A MORATORIUM ON EVICTIONS AND FORECLOSURES DURING THE COVID-19 EMERGENCY

S.2631 contains the Senate's amendments to the eviction and foreclosure moratorium bill, H.4615, passed by the House on April 2 and sent to the Senate. S.2631 also incorporates language from an earlier Senate moratorium bill (S.2621).

SECTION 1. DEFINITIONS

“Covid-19 emergency” – Governor’s declared emergency on March 10, 2020

“Non-essential eviction action” – an eviction action:

- (i) for non-payment of rent;
- (ii) resulting from a foreclosure;
- (iii) for no fault or no cause; or
- (iii) for cause that does not involve or include allegations of criminal activity or allegations of lease violations that may impact the health or safety of other residents, health care workers, emergency personnel, persons lawfully on the subject property or the general public.

The language specifies that a non-essential eviction action shall not include an eviction for a “small business premises unit” on account of the lease expiring or a default by the tenant under the lease that occurred before the emergency declaration.

“Small business premises unit” – a commercial tenant that does not tenants, or parties who control those tenants, that:

- (i) operates in multiple states;
- (ii) operates internationally;
- (iii) is publicly traded; or
- (iv) has more than 150 full-time employees.

SECTION 2. REVERSE MORTGAGE COUNSELING

Allows counseling for reverse mortgages to be done by video-conference during the emergency declaration. Once the emergency declaration lapses, counseling for reverse mortgages will revert back to the requirement that counseling be in person. Reverse mortgage counselors must be approved by the Executive Office of Elder Affairs.

SECTION 3. EVICTION MORATORIUM

Prohibitions on Landlords & Owners

For non-essential evictions of residential units, the bill prohibits landlords or owners from:

- (i) terminating a tenancy; or
- (ii) sending any notice, including a notice to quit, requesting or demanding that a tenant vacate the premises.

Stopping & Delaying Non-Essential Eviction Actions in Court

For non-essential eviction actions for residential or small business premises units, the bill prohibits courts:

- (i) accepting for filing a writ, summons or complaint for possession;
- (ii) entering a default judgment for a plaintiff for possession of a residential or commercial property; or
- (iii) scheduling a court event, including a summary process trial.

The bill pauses any deadline or time period for action in a non-essential eviction case for residential or small business premises units, the bill prohibits courts. These time periods include a date to answer a complaint, appeal a judgment, execution for possession or money judgment.

Prohibiting Executions of Evictions

The bill prohibits a sheriff or anyone else from enforcing an execution for possession for a non-essential eviction for residential or.

Prohibiting Late Fees or Negative Credit Reporting

The bill prohibits a landlord or owner of residential or small business premises units from charging a late fee for non-payment or providing rental payment data to any consumer reporting agency related to the non-payment if a tenant provides notice and documentation within 30 days of the non-payment that the non-payment was because of financial impact related to the COVID-19 outbreak.

The bill directs the Executive Office of Housing and Economic Development, in consultation with the Department of Health, to develop forms and recommendations for the provision of the notice and documentation to the landlord.

Obligation to Pay Rent

The bill explicitly states that nothing in this act shall be construed to relieve a tenant from the obligation to pay rent, or restrict a landlord's ability to recover rent.

SECTION 4. FORECLOSURE MORATORIUM & MORTGAGE FORBEARANCE

Foreclosure Moratorium

The bill prohibits foreclosures on residential properties from the effective date of this act until 120 days after the passage of this act. Specifically, the bill prohibits a party from:

- (i) Publishing a notice of a foreclosure;
- (ii) Exercising a power of sale;
- (iii) Exercising a right of entry;
- (iv) Initiating a judicial or non-judicial foreclosure process; or
- (v) File a complaint to determine the military status of a mortgagor under the federal Servicemembers Civil Relief Act.

Mortgage Forbearance

Requires financial institutions to grant a forbearance to residential mortgages upon the homeowner's request if the homeowner has experienced a financial impact related to COVID-19.

The homeowner must request a forbearance within 120 days from the passage of this act. The forbearance cannot be for longer than 180 days. A financial institution may not charge fees, penalties, or interest related to these late payments. The missed mortgage payments shall be added to the end of the loan term, unless otherwise agreed to by the homeowner and the financial institution.

The bill also prohibits financial institutions from reporting negative data to credit reporting agencies for the mortgage payments subject to forbearance.

SECTOIN 5. EFFECTIVE DATE OF EVICTION MORATORIUM

Under this bill, the effective date of the eviction moratorium is for 120 days from the passage of this act. The bill gives the Governor discretion to extend the moratorium in increments of up to 90 days. However, the Governor may not extend the moratorium beyond 30 days after the emergency declaration has been lifted.

The deadlines for non-essential eviction actions, including a date to answer a complaint, appeal a judgment or levy upon an execution for possession or a money judgment, shall begin to run upon the expiration of the moratorium.