

AMENDMENT TO SENATE BILL 3066

AMENDMENT NO. _____. Amend Senate Bill 3066 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the COVID-19 Emergency and Economic Recovery Renter and Homeowner Protection Act.

Section 5. Purpose and findings. The purpose of this Act is to protect renters, homeowners, and persons in need of housing, based upon the following findings:

International, national, state, and local governments and health authorities are responding to an outbreak of a disease caused by the novel coronavirus referred to as COVID-19.

African American and Latino households in the State of Illinois are at disproportionate risk of exposure to and the contraction of COVID-19 and to economic effects of this pandemic.

~~10100SB3066ham002~~10100SB3066ham003 - 2 - LRB101 17653 LNS 7237372419 a

On March 9, 2020, the Governor of the State of Illinois issued a disaster declaration proclamation in Illinois because of the threat of COVID-19.

On March 26, 2020, the President of the United States declared that a major disaster exists in the State of Illinois and ordered Federal assistance to supplement State, tribal, and local recovery efforts in the areas affected by the COVID-19 pandemic beginning on January 20, 2020 and continuing.

On April 1, 2020, the Governor of the State of Illinois issued a second disaster declaration proclamation in Illinois because of the threat of COVID-19.

On April 30, 2020, the Governor of the State of Illinois issued a third disaster declaration proclamation in Illinois because of the threat of COVID-19.

The Centers for Disease Control and Prevention and the Illinois Department of Public Health have issued

recommendations including, but not limited to, social distancing, staying home if sick, shutting down all nonessential businesses, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus.

Experts predict a vaccine will not be approved for at least a year, and the World Health Organization has stated, "There is currently no evidence that people who have recovered from COVID-19 and have antibodies are protected from a second

~~10100SB3066ham002~~10100SB3066ham003 - 3 - LRB101 17653 LNS ~~7237372419~~ a
infection."

Because of the public health emergency and the precautions recommended by health authorities, many residents and businesses in the State of Illinois have experienced or expect soon to experience sudden and unexpected income loss.

A quarter of this State's workforce is employed in industries directly impacted by the closure of nonessential services as recommended by health authorities, and unemployment claims in this State are exceeding levels from the 2008 Great Recession.

Further long-term economic impacts are anticipated, with reliable forecasts of 30% unemployment rate in the second quarter of 2020, leaving residential and commercial tenants vulnerable to eviction and homeowners vulnerable to foreclosure.

The Governor of the State of Illinois has stated that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19 and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources, including shelters and food banks.

Before COVID-19, over half of Illinois low-income renters were already rent-burdened, and the rate of underwater

~~10100SB3066ham002~~10100SB3066ham003 - 4 - LRB101 17653 LNS 7237372419 a

mortgages in Illinois was one of the highest in the nation.

31% of adults in a nationally representative sample taken during the pandemic report that they are worried that they cannot pay rent, a mortgage, or utilities.

During this emergency and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement to prevent housed individuals from falling into homelessness.

On March 20, 2020, the Governor issued Executive Order 2020-10, which instructed authorities to cease enforcement of orders for residential evictions.

On March 18, 2020, the Illinois Commerce Commission required all private water, electric, and natural gas utilities in Illinois to suspend service disconnections, waive late-payment penalties, and implement temporary flexible credit and payment procedures to ensure all customers remain connected to essential utility service.

On April 23, 2020, the Governor issued Executive Order 2020-30, which further prohibited persons and entities from commencing residential eviction actions in most cases and ceasing the enforcement of eviction orders for most nonresidential premises.

Unpaid rent, late fees, and court costs are currently accruing against residential and commercial tenants and will be demanded by landlords after the expiration of the emergency period.

~~10100SB3066ham002~~10100SB3066ham003 - 5 - LRB101 17653 LNS 7237372419 a

Public health is endangered if tenants will face immediate demand for the entire sum after the emergency period expires,

the courts are clogged with thousands of additional eviction court filings, tenants leave their homes and enter into homelessness in order to avoid an eviction filing, resulting in a chaotic displacement process.

