

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: _____)

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Senator _____

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FOR THE COMMITTEE

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