

AMENDMENTS TO LB866

(Amendments to Standing Committee amendments, AM2913)

Introduced by Morfeld, 46.

1 1. Insert the following new sections:

2 Sec. 7. (1) For purposes of sections 7 to 11 of this act:

3 (a) City means a city of any class or a village;

4 (b) Dwelling unit includes a dwelling unit as defined in sections
5 76-1410 and 76-1459;

6 (c) Eviction means the use by a landlord of any judicial or
7 nonjudicial means to involuntarily terminate a rental agreement or
8 tenancy or remove a tenant from a dwelling unit;

9 (d) Eviction action means a judicial or administrative proceeding
10 that seeks recovery or possession of a dwelling unit from a tenant,
11 including under sections 76-1440 to 76-1447 or under section 76-14,104;

12 (e) Eviction notice means any notice directing a resident to vacate
13 a dwelling unit or purporting to terminate a rental agreement or tenancy;

14 (f) Eviction order means any order entered in an eviction action
15 that directs or authorizes the removal of a tenant from a dwelling unit.

16 Notwithstanding that such an order may require removal of a person from a
17 dwelling unit, eviction order does not include a domestic violence
18 protection order issued pursuant to section 42-924, a harassment
19 protection order issued pursuant to section 28-311.09 or 28-311.10, or a
20 sexual assault protection order issued pursuant to section 28-311.11 or
21 28-311.12, or any similar order entered in any type of proceeding to
22 protect a tenant from domestic violence, sexual violence, stalking, or
23 other violence. Eviction order also does not include an order restoring a
24 resident to possession of premises under section 10 of this act;

25 (g) Judicial foreclosure action means an action that seeks the
26 foreclosure or satisfaction of a mortgage in accordance with sections

1 25-2137 to 25-2155;

2 (h) Landlord includes a landlord as defined in sections 76-1410 and
3 76-1462;

4 (i) Moratorium period means the time period beginning on the date a
5 city enacts a moratorium under section 8 of this act and lasting until
6 the moratorium is terminated;

7 (j) Rent includes rent as defined in sections 76-1410 and 76-1467;

8 (k) Rental agreement means a rental agreement as defined in sections
9 76-1410 and 76-1468;

10 (l) Tenant includes a tenant as defined in sections 76-1410 and
11 76-1471 and also includes any member of a tenant's household, whether or
12 not listed in a rental agreement;

13 (m) Trust deed has the same meaning as in section 76-1001; and

14 (n) Trustee has the same meaning as in section 76-1001.

15 (2) When reference in this section is made to a definition found in
16 both the Uniform Residential Landlord and Tenant Act and the Mobile Home
17 Landlord and Tenant Act, the definition relevant to the type of tenant or
18 dwelling unit at issue applies for purposes of sections 7 to 11 of this
19 act.

20 Sec. 8. (1)(a) If a city finds that it is necessary to protect the
21 public welfare from the spread of a virus or infectious disease, the city
22 may enact a moratorium on any evictions and foreclosures within the city.

23 (b) A moratorium may be enacted by either the governing body of the
24 city or the chief executive officer of the city, by resolution or
25 proclamation.

26 (2)(a) Except as provided in subdivision (2)(b) of this section, the
27 moratorium shall end when either the governing body or the chief
28 executive officer of the city determines, by resolution or proclamation,
29 that the moratorium is no longer necessary to protect the public welfare,
30 regardless of which entity enacted the moratorium. The moratorium period
31 shall terminate on the date specified in the resolution or proclamation,

1 which shall not be sooner than fourteen days after the issuance of the
2 resolution or proclamation.

3 (b) If the moratorium is enacted by the governing body of the city
4 and the chief executive officer terminates the moratorium, the governing
5 body may reinstate the moratorium with a two-thirds majority vote.

6 (3) If the Legislature determines that a moratorium is unnecessary
7 for the protection of the public welfare, it may by resolution rescind
8 any moratorium enacted by a city.

