



Legislation Text

File #: 2020-0359, **Version:** 1

To: Board of Supervisors, Sonoma County; Board of Commissioners, Sonoma County Community Development Commission

Department or Agency Name(s): Community Development Commission/County Counsel

Staff Name and Phone Number: Bruce Goldstein 565-2421

Vote Requirement: Informational Only

Supervisory District(s): All

Title:

Informational Update on County Eviction Defense Ordinance

Recommended Action:

Provide policy direction on possible Ordinance Amendments

Executive Summary:

On March 16, 2020, Governor Gavin Newsom issued Executive Order N-28-20, which authorizes local jurisdictions to suspend the evictions of tenants for the non-payment of rent if the non-payment is a result of the COVID-19 pandemic.

Recognizing that, without local protection, eviction notices for failure to pay rent are likely to surge, the Board of Supervisors acted quickly, and on March 24, 2020, passed the Sonoma County Eviction Defense Ordinance (Ordinance) on an urgency basis. The Ordinance facilitates the implementation of the Governor's and Public Health Officer's Orders to shelter in place and to reduce additional instability in our community due to the impacts resulting from the COVID-19 pandemic.

On March 27, 2020, Governor Newsom issued Executive Order N-37-20, which prohibits landlords from evicting tenants for nonpayment of rent and prohibits enforcement of evictions by law enforcement or courts. It also requires tenants to declare in writing, no more than seven days after the rent comes due, that the tenant cannot pay all or part of their rent due to COVID-19. While the Governor's Order is not inconsistent with the County's Urgency Ordinance, there are some differences in the two legal mandates, which may cause confusion.

This item presents a number of options to and seeks policy direction from the Board regarding next steps related to tenant protections from the impacts of COVID-19.

Discussion:

The Sonoma County Eviction Defense Ordinance creates an affirmative defense for any residential tenant who can demonstrate that they have received a notice of eviction for failure to pay rent, and that such failure is related to a substantial loss of income or substantial out-of-pocket medical expenses resulting from the 2020 novel coronavirus pandemic or any local, state, or federal government response to the pandemic, for the duration of the County of Sonoma's Public Health and Local Emergency. The Ordinance also provides that a

tenant who utilizes this affirmative defense share that information with the owner of the property to support an owner's claim for any prospective mortgage relief due to impacts resulting from the 2020 novel coronavirus pandemic or any local, state, or federal government response to the pandemic. Finally, the Ordinance also directs the Sonoma County Housing Authority to extend deadlines for housing assistance recipients or applicants to deliver records or documents related to their eligibility for programs, to the extent legally possible.

Governor Newsom's Executive Order N-37-20 also creates an affirmative defense to a tenant who is being evicted for nonpayment of rent. The Order provides that a tenant must notify their landlord in writing before the rent is due, or within a reasonable period of time afterwards not to exceed 7 days, that the tenant needs to delay all or some payment of rent because of an inability to pay the full amount due to reasons related to COVID-19. The Order also details what kind of documentation is sufficient to support the tenant's assertion of an inability to pay, including, termination notices, payroll checks, pay stubs, bank statements, medical bills, or signed letters or statements from an employer or supervisor explaining the tenant's changed financial circumstances, to support the tenant's assertion of an inability to pay. This documentation may be provided to the landlord no later than the time upon payment of back-due rent.

While substantively the Order and the Ordinance are similar, there are some differences between them, including the level of detail about the use of the defense, the date of operation, and . As such, there are a number of options available to the Board, including the following:

- 1) Amend our Ordinance to be completely consistent with the Governor's Order;
- 2) Rescind our Ordinance and let the Governor's Order operate alone for Sonoma County residents;
- 3) Amend our Ordinance to be consistent with the Governor's Order, and take additional protective measures (e.g. include protections for commercial tenancies);
- 4) Rescind our Ordinance and let the Governor's Order operate for residential tenants in Sonoma County, and take additional protective measures (e.g. include protections for commercial tenancies).

Additional options to consider include whether any action taken will continue to apply uniformly throughout the County of Sonoma, to both unincorporated and incorporated areas. At this stage, the County has acted with the support of the municipalities within its boundaries. Thus, this item also seeks direction from the Board about its desire to continue to legislate in that manner moving forward.

Finally, while this Ordinance and the Governor's Order focus on tenancies, Sonoma County mortgage holders may also be impacted by loss of income due to impacts from COVID-19 and require foreclosure relief. The federal government recently passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which protects homeowners with federally backed mortgages with a foreclosure moratorium for 60 days after March 18, 2020, and a right to request forbearance for up to 180 days for homeowners who are experiencing a financial hardship due to the COVID-19 emergency. Specifically, the CARES Act prohibits lenders and servicers from beginning a judicial or non-judicial foreclosure, or from finalizing a foreclosure judgment or sale, during this period of time. Nearly half of the nation's mortgages are owned or backed by Fannie Mae or Freddie Mac. The State is also working to soften the financial impact of COVID-19 on residents who are struggling to pay their mortgage and bills, and has gotten Citigroup, JP Morgan Chase, US Bank, Wells Fargo, and nearly 200 state-chartered banks, credit unions, and mortgage lenders and servicers to commit to provide relief for consumers and homeowners in California.

Under the Governor’s proposal, Californians who are struggling with the COVID-19 crisis may be eligible for the following relief after contacting their financial institution, including mortgage-payment forbearances of up to 90 days, waiver or refund of mortgage-related late fees, no new foreclosures for 60 days, and no credit score changes for accessing COVID-related relief. Participating institutions can be found here:

<https://dbo.ca.gov/covid19-updates-fi/>

Prior Board Actions:

March 24, 2020: Adopt Proposed COVID-19 Eviction Defense Urgency Ordinance

FISCAL SUMMARY

Expenditures	FY 19-20 Adopted	FY20-21 Projected	FY 21-22 Projected
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures			
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
Total Sources			

Narrative Explanation of Fiscal Impacts:

None

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

Narrative Explanation of Staffing Impacts (If Required):

None

Attachments:

None

Related Items “On File” with the Clerk of the Board:

None

