

HF12 - 1A - Eviction, Lease Nonrenewal , Default, Foreclosure

Chief Author: **Alice Hausman**  
 Committee: **Housing Finance and Policy**  
 Date Completed: **4/9/2021 3:40:45 PM**  
 Agency: **Supreme Court**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
<b>Local Fiscal Impact</b>		
		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	44	-	-	-	-
<b>Total</b>	-	<b>44</b>	-	-	-	-
<b>Biennial Total</b>			<b>44</b>			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	-	-	-
<b>Total</b>	-	-	-	-	-

**LBO Analyst's Comment**

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

**LBO Signature:** Maren Bardal    **Date:** 4/9/2021 3:40:44 PM  
**Phone:** 651-284-6429    **Email:** maren.bardal@lbo.leg.mn

### State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

\*Transfers In/Out and Absorbed Costs are only displayed when reported.

<b>State Cost (Savings) = 1-2</b>		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	44	-	-	-	-
<b>Total</b>	-	<b>44</b>	-	-	-	-
<b>Biennial Total</b>			<b>44</b>			
<b>1 - Expenditures, Absorbed Costs*, Transfers Out*</b>						
General Fund	-	956	-	-	-	-
<b>Total</b>	-	<b>956</b>	-	-	-	-
<b>Biennial Total</b>			<b>956</b>			
<b>2 - Revenues, Transfers In*</b>						
General Fund	-	912	-	-	-	-
<b>Total</b>	-	<b>912</b>	-	-	-	-
<b>Biennial Total</b>			<b>912</b>			

### Bill Description

Section 1: During the peacetime emergency, this bill:

- Prohibits the filing of eviction actions or other action to recover possession of residential property from a tenant, unless an exception applies;
- Prohibits landlords from issuing notice of termination or non-renewal of residential leases, unless an exception applies;
- Prohibits the execution of writs of recovery for residential property, unless an exception applies;
- Prohibits landlords from assessing late fees or related fees when nonpayment of rent is due to the residential tenant's COVID-related loss of income;
- Prohibits landlords from increasing rent for residential tenancies more than 6% and in no case during the application of the peacetime emergency may rent be increased if there had a rent increase in the previous 12 months.
- Prohibits the termination of rental agreements and filing of eviction actions for manufactured homes park lot rentals under section 327C.09, except as provided under section 327C.09, subdivisions 3 and 5;
- Prohibits delivery of default notices by owners of security interests in manufactured homes;
- Prohibits secured parties from commencing an action for a court order to remove occupants from manufactured homes;
- Permits residential landlords to issue lawful termination of tenancy or nonrenewal of lease to move the property owner or property owner's family member into the property, if the owner or family member moves into the property within 7 days of the property being vacated;
- Requires landlords to provide written notice of intent to file an eviction action to the tenant at least 7 days prior to filing an action or any specified notice to cure or evict notice period included in the lease, whichever is longer and requires that notice to be attached to the filing;

This section is effective the day following enactment.

Section 2: For a 12 month period after the peacetime emergency ends, this bill:

- Requires residential landlords to provide 60 day written notice to tenants before filing an eviction action on a alleging non-payment of rent;
- Prohibits the assessment of late fees or related fees during the 60 day notice period;
- Prohibits residential landlords from filing an eviction action for nonpayment of rent if the landlord was eligible to collect rent through a rental or emergency assistance program and refused payment or to comply with requirements needed to receive payment;
- Prohibits the increase of rent during the 60 day notice period;
- Requires the 60 day notice to include certain information, including a disclaimer that a low-income tenant may be eligible for financial assistance and a description of how to access legal and financial assistance;
- Requires residential landlords to cooperate if a residential tenant applies for financial assistance from the county;
- Permits residential landlords to file an eviction action for nonpayment of rent if the tenant fails to correct the rent delinquency within 60 days of the delivery or mailing of the notice or fails to vacate the premises; and
- Requires the person filing an eviction action or other legal action to recover possession of residential property from a tenant to attach the 60 day written notice with the complaint.

This section is effective the day following enactment.

Section 3: For eviction actions filed on or after March 23, 2020, this bill requires the court to:

- Conduct an initial review of all eviction filings for compliance with sections 1 and 2; and
- Dismiss and expungement of any action that was found to have been filed in violation of section 1 of this bill or Executive Orders 20-14, 20-73, or 20-79.

In addition, this bill requires the court to reject filings if a residential landlord required to provide the 60 day notice in section 2 fails to attach a copy of the notice with the filing. This section is effective the day following enactment.

