

STATE OF NEW YORK

2617--A

2021-2022 Regular Sessions

IN ASSEMBLY

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Introduced by M. of A. NIOU, RICHARDSON, JOYNER, CARROLL, REYES, SIMON, GOTTFRIED, SEAWRIGHT, BARNWELL, DAVILA, L. ROSENTHAL, DICKENS, BARRON, DE LA ROSA, KIM, FAHY, PICHARDO, FERNANDEZ, EPSTEIN, BICHOTTE HERMELYN, PERRY, FRONTUS, CRUZ, GLICK, WALKER, J. RIVERA, TAYLOR, ANDERSON, BRONSON, GONZALEZ-ROJAS, MITAYNES -- read once and referred to the Committee on Housing -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to enact the "COVID-19 housing relief and recovery for all act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "COVID-19
2 housing relief and recovery for all act".
3 § 2. Legislative findings. The legislature hereby finds that a serious
4 public emergency exists in the state of New York due to the impact of
5 the global outbreak of novel coronavirus, COVID-19, which as of the date
6 of this legislation, created destabilized housing, loss of employment
7 and income, closure of businesses and schools, and greatly exacerbated
8 financial insecurity in the state of New York. The legislature further
9 finds that it is currently impossible to accurately assess the full
10 scope, duration, and severity of impact this public emergency has and
11 will have on the residents of New York and that, in response to this
12 crisis, on March 7, 2020 the executive declared a 'State Disaster Emer-
13 gency' which has put extraordinary constraints on individuals, families,
14 homeowners, not-for-profits, residential housing cooperatives, and
15 local, state, and federal agencies. The legislature further finds that
16 the loss of employment, illness and deaths caused by the COVID-19
17 outbreak have rendered many individuals and families unable to pay for
18 the costs of housing and other life necessities. The legislature further
19 finds that safe and affordable housing is a key measure of positive
20 individual, family, and public health outcomes. The legislature further
21 finds that without government intervention, individuals and families who

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 are unable to pay the costs of housing will be displaced, which will
2 result in an increase in families who are cohabiting with one or more
3 other families and an increase in the population of unhoused individuals
4 and families, both of which will accelerate the spread of COVID-19
5 infection and, therefore, measures to prevent such individual and house-
6 hold displacement are necessary to prevent increased COVID-19 trans-
7 mission. The legislature further finds that without rent and mortgage
8 relief, the number of eviction case filings for nonpayment of rent and
9 the number of mortgage foreclosures will increase tremendously, result-
10 ing in overburdened court systems which will not have the resources or
11 space to operate functionally and also resulting in massive congestion
12 and increased human contact in courthouse spaces, both of which will
13 exacerbate the spread of COVID-19 creating a worsened public health
14 hazard. The legislature further finds that a tremendous increase in
15 evictions and foreclosures will overburden social services agencies and
16 resources and that the shelter system does not have the capacity to
17 accommodate a significantly increased homeless population, both of which
18 will also worsen the spread of COVID-19. The legislature further finds
19 that public housing authorities have incurred expenses resulting from
20 the COVID-19 outbreak and have lost rental income due to widespread
21 financial hardship suffered by public housing tenants and occupants as a
22 result of the COVID-19 outbreak. The legislature declares that it is
23 both in the public interest and the responsibility of government to
24 provide and secure federal and state emergency funding to ensure that
25 individuals and families are not rendered homeless or severely finan-
26 cially burdened because of an inability to pay for the cost of housing
27 and other necessities due to the COVID-19 outbreak and to ensure that
28 public housing entities, not-for-profits, residential cooperatives, and
29 landlords unable to afford necessary expenses as a result of COVID-19
30 outbreak, not be encumbered with severe financial burden, and to promote
31 the stability and proper maintenance of the housing stock and assist
32 communities in recovering from the adverse social and economic impacts
33 of the COVID-19 outbreak, and that, consistent with articles 17 and 18
34 of the state constitution, it is therefore incumbent on the legislature
35 and the executive to implement protections and to provide rent and mort-
36 gage relief so as to reduce the harm to New York residents and ensure
37 safe, decent, sanitary, affordable housing and financial stability
38 during the novel coronavirus, COVID-19, crisis and all other public
39 emergencies.

40 § 3. Definitions. (a) "Residential tenant" shall have the same meaning
41 as in paragraph (a) of subdivision 1 of section 235-f of the real prop-
42 erty law, those who otherwise pay for the use and occupancy of a resi-
43 dential dwelling unit, occupants as defined by paragraph (b) of subdivi-
44 sion 1 of section 235-f of the real property law, or tenants or
45 occupants of residential dwelling units funded pursuant to 42 U.S.C.
46 1437g.

47 (b) "Small homeowner" shall mean an owner of a dwelling with 6 or
48 fewer units where such owner also resides as a primary residence.

49 (c) "Affordable housing operator" shall mean a not-for-profit entity
50 as defined in the not-for-profit corporation law or a housing develop-
51 ment fund company as defined in section 572 of the private housing
52 finance law that owns and operates a housing project for persons of
53 low-income.

54 (d) "Rent" shall have the same meaning as defined in section 702 of
55 the real property actions and proceedings law.

1 (e) "Residential cooperative" shall mean any housing project, of any
2 size, operated for persons of low income by a housing corporation as
3 defined in section 572 of the private housing finance law, or any corpo-
4 ration or entity owning and operating a residential cooperative with 10
5 or fewer units.

6 (f) "Public housing authority" shall mean any municipal housing
7 authority created under article 13 of the public housing law.

8 (g) "Commissioner" shall mean the commissioner of housing and communi-
9 ty renewal.

10 § 4. Cancellation of rent in the case of residential tenants; fines;
11 termination of tenancy and eviction proceedings; debt; consumer credit
12 reports. (a) Notwithstanding any other provision of law, the obligation
13 of a residential tenant to pay rent shall be suspended for a period that
14 shall run from March 7, 2020 until the expiration of 90 days after the
15 executive declares that the state disaster emergency has ended.

16 (b) No tenant or tenant household may be charged a fine or fee for
17 non-payment of rent in accordance with this section.

18 (c) The nonpayment of rent by a tenant in accordance with this section
19 shall not be grounds for any termination of tenancy or eviction proceed-
20 ing or civil judgment.

21 (d) No tenant or tenant household may be treated as accruing any debt
22 by reason of suspension of rent under this section.

23 (e) No tenant or tenant household may be held liable for repayment of
24 any amount of rent suspended under this section.

25 (f) The nonpayment of rent by a tenant in accordance with this section
26 shall not be reported to a tenant screening agency or a consumer report-
27 ing agency nor shall such nonpayment adversely affect a tenant or member
28 of a tenant's household's credit score nor shall such nonpayment be
29 grounds for denying any future application for rental housing made by a
30 tenant or a member of a tenant's household.

31 § 5. Mortgage payment suspension, fees and penalties, credit scores.

32 (a) Notwithstanding any other provision of law, the obligation of a
33 small homeowner to make mortgage payments of principal or interest that
34 become due during the period running from March 7, 2020 until the expi-
35 ration of 90 days after the executive declares that the state disaster
36 emergency has ended, is hereby suspended.

37 (b) No mortgagor who is a small homeowner may be held responsible for
38 payment of mortgage payments suspended under this section or treated as
39 accruing any debt