

Assembly Bill 828 – Stop Evictions & Foreclosures for those Affected by COVID-19

Excerpt of Proposed Changes (page 1 of 2, full document on www.sbrpa.org)

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Substantive

LEGISLATIVE COUNSEL'S DIGEST

AB 828, as amended, ~~ing. 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



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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 2/3 vote of each house of the Legislature.



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