Involuntary displacement caused by an eviction interrupts a child's education, causing the child to have lower school achievement and delayed literacy skills and be more likely to be truant, threatens the child's social and emotional security, and adversely impacts families in the form of stress and exposure to substandard housing with environmental hazards.

The State of Illinois needs to ensure that returning citizens have fair and equitable access to housing, that persons who have or who are perceived to have COVID-19 are protected from housing discrimination, and that renters and homeowners cannot be discriminated against for relying upon third-party sources of financial support to pay their rent and mortgages.

The State of Illinois deems it necessary to protect public health, life, and property during this declared state of emergency by protecting small business commercial and residential tenants and homeowners from certain evictions and foreclosures and other hardships during this public health and economic crisis.

~~10100SB3066ham00210100SB3066ham003~~ - 6 - LRB101 17653 LNS ~~7237372419~~ a

Section 10. Definitions. Unless the context clearly indicates otherwise, as used in this Act:

~~—"COVID-19 emergency and economic recovery period" means the period beginning on March 9, 2020, when the Governor issued the first disaster proclamation for the State of Illinois to address the circumstances related to COVID-19, and ending on the first day of the month following a month in which both the published statewide unemployment rate is no more than 1.5 percentage points higher than the statewide unemployment rate for February 2020, and the published statewide unemployment~~

~~rate has decreased in 2 of the previous 3 months. However, if a gubernatorial disaster proclamation issued to address circumstances related to COVID-19 is still in effect on that date, the COVID-19 emergency and economic recovery period expires 45 days after that proclamation expires.~~

"COVID-19 related hardship" means any negative financial impact on an individual or household because of COVID-19 and associated governmental orders, including: loss of income, furlough, hour reduction or other interruption to employment due to workplace, school, and other facility closures; or increased household, child care, health care, or other expenses.

"Dwelling unit" means a building, structure, or part of a building or structure or land appurtenant to a building or structure, a unit or lot of a manufactured home as defined in Section 3 of the Mobile Home Landlord and Tenant Rights Act, or

-
-

10100SB3066ham002

-7-

LRB101-17653 LNS 72373 a

other residential real estate used or held out for human habitation, together with all common areas and storage areas held out for use by the resident.

"Eviction" or "to evict" means using any judicial or nonjudicial means to involuntarily remove a resident or small business commercial tenant from a dwelling unit or a small business commercial premises, including, but not limited to:

(1) issuing an eviction notice or other notice to terminate a tenancy;

(2) filing, serving, or other otherwise initiating a judicial eviction action;

(3) prosecuting a pending eviction action, other than as necessary to request a continuance or suspension of the

-
-

10100SB3066ham003

-7-

LRB101 17653 LNS 72419 a

matter or to comply with an order of the tribunal; or

(4) seeking or causing any order for the physical eviction of a resident or small business commercial tenant to be executed.

"Eviction action" means any judicial or administrative proceeding that seeks recovery of possession of a dwelling unit or small business commercial premises from a resident or small business commercial tenant.

"Eviction order" means any order entered in an eviction action that directs or authorizes the removal of a resident or small business commercial tenant from a dwelling unit or a small business commercial premises. "Eviction order" does not include an order entered to remove a resident who is the

-

-

10100SB3066ham002

- 8 -

LRB101-17653-LNS 72373-a

perpetrator of violence in order to protect another resident or tenant from domestic violence, sexual violence, dating violence, or stalking. "Eviction order" does not include an order restoring a resident to possession of the dwelling unit entered under subsection (h) of Section 15.

"Eviction notice" means any notice directing a resident or small business commercial tenant to vacate the dwelling unit or small business commercial premises or otherwise purporting to terminate a tenancy.

"Fund" means the Residential Housing Relief Fund created under Section 20.

~~"IDHS" means the Illinois Department of Human Services.~~

"IHDA" or "Department" means the Illinois Housing Development Authority.

-

-

10100SB3066ham003

- 8 -

LRB101 17653 LNS 72419 a

"Landlord" means an owner of record, agent, lessor, sublessor, court-appointed receiver or master, mortgagee in possession, or the successor in interest of any of them of a dwelling unit or the building of which it is a part and any

person authorized to exercise any aspect of the management of the premises. "Landlord" includes any person who directly or indirectly receives rents and has no obligation to deliver the whole of the receipts to another person. "Landlord" also includes the owner of a mobile home park.

