



Contra
Costa
County

To: Board of Supervisors
From: Sharon L. Anderson, County Counsel
Date: February 2, 2021

Subject: Urgency ordinance continuing certain residential and commercial evictions.

RECOMMENDATION(S):

CONSIDER whether to adopt Ordinance No. 2021-04, an urgency ordinance continuing a temporary prohibition on certain evictions of residential tenants and of small-business commercial tenants impacted by the COVID-19 pandemic, and related matters.

FISCAL IMPACT:

None.

BACKGROUND:

This ordinance would continue a temporary prohibition on certain evictions of residential tenants and continue a moratorium on certain residential rent increases through a date to be determined by the Board, and would continue a temporary prohibition on certain evictions of small-business commercial tenants through March 31, 2021.

<input checked="" type="checkbox"/> APPROVE	<input type="checkbox"/> OTHER
<input checked="" type="checkbox"/> RECOMMENDATION OF CNTY ADMINISTRATOR	<input type="checkbox"/> RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **02/02/2021** APPROVED AS RECOMMENDED OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.
ATTESTED: February 2, 2021
Monica Nino, County Administrator and Clerk of the Board of Supervisors

Contact: Mary Ann Mason, Chief Assistant County Counsel, (925) 655-2200 By: June McHuen, Deputy

BACKGROUND: (CONT'D)

Prohibition on Residential Evictions and Rent Moratorium

On August 31, 2020, the governor signed Assembly Bill 3088, the COVID-19 Tenant Relief Act of 2020 (the Act). The Act provides eviction protections for residential tenants, including mobilehome tenants, who are experiencing a financial hardship related to COVID-19. The Act prohibits residential tenants from being evicted for failure to pay rent because of a COVID-19-related hardship, as long as the tenant provides the landlord with a written declaration of hardship. Under the Act, residential tenants who experienced a new COVID-19-related hardship between September 1, 2020, and January 31, 2021, were also protected from eviction through this date as long as they paid 25 percent of the rent due by January 31, 2021. Passed on January 28, 2021, Senate Bill 91 extends the protections of the Act through June 30, 2021. A fact sheet on SB 91 prepared by Nielsen Merksamer, County lobbyists, is attached.

The Act also authorizes local jurisdictions to amend existing urgency ordinances to continue prohibitions on certain types of residential evictions, including no-fault evictions. Without local protections in addition to statewide eviction protection for residential renters, eviction notices are likely to increase in light of the COVID-19 pandemic.

As authorized by the Act, the attached urgency ordinance would prohibit a landlord from terminating a residential tenancy for a "no-fault" reason, and prohibit a landlord from terminating a residential tenancy on the basis that a tenant allowed an unauthorized occupant to live in the dwelling unit, if the occupant is the tenant's immediate family member living in the dwelling unit as a result of the COVID-19 pandemic.

The attached urgency ordinance would also prohibit a landlord from increasing rent on a residential real property, subject to specified exceptions.

At the Board's discretion, the residential eviction protections and residential rent moratorium can be extended.

Prohibition on Small-Business Commercial Evictions

On September 23, 2020, the governor issued Executive Order N-80-20, which authorizes local jurisdictions to suspend the evictions of commercial tenants for the non-payment of rent if the non-payment was a result of the COVID-19 pandemic. The executive order authorizes local jurisdictions to suspend these evictions through March 31, 2021. As of last week, the Governor had not extended the March 31 date.

On November 17, 2020, the Board adopted Ordinance No. 2020-29, which prohibits a landlord of a small business commercial property from terminating a tenancy for failure

to pay rent if the tenant demonstrates that the failure to pay rent is directly related to a loss of income or out-of-pocket medical expenses associated with the COVID-19 pandemic. The tenant must provide documentation showing loss of income or out-of-pocket medical expenses. In addition, a landlord of a small business commercial property may not charge or collect a late fee for unpaid rent due from a tenant who demonstrated substantial loss of income or substantial out-of-pocket medical expenses. These protections lasted through January 31, 2021. The ordinance also established a grace period for small business commercial tenants to pay rent after the date it would otherwise be due, provided that the tenant follows the procedures specified in the ordinance. This grace period lasts through March 31, 2021.

As authorized by Executive Order N-80-20, the attached ordinance would extend the protections of Ordinance No. 2020-29 for small business commercial tenants through March 31, 2021, and would extend the grace period for rent repayment for two months, through May 31, 2021.

The attached ordinance would be retroactive to February 1, 2021.

CLERK'S ADDENDUM

Speakers: Melvin Willis; Marianna Moore; Mayor Kevin Wilkes; Katherine Wally, Walnut Creek, No Name Given; Christine Laughlin; Hector, ACCE; Written commentary received from Jonathan Hawes (attached).

ATTACHMENTS

DRAFT Ordinance No. 2021-04

SB 91 Fact Sheet