

Date of Hearing: June 19, 2019

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

SB 18 (Skinner) – As Amended May 21, 2019

SENATE VOTE: 38-0

SUBJECT: Keep Californians Housed Act

SUMMARY: Deletes the sunset date on the requirement to provide a tenant 90 days' written notice in the case of a foreclosure.

EXISTING LAW: Through December 31, 2019, the following protections for residential tenants when the landlord loses ownership of the rented property as a result of foreclosure:

- 1) A tenant with a month-to-month lease or other periodic tenancy at the time of the foreclosure sale shall be given 90 days' notice prior to termination of the tenancy; and
- 2) A tenant with a fixed-term lease at the time of the foreclosure sale shall have the right to remain in possession for the duration of the lease and under the same terms and conditions, except that the fixed-term lease may be terminated after 90 days' notice if:
 - a) the new owner of the property will occupy the housing unit as a primary residence;
 - b) the tenant is the borrower that was foreclosed on, or the borrower's child, spouse, or parent;
 - c) the fixed-term lease was not the result of an arms-length transaction; or
 - d) the rent for the fixed-term lease is substantially below fair market and it is not that way on account of an applicable law or subsidy.

(Code of Civil Procedures Section 1161b)

FISCAL EFFECT: None. This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS:

Purpose of the Bill: According to the author, "Renters are usually the last to know of foreclosure, and many renters, including families with children, could end up homeless due to foreclosure evictions if notices are not given. SB 18 will continue an existing law to help Californians who reside in foreclosed properties by making the required 90-day foreclosure notice to quit permanent."

Background: The collapse of the housing bubble in 2007 that led to the Great Recession of 2007-2009 also resulted in record-breaking numbers of foreclosures, peaking nationally at almost three million in 2011. By 2018, foreclosures had decreased by over 75 percent since their peak, but still exceeded 60,000 in California.

Leases and Foreclosures: When a landlord loses a rental property to foreclosure, the tenants are involuntary and sometime unwitting victims of the situation as well. Prior to 2012, a foreclosure sale in California effectively nullified all contracts associated with the foreclosed property, including any lease agreement. As a result, tenants caught up in a foreclosure frequently found themselves evicted on short notice.

In 2012, as part of its “Homeowners Bill of Rights” responding to the foreclosure crisis, California enacted new protections for tenants in foreclosure situations (AB 2610, Skinner, Chapter 562, Statutes of 2012). Specifically, such tenants received the right to at least 90 days’ notice about termination of their tenancy in all situations, and, in the case of tenants with fixed-term leases, the new law prevented the new, post-foreclosure owner of the property from kicking the tenants out prior to the expiration of the pre-existing lease term. Per AB 2610, these protections are set to sunset on January 1, 2020. This bill makes them permanent.

There is a federal counterpart to California’s protections for tenants caught up in a foreclosure and it was recently made permanent. (12 U.S.C. 5220 note.) Like the state law, the federal law provides tenants with fixed-term leases the chance to remain for the duration of their lease, regardless of an intervening foreclosure. As in the case of California’s law, under the federal law, tenants with month-to-month or other periodic leases still get at least 90 days’ notice before they can be forced to vacate. There is a subtle difference between the two laws, however. The federal law applies only to “bona fide” leases, meaning, in simplified terms, that they were negotiated without conflicts of interest, are not between family members, and not priced dramatically below the fair market rental value for similar properties in the area. In California, this requirement only applies to fixed-terms leases. In other words, in California, *all* tenants caught up in a foreclosure situation are given at least 90 days’ notice before they have to leave, while the federal law leaves some tenants unprotected.

Related Legislation:

AB 2610 (Skinner), Chapter 562, Statutes of 2012: Required, through December 31, 2019, a residential, post-foreclosure landlord to give any bona fide tenants, as defined, who were living at the property at the time of the foreclosure, at least 90 days’ notice before termination of a periodic lease (most commonly a month-to-month lease) and at least the remaining time on a fixed term lease (most commonly a one-year lease).

SB 1137 (Perata), Chapter 69, Statutes of 2008: required a residential, post-foreclosure landlord to give any tenants living at the property at the time of the foreclosure at least 60 days’ notice before terminating the tenancy.

Double-referred: This bill was also referred to the Assembly Committee on Judiciary where it will be heard should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Alameda County Board of Supervisors
California Apartment Association
California Community Builders
California YIMBY

Chan Zuckerberg Initiative
City of Alameda
City of Anaheim
City of Bakersfield
City of Long Beach
City of Los Angeles
City of Oakland
City of Riverside
City of Sacramento
City of San Diego
City of San Francisco
City of San José
City of Santa Ana
City of Stockton
Facebook
Hamilton Families
Los Angeles Homeless Services Authority
North Bay Leadership Council
Non-Profit Housing Association of Northern California
Regional Asthma Management and Prevention
Santa Monica Rent Control Board
Silicon Valley Community Foundation
TMG Partners
Working Partnerships, USA

Opposition

None on file.

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