"Premises" means the dwelling unit and the building or structure of which it is a part, facilities and appurtenances therein, and grounds, areas, and facilities held out for the

-

-

10100SB3066ham002

-9-

LRB101 17653 LNS 72373 a

use of residents.

"Rental agreement" means every letting or lease, whether by written or verbal agreement, of a dwelling unit or small business commercial premises.

"Residential landlord" means an owner of record, agent, lessor, sublessor, court-appointed receiver or master, mortgagee in possession, or the successor in interest of any of them of a dwelling unit or the building of which it is a part, and any person authorized to exercise any aspect of the management of the premises. "Residential landlord" includes any person who directly or indirectly receives rents and has no obligation to deliver the whole of the receipts to another person. "Residential landlord" also includes the owner of a mobile home park.

-

-

10100SB3066ham003

-9-

LRB101 17653 LNS 72419 a

"Residential tenant" or "tenant" means a person entitled by written or verbal agreement, subtenancy approved by the landlord, or by sufferance to occupy a dwelling unit to the exclusion of others. "Residential tenant" includes members of a tenant's household occupying the dwelling unit.

"Small business commercial premises" means any parcel of real property that is developed and used either in part or in whole for commercial purposes by a business that is not a part

of a multinational corporation, ~~and that~~ has less than 25 ~~employees,~~
~~and~~
~~where the average income per employee is \$50,000 or less.~~~~employees.~~

"Small business commercial tenant" means a commercial
tenant that is not a part of a multinational corporation, ~~has~~ and
that has less than 25 employees.

-
-
-

10100SB3066ham002

- 10 -

LRB101 17653 LNS 72373 a

~~less than 25 employees, and the average income per employee is~~
~~\$50,000 or less.~~

-

Section 15. Moratorium on residential and small business
commercial premises eviction.

(a) There is hereby declared a moratorium on evictions from
residential and small business commercial premises in this
State that shall remain in effect for 60 days after the
effective date of this Act.

(b) Except as provided in subsection (f), during the
moratorium:

(1) No person or entity shall evict or attempt to evict
a residential tenant or small business commercial tenant
from a dwelling unit or small business commercial premises.

(2) No court shall accept any filing, including a

-
-

10100SB3066ham003

- 10 -

LRB101 17653 LNS 72419 a

complaint, summons, or motion, other than those authorized
under subsection (f), in an eviction action, or hear or
decide any matter, or enter a judgment in favor of the
plaintiff for eviction, rent, or other remedies that may
have otherwise been permitted by law.

(3) No sheriff, local law enforcement officer, or any
other person or entity may serve process or attempt to
serve process for an eviction action.

(c) Any eviction notice issued ~~during the moratorium is~~ on or after March 9, 2020 ~~through the date on which the moratorium expires is invalid and~~ invalid and shall not be deemed to have terminated the residential or small residential or small business commercial tenancy. ~~Any eviction, except in an action commenced under subsection (f) or in a pending eviction actions filed on or before April 22, 2020.~~

(d) (Blank).

10100SB3066ham002

-11-

LRB101 17653 LNS 72373 a

~~notice issued prior to the moratorium for which no case was filed as of the effective date of this Act shall also be invalid and shall not be deemed to have terminated the tenancy.~~

~~— (d) Any process served during the moratorium is insufficient service of process and will not confer jurisdiction on the court.~~

(e) Any deadline or period for action by a party to an eviction action commenced before the effective date of this Act, including the time to appeal a judgment, is tolled during the moratorium.

(f) This moratorium does not prevent a residential landlord from taking any legal action to protect other residential tenants by evicting or otherwise barring from the premises any person who poses a credible threat of violence to other residential tenants at the premises.

~~— (g) This Act shall not be interpreted as restricting or~~ (g) (Blank).