Section 4: During the peacetime emergency and for 60 days after the end of the peacetime emergency this bill

- Prohibits the recording of notice of pendency for a foreclosure by advertisement;
- Prohibits and the commencement an action for foreclosure by advertisement or by action, except for actions necessary to protect holders of bonds issued under chapter 462A; and
- Prohibits a vendor from terminating a contract for deed.

This section is effective the day following final enactment and applies to actions taken on or after that date.

### **Assumptions**

Effective the day following enactment, Executive Order 20-79 will be rescinded and will no longer be effective.

The day following enactment Section 1 will apply only if the Peacetime Emergency has not ended; Section 2 and Section 3 paragraph (b) will apply only after the Peacetime Emergency has ended.

It is unknown when the Peacetime Emergency will end.

It is assumed that all provisions requiring the “court” to do something requires a judicial officer, not court administration, to take action.

Eviction actions filed on and after March 24, 2020 at 5 pm were reviewed by judicial officers to determine if the action was suspended under an Executive Order. Eviction summons were not issued in eviction actions unless the action fell within a permissible exception under the Executive Order. In 2020 5,676 eviction actions were filed, 997 did not have a summons issued. Some plaintiffs have filed dismissals. Some counties already have undertaken steps to review these cases to determine if they can be dismissed. Of the 997 cases without summonses, 335 cases have already been dismissed. Approximately one-half of the dismissed cases have a case security of confidential, expunged, or sealed. It is assumed orders for dismissal were based on a finding the action was filed in violation of an Executive Order. It is assumed that there is no finding of a judicial officer in cases in which the plaintiff dismissed the action. It is assumed that cases dismissed by plaintiffs can be distinguished from cases dismissed by judicial officers and those dismissed by judicial officers can be expunged if they are not already expunged. It is assumed that cases that have not already been dismissed will need also need to be reviewed, and dismissed and expunged if filed in violation of an Executive Order in effect at the time of filing, or if filed in violation of section 1 of this bill on or after the effective date. It is assumed this review will take less than 1 judge FTE to complete and can be done with existing resources.

Eviction actions filed before the end of the Peacetime Emergency will continue to be processed as done under the Executive Orders, with judicial officers reviewing the eviction complaints to determine whether the complaint alleges an exception to the filing prohibition.

It is assumed that during the Peacetime Emergency tenants may file actions to enforce the rent increase prohibitions if necessary. It is unknown whether there will be violations or the number of violations. It is not possible to estimate an increase in filing fee revenue that may result from such actions.

It is assumed that eviction actions alleging nonpayment of rent will not be filed for at least 60 days after the end of the Peacetime Emergency due to the 60 day notice requirement that applies to those cases.

It is assumed that the number of eviction actions filed for reasons other than nonpayment of rent will not increase as a result of section 2 of this bill. It is assumed that landlords will resume filing eviction actions for nonpayment of rent by residential tenants beginning 60 days after the end of the Peacetime Emergency. It is unknown how many cases will be filed during the remaining 10 month period. It is unknown what effect the 60 day notice and emergency rental assistance will have on the number of eviction actions filed. It is assumed that the number of actions filed will still spike during this time.

On average in CY2018 and CY2019 there were 17,649 eviction actions filed. In 2020 there were 4,758 eviction actions filed in which a summons was issued. It is assumed that on average in CY2018 and CY2019 there were approximately 12,881 eviction actions filed for nonpayment of rent (17,649 - 4,758 cases = 12,881). Assuming a similar number of evictions actions are filed beginning 60 days after the Peacetime emergency ends, it is estimated that approximately 10,734 eviction actions for non-payment of rent  $((12,881/12)*10 \text{ months})$ . (If tenants vacate, it is possible that some landlords will file actions in conciliation court or district court, to collect any unpaid rent.)

The Tolling Legislation currently is due to expire on April 15, 2021. It is unknown at this time whether the Tolling Legislation will be extended. For purposes of this fiscal note it is assumed that the Tolling Legislation will no longer be in effect after the Peacetime Emergency ends. Due to any spike in eviction actions filed for nonpayment of rent it is assumed that it may not always be possible to set hearings within 14 days from the issuance of a summons as required in section 504B.321, subdivision 1 paragraph (d) and that continuances for trial granted under section 504B.341 paragraph (a) will exceed 6 days. It is assumed that hearings will be set as soon as judicial officer and staff resources and calendaring permit. Eviction actions will continue to backlog as a result.

