

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and General Affairs to  
3 which was referred Senate Bill No. 333 entitled “An act relating to expediting  
4 evictions for owner-occupied properties” respectfully reports that it has  
5 considered the same and recommends that the bill be amended by striking out  
6 all after the enacting clause and inserting in lieu thereof the following:

7 \* \* \* Ejectment and Foreclosure Actions; Moratoria \* \* \*

8 Sec. 1. LANDLORDS AND TENANTS; HOUSING LENDERS;

9 TEMPORARY HOUSING-RELATED MORATORIA

10 (a) Definitions. As used in this section:

11 (1) “Emergency period” means the period beginning with the  
12 Governor’s declaration of a state of emergency on March 13, 2020, arising  
13 from COVID-19, and ending 30 days after the Governor terminates the state of  
14 emergency by declaration.

15 (2) “Ejectment” refers to an ejectment action brought under 9 V.S.A.  
16 chapter 137 and 12 V.S.A. chapter 169 against the tenant of a residential  
17 dwelling unit.

18 (3) “Foreclosure” refers to a foreclosure action brought under 12 V.S.A.  
19 chapter 172 against a dwelling house, as defined in 12 V.S.A. § 4931(2).

20 (b) Duties. This section does not:

1           (1) relieve a tenant of the obligation to pay rent pursuant to 9 V.S.A.  
2           § 4455;

3           (2) relieve a tenant in a pending ejectment action of the obligation to pay  
4           rent into court pursuant to an existing order under 12 V.S.A. § 4853a;

5           (3) relieve a borrower under a residential loan agreement of the  
6           obligation to make timely payments pursuant to the terms of the loan  
7           agreement; or

8           (4) limit a court’s ability to act in an emergency pursuant to  
9           Administrative Order 49, issued by the Vermont Supreme Court, as amended,  
10           which may include an action that involves criminal activity, illegal drug  
11           activity, or acts of violence, or other circumstances that seriously threaten the  
12           health or safety of other residents.

13           (c) Pending foreclosure and ejectment actions.

14           (1) Upon the effective date of this act, all pending actions for ejectment  
15           under 12 V.S.A. chapter 169, actions for foreclosure under 12 V.S.A.  
16           chapter 172, and any outstanding orders in those actions that could lead to  
17           execution of a writ of possession against a tenant or resident are stayed until  
18           the end of the emergency period.

19           (2) A court of this State, before which is any matter stayed pursuant to  
20           subdivision (1) of this subsection, shall issue any necessary orders and provide  
21           notice to the parties of the stay.

1        (d) New foreclosure and ejectment actions. During the emergency period,  
2        a landlord may commence an ejectment action pursuant to 9 V.S.A.  
3        chapter 137 and 12 V.S.A. chapter 169, and a residential mortgage lender may  
4        commence a foreclosure action pursuant to 12 V.S.A. chapter 172, subject to  
5        the following:

6            (1) The plaintiff may commence the action only by filing with the Civil  
7        Division of the Superior Court and not by service pursuant to V.R.C.P. 3.

8            (2) The court shall stay the action as of the date of filing until the end of  
9        the emergency period.

10          (3) The plaintiff shall not attempt to serve and a sheriff or constable  
11        shall not serve any civil process.

12          (4) The deadline for completing service of process pursuant to  
13        V.R.C.P. 3 is 60 days after the emergency period ends.

14          (e) Writs of possession not yet issued. During the emergency period, a  
15        court shall not issue a writ of possession:

16            (1) in an ejectment action:

17            (A) pursuant to 12 V.S.A. § 4853a(h) because a tenant failed to pay  
18        rent into court; or

19            (B) pursuant to 12 V.S.A. § 4854 if the court has entered a judgment  
20        in favor of the plaintiff but did not issue a writ of possession with the  
21        judgment; or

1           (2) in a strict foreclosure action pursuant to 12 V.S.A. § 4941(e) because  
2           the property is not redeemed; or

3           (3) in an action for foreclosure by judicial sale pursuant to 12 V.S.A.  
4           § 4946(d) upon expiration of all periods of redemption.

5           (f) Writs of possession already issued.

6           (1) A writ of possession that was issued by a court prior to the effective  
7           date of this act is stayed as of the start date of the emergency period and  
8           resumes running when the Governor terminates the state of emergency by  
9           declaration.

10           (2) If a writ of possession was issued but not executed prior to the  
11           effective date of this act, then after the Governor terminates the state of  
12           emergency by declaration:

13           (A) the plaintiff shall serve or serve again the writ to the defendant;  
14           and

15           (B) the plaintiff shall be restored to possession not sooner than  
16           14 days after service.

17           (g) Rent escrow hearings.

18           (1) For any hearing on a motion to order a defendant to pay rent into  
19           court that occurs within the first 45 days after the emergency period ends, if the  
20           court finds that the tenant is obligated to pay rent and has failed to do so, then

1 notwithstanding 12 V.S.A. § 4853a(d), the court shall order the defendant to  
2 pay into court:

3 (A) rent as it accrues from the date of the order while the proceeding  
4 is pending; and

5 (B) rent accrued from:

6 (i) the date the motion was served, if the motion was served after  
7 the effective date of this act; or

8 (ii) the end of the emergency period, if the motion was served  
9 before the effective date of this act.

10 (2) The court may reduce the amount of rent the defendant must pay into  
11 court under this subsection after considering:

12 (A) the tenant's inability to pay due to circumstances arising in the  
13 emergency period; and

14 (B) whether the tenant made good faith attempts to secure available  
15 emergency rental payment funds.

16 (h) Resumption of actions for breach of rental agreement. Notwithstanding  
17 any provision of this act to the contrary, an ejectment action for breach of a  
18 rental agreement pursuant to 9 V.S.A. § 4467(b) may proceed in court when  
19 the Governor terminates the state of emergency by declaration.

1           (i) Notarization; alternative filing requirement. During the emergency  
2           period, in an ejectment action or foreclosure action, notwithstanding 4 V.S.A.  
3           § 27b:

4                   (1) a party may file any document that would otherwise require the  
5                   approval or verification of a notary by filing the document with the following  
6                   language inserted above the signature and date: “I declare that the above  
7                   statement is true and accurate to the best of my knowledge and belief. I  
8                   understand that if the above statement is false, I will be subject to the penalty  
9                   of perjury or other sanctions in the discretion of the court.”

10                   (2) a document filed pursuant to this subsection shall not require the  
11                   approval or verification of a notary; and

12                   (3) this subsection does not apply to an affidavit in support of a search  
13                   warrant application or to an application for a nontestimonial identification  
14                   order.

15                                   \* \* \* Effective Date \* \* \*

16           Sec. 2. EFFECTIVE DATE

17                   This act shall take effect on passage.

18                   and that after passage the title of the bill be amended to read: An act  
19                   relating to establishing a moratorium on ejectment and foreclosure actions  
20                   during the COVID-19 emergency

1 (Committee vote: \_\_\_\_\_)

2

\_\_\_\_\_

3

Senator \_\_\_\_\_

4

FOR THE COMMITTEE

5