~~eliminating a residential tenant's ability to file and a court's ability to hold a hearing and issue a ruling on a motion to seal under Section 25.~~

(h) Any residential or small business commercial tenant

10100SB3066ham003

- 11 -

LRB101 17653 LNS 72419 a

dispossessed of a dwelling unit or small business commercial

premises in violation of subsection (b) may bring an action in a court of competent jurisdiction to regain possession of the dwelling unit or small business commercial premises. Such a claim shall constitute an emergency and shall be scheduled by the court for a hearing as soon as practicable.

-
-

~~10100SB3066ham002~~

~~-12-~~

~~LRB101 17653 LNS 72373 a~~

(i) In any action pending or commenced after expiration of the moratorium, a residential landlord may not maintain any eviction action based on the nonpayment of rent that first became due on or after March 9, 2020 through the expiration of the moratorium, late fees, or any other fee or cost associated with such nonpayment, nor may any residential landlord issue an eviction notice demanding such rent or fees.

(j) Nothing in this Section prohibits:

(1) a residential or small business commercial tenant from terminating a rental agreement in a manner otherwise prescribed by contract or law;

(2) the termination of a residential or small business commercial rental agreement by mutual agreement; or

(3) a landlord from bringing a claim for rent due in the manner described in Illinois Supreme Court Rules 281 through 289.

-

~~Section 20. Residential Relief Fund.~~ (k) Any eviction action may be sealed if the tenant shows a COVID-19 related hardship or the interests of justice outweigh the interests of the public in viewing the court file.

(1) Any eviction proceeding against a tenant who applies

-
-

~~10100SB3066ham003~~

~~- 12 -~~

~~LRB101 17653 LNS 72419 a~~

for relief under Section 20 of this Act shall be stayed from the date that his or her application is submitted, for the time that his or her application is pending and being considered by

the Department.

-

Section 20. Residential Housing Relief Fund.

(a) Within 30 days of this Act becoming law, the Illinois Housing Development Authority, ~~in cooperation with the~~ shall establish a Residential Illinois Department of Human Services, shall establish a Residential Housing Relief Fund, to provide assistance to:

(1) Residential landlords and residential tenants in order to preserve the tenancy by covering certain rental amounts due from residential tenants unable to pay rent because they are experiencing a COVID-19 related hardship

-

-

10100SB3066ham002

-13-

LRB101 17653 LNS 72373 a

and are at risk of homelessness.

(2) Residential tenants experiencing a COVID-19 related hardship who need to move and have demonstrated a financial need for funds to cover expenses, including, but not limited to, the first month's rent or a security deposit, or both.

(3) Homeowners who have demonstrated that they are unable to make mortgage payments, after exhausting all forbearance options available.

(b) IHDA, ~~in cooperation with IDHS,~~ shall allocate available funds to homeowners, ~~available funds to local administering agencies for distribution to homeowners, residential landlords, and residential landlords, and~~ residential tenants and establish ~~further administrative~~ further administrative requirements on the application for and ~~the distribution of~~ the distribution of these funds as is necessary.

-

-

10100SB3066ham003

- 13 -

LRB101 17653 LNS 72419 a

(c) In accordance with existing eligibility and other funding requirements, available funds shall be prioritized as

follows:

(1) qualified residential tenants at 50% or below of the median family income for the area of the local administering agency unable to make rental payments;

(2) qualified residential tenants who are not eligible for federal funds and who are unable to make rental payments;

(3) qualified residential tenants at imminent risk of or who are experiencing homelessness because they are

~~10100SB3066ham002~~

~~-14-~~

~~LRB101 17653 LNS 72373 a~~

unable to make rental payments; and

~~(4) where the residential property is in a zip code experiencing higher rates of poverty when compared to the State as a whole and the residential tenants are unable to make rental payments; and~~

(5) homeowners who are unable to make mortgage payments, after exhausting all forbearance options available.

(d) Application for residential housing relief funds.

(1) A landlord, tenant, or homeowner may apply for such funds in accordance with the application requirements established by IHDA ~~and IDHS~~. The funds shall go to the landlord or landlord or the mortgagee.