It is assumed that any eviction complaint alleging nonpayment of rent submitted for filing without a copy of the 60 day notice will be filed and submitted to a judicial officer for review to determine whether the case can proceed, as rejection of filings is a function of the court administrator not of judicial officers and this bill does not authorize the court administrators to reject the filing.

It is assumed at the time of filing and review by a judicial officer under section 3 that the judicial officer will not have a factual basis to find a violation of section 2 due to a landlord’s refusal to accept rental or emergency assistance program payments or comply with requirements to receive payment. It is further assumed that a landlord’s refusal to accept rental

or emergency assistance program payments or comply with requirements to receive payment will be a defense raised by the tenant and if proven will result in dismissal of the action as required under section 3.

During the Peacetime Emergency the district courts have needed to hire Sr. Judges to assist with the backlog of cases including eviction actions. It is assumed that the district courts will continue to need to hire Sr. Judges to review eviction filings and assign to eviction actions during the Peacetime emergency and for the 12 months after the Peacetime Emergency ends. Court reporter, law clerk and court administration staff be assigned to Sr. Judges.

The case weight plus administrative time will be 30 minutes per case. The judge need for 10,000 cases at 30 minutes per case is \$300,000 divided by 78,000 minutes for a total of 3.8 judges. It is it will take 208 business days for 4 judge units to hear 10,000 cases. For purposes of calculating the cost of 4 Sr. Judge units the following rates were used: Senior Judges are at \$448 per day; Court Reporters are at \$48.06 per hour (6 hours per day); Law Clerks are at \$42.15 per hour (4 hours per day); and Court Associates are at \$40.61 per hour (6 hours per day).

It is assumed that this bill applies to home and commercial mortgages. It is assumed that most home mortgages are foreclosed by advertisement under chapter 580, not by action under chapter 581. It also is assumed that the majority of foreclosures that will be begin happening 60 days after the end of the Peacetime Emergency will be for home mortgages; that those foreclosures will be done by advertisement; and as a result, there will not be a significant spike in home mortgage foreclosures by action filed in district court under chapter 581. It is assumed that some commercial mortgages are foreclosed by action under chapter 581 and that as those actions were not addressed in the Executive Orders that some commercial mortgage foreclosures have continued during the Peacetime Emergency. It is assumed there will be a increase in the number of foreclosure by action cases filed in district court beginning 60 days after the end of the Peacetime declaration, but there is insufficient information known to estimate the number of cases and the impact on judge and staff needed for these cases. Foreclosures by action cases are filed under the case type of Civil Other along with many other causes of action. Therefore, it is not possible to determine the average number of these cases filed per year as compared to the number filed during the Peacetime Emergency to estimate any possible surge in filings. The contracts for deed may be terminated by bringing a court action for breach of contract or by other means as provided in statute. It is unknown how many cases will be filed with the district court beginning 60 days after the end of the Peacetime Emergency. These cases are filed under the case type of Contract along with other cases filed relating to contracts. Therefore, it is not possible to determine the average number of these cases filed per year as compared to the number filed during the Peacetime Emergency to estimate any possible surge in filings.

It is assumed that there will be an increase in fee revenue as a result of this bill in comparison to that collected over the past year, but that it will be comparable to that receipted in FY19. It is not known if all 10,734 possible cases will be filed or will be filed in FY22. If it is assumed that a filing fee of \$285 is paid in the anticipated 10,734 eviction cases to be filed after the Peacetime Emergency ends, \$912,390 in filing fees will be collected and placed in the state general fund. It is not known if a landlord will qualify for in forma pauperis status.

### **Expenditure and/or Revenue Formula**

During the Peacetime Emergency: No additional expenditures estimated to be incurred.

Post Peacetime Emergency:

It is estimated that it will take 4 part-time Sr. Judge units comprised of a Sr. Judge, court reporter, and law clerk, and court administration staff, to hear approximately 10,000 nonpayment of rent eviction actions filed for 10 months after the Peacetime Emergency ends. The total cost is estimated to be \$955,652. For purposes of estimating the costs in a fiscal year it is assumed these costs will be incurred in FY22, not FY21.

Expenditures related to section 4 of the bill cannot be reasonably estimated.

### **Long-Term Fiscal Considerations**

The fiscal impact will not continue into the next biennium.

### **Local Fiscal Impact**

None

**References/Sources**

**Agency Contact:**

**Agency Fiscal Note Coordinator Signature:** Janet Marshall

**Phone:** 651-297-7579

**Date:** 4/9/2021 3:24:04 PM

**Email:** Janet.marshall@courts.state.mn.us