9 Sec. 9. (1) During the period in which a city has enacted a
10 moratorium, the following shall apply to any dwelling unit within the
11 jurisdiction of the city:

12 (a) A landlord shall not serve a tenant of such a dwelling unit with
13 a notice of intent to terminate a rental agreement or an eviction notice.
14 Any such notice issued to a tenant during the moratorium period is void
15 and shall not be enforced against the tenant;

16 (b) A landlord shall not file a judicial eviction action against a
17 tenant of such a dwelling unit. A court in which such an action is filed
18 shall summarily dismiss such action;

19 (c) A court in which an eviction action relating to such a dwelling
20 unit is pending shall not convene to hear such action or decide such an
21 action;

22 (d) Service of process shall not be issued against a tenant for an
23 eviction action concerning such a dwelling unit;

24 (e) A court shall not accept for filing any eviction action relating
25 to such a dwelling unit;

26 (f) All deadlines pertaining to the filing, service, or other
27 prosecution of an eviction action relating to such a dwelling unit are
28 tolled for the duration of the moratorium period;

29 (g) No eviction order shall be served or executed on a tenant of
30 such a dwelling unit; and

31 (h) A landlord shall not charge fees, penalties, or other charges to

1 a tenant for nonpayment of rent for such a dwelling unit.

2 (2) During the six months following expiration of a moratorium
3 period, a landlord shall not terminate or decline to renew a rental
4 agreement because of a rent delinquency that arose during a moratorium
5 period.

6 (3)(a) Following the expiration of the six-month grace period
7 described in subsection (2) of this section, a landlord shall not
8 terminate or decline to renew a rental agreement because of a rent
9 delinquency that arose during a moratorium period and that remains unpaid
10 unless the landlord first allows the tenant the opportunity to propose a
11 reasonable payment plan after the expiration of the moratorium period. If
12 the proposed payment plan is reasonable under the circumstances, the
13 landlord shall accept the plan.

14 (b) A payment plan is presumptively reasonable for purposes of this
15 subsection if:

16 (i) The tenant agrees that future rental payments will be paid in
17 full as they come due;

18 (ii) Any arrearage on the tenant's account would be paid in full
19 within six months of the agreement; and

20 (iii) The tenant has, or there is good cause to believe the tenant
21 will have, the means to make the required payments according to the
22 schedule.

23 (c) In an eviction action governed by this subsection:

24 (i) The landlord has the burden to prove that the landlord provided
25 an opportunity to propose a reasonable payment plan as required by
26 subdivision (3)(a) of this section;

27 (ii) The tenant has the burden to prove that a payment plan was
28 offered and the proposed terms of such plan; and

29 (iii) If the terms of the proposed payment plan are presumptively
30 reasonable under subdivision (3)(b) of this section, the landlord shall
31 have the burden to prove that the plan was not, in fact, reasonable under

1 the circumstances. If the plan was not presumptively reasonable, the
2 tenant has the burden to prove that the plan was, in fact, reasonable
3 under the circumstances.

4 (4) Except as provided in subsections (5) and (6) of this section,
5 this section does not preclude a landlord from terminating, after
6 expiration of the moratorium period, and for a good cause unrelated to
7 the rent delinquency, the rental agreement of a tenant who became
8 delinquent in rent during a moratorium period.

9 (5) After expiration of a moratorium period, a landlord may
10 terminate a rental agreement that existed during the moratorium period
11 for good cause that arose during the moratorium period, other than a
12 delinquency in rent, only as follows:

13 (a) By giving a new eviction notice that provides the tenant the
14 opportunity to cure the lease violation as required by law, if any; or

15 (b) By giving the tenant at least thirty days' written notice to
16 vacate the premises if (i) no eviction notice would have been required to
17 terminate the rental agreement prior to the moratorium period or (ii) an
18 eviction notice was given before the moratorium period and the deadline
19 for the tenant to preserve the rental agreement by curing the lease
20 violation, if any, expired prior to the expiration of the moratorium
21 period.

22 (6) A landlord shall not terminate or attempt to terminate a rental
23 agreement that existed during a moratorium period wholly or in part
24 because of the tenant's assertion or exercise of a right or protection
25 arising under this section. It shall be a defense to a rental agreement
26 termination or eviction action that the landlord's action was motivated
27 wholly or in part by the tenant's assertion of such right or protection.