(2) A landlord must apply for funds under this Section before bringing a claim for rent, including under Illinois Supreme Court Rules 281 through 289. Once an application for funds is completed, the landlord may not bring a claim for rental debt owed during the moratorium for the tenant's use and occupancy of the dwelling unit pursuant to Illinois

~~10100SB3066ham003~~

~~- 14 -~~

~~LRB101 17653 LNS 72419 a~~

Supreme Court Rules 281 through 289 until the application

is denied.

(e) Receipt of residential housing relief funds.

(1) Landlords who receive such funds cannot charge or otherwise collect rent or other fees to residential tenants due during the term of the moratorium or report residential tenants to a debt collector.

-
-

10100SB3066ham002

-15-

LRB101 17653 LNS 72373 a

(2) Landlords must in good faith cooperate with and complete all requirements established by IHDA, including any agreements to maintain the residential tenant's tenancy.

(3) Landlords cannot refuse to accept funds from or on behalf of tenants from the Residential Housing Relief Fund on the basis that the tenants' funds come from the Residential Housing Relief Fund.

(4) Landlords who violate paragraph (1), (2), or (3) of this subsection (e) may be subject to recapture of any received Residential Housing Relief Fund dollars by IHDA, ~~IDHS, or the local administering agency,~~ without penalty to the residential tenant.
~~the residential tenant.~~

(f) The Residential Housing Relief Fund is created as a special fund in the State treasury. Subject to appropriation, all money in the fund shall be distributed to the Department to carry out the purposes of this Act. Any repayments, interest, or new appropriations shall be deposited into the fund. Money in the fund shall not be subject to transfer to the General Revenue Fund or to any other fund. Federal funds made available

-
-

10100SB3066ham003

-15-

LRB101 17653 LNS 72419 a

to the states as a result of the COVID-19 pandemic may be deposited into the fund. It is the intent of the General Assembly to prioritize the use of available federal funds

before using General Revenue funds.

(g) This Section is subject to appropriation.

~~10100SB3066ham002~~

~~-16-~~

~~LRB101-17653 LNS 72373-a~~

~~Section 25. Eviction ease sealing, provisions preempted. For the~~

~~— (a) The court file shall be sealed upon the commencement of any residential eviction action during the COVID-19 emergency and economic recovery period. If a residential eviction action commenced during the COVID-19 emergency and economic recovery period is pending on the effective date duration of this Act and is not, Article IX of the Code of Civil Procedure sealed, is preempted only to the court shall, upon the motion extent that any of either party or its provisions own motion, order the sealing of the court file.~~

~~— (b) The court may, upon the motion of the either party or its own motion, order the sealing of any court file in a conflict with any provision of this Act.~~

~~residential eviction action commenced before the COVID-19 emergency and economic recovery period, if the court finds:~~

~~— (1) the residential tenant has established an affirmative defense to the eviction action;~~

~~— (2) the defendant has experienced a COVID-19 related hardship; or~~

~~— (3) the interests of justice in sealing the court file outweigh the public interest in maintaining a public record.~~

~~— (c) Upon motion and order of the court, a sealed court file may be made available for scholarly, educational,~~

~~journalistic, or governmental purposes only, balancing the interests of the parties and the public in nondisclosure with Section 30. Conflict with federal law. Nothing with respect the interests of the requesting party. Identifying information of the parties shall remain sealed, unless the court determines that release of the information is necessary to fulfill the~~

~~purpose of the request. Nothing in this subsection shall permit the release of a sealed court file or the information contained therein for a commercial purpose.~~

~~Section 30. Eviction provisions preempted. For the duration of the COVID-19 emergency and economic recovery period, Article IX of the Code of Civil Procedure is preempted only to the extent that any of its provisions conflict with any provision of this Act.~~

~~Section 35. Conflict with federal law. Nothing with respect to this Act conflicts with or is intended to conflict with federal law.~~

Section 4035. Repeal. ~~This Act is repealed at the end of the Sections 5, 10, 15, 25, and 30 are COVID-19 emergency and economic recovery period. repealed on January 1, 2021.~~

Section 90. The State Finance Act is amended by adding Section 5.930 as follows:

(30 ILCS 105/5.930 new)

Sec. 5.930. The Residential Housing Relief Fund.

Section 99. Effective date. This Act takes effect upon becoming law."