28 Sec. 10. (1) Any tenant displaced from a dwelling unit in violation
29 of section 9 of this act may bring an action in a court of competent
30 jurisdiction for a writ of restitution to be restored to such dwelling
31 unit. Such a claim shall constitute an emergency and critical function of

1 the judicial system. The procedure for such a claim shall be as follows:

2 (a) The tenant shall initiate such action by filing a sworn
3 complaint stating the factual basis for the claim and requesting relief
4 as authorized by this subsection;

5 (b) The court shall schedule a hearing on the complaint for as soon
6 thereafter as practicable. Such hearing may be held by telephone or
7 videoconference or through other remote means if practicable, if such
8 means are available to the parties and the court, and if the parties
9 agree to hold a hearing by such means; and

10 (c) Unless the hearing on the complaint is held on the same day as
11 it is filed, the court shall consider the sworn allegations in the
12 complaint and may, on the basis of such sworn allegations, issue an ex
13 parte order that entitles the tenant to immediate and temporary
14 possession of the dwelling unit pending the hearing.

15 (2) A tenant adversely affected by any violation of section 9 of
16 this act may bring a civil action to restrain further violations and to
17 recover the tenant's damages, costs, and reasonable attorney fees. In the
18 case of a willful violation, such tenant shall be awarded damages equal
19 to the tenant's actual and consequential damages or liquidated damages
20 equal to three times the monthly rent, whichever is greater. An action
21 under this subsection may be combined with or brought in addition to an
22 action under subsection (1) of this section.

23 (3) This section waives sovereign immunity with respect to any
24 violation of section 9 of this act committed by a public official or
25 agency, including any landlord which is a public housing agency or
26 governmental entity.

27 Sec. 11. (1) During the period in which a city has enacted a
28 moratorium, the following shall apply to any real property of a landlord
29 within the jurisdiction of the city containing one or more dwelling units
30 rented to tenants:

31 (a) A mortgagee shall not file a judicial foreclosure action against

1 a mortgagor of such real property. A court in which such an action is
2 filed shall summarily dismiss such action;

3 (b) A trustee of any trust deed for such real property shall not:

4 (i) Exercise the power of sale as provided in section 76-1005;

5 (ii) Foreclose upon the trust deed in the manner provided by law for
6 the foreclosure of mortgages on real property as provided in section
7 76-1005;

8 (iii) File for recording a notice of default as provided in section
9 76-1006; or

10 (iv) Publish a notice of sale as provided in section 76-1007;

11 (c) An office of the register of deeds in which a notice described
12 in subdivision (1)(b)(iii) is filed shall refuse to record or accept such
13 filing;

14 (d) Service of process shall not be issued against a mortgagor of
15 such real property for a judicial foreclosure action concerning such real
16 property;

17 (e) A court in which a judicial foreclosure action concerning such
18 real property is pending shall not convene to hear such an action or
19 decide such an action;

20 (f) A court shall not accept for filing any judicial foreclosure
21 action concerning such real property; and

22 (g) The following deadlines shall be tolled for the duration of the
23 moratorium period:

24 (i) All deadlines pertaining to the filing, service, or other
25 prosecution of a judicial foreclosure action;

26 (ii) All deadlines pertaining to exercising the trustee's power of
27 sale or foreclosure under section 76-1005;

28 (iii) All deadlines pertaining to the filing, service, or other
29 prosecution of an action commenced to recover the balance due upon the
30 obligation for which a trust deed was given as security under section
31 76-1013; and

1 (iv) All deadlines relating to exercising the right to cure a
2 default under section 76-1012.

3 (2) A landlord adversely affected by any violation of this section
4 may bring a civil action to restrain further violations and to recover
5 damages, costs, and reasonable attorney fees. In the case of a willful
6 violation, such landlord shall be awarded damages equal to the landlord's
7 actual and consequential damages or liquidated damages equal to three
8 times the monthly mortgage payment, whichever is greater.

9 Sec. 17. Sections 1, 2, 3, 4, 5, 6, 12, 13, 14, 15, and 18 of this
10 act become operative three calendar months after the adjournment of this
11 legislative session. The other sections of this act become operative on
12 their effective date.

13 Sec. 19. Since an emergency exists, this act takes effect when
14 passed and approved according to law.

15 2. Renumber the remaining sections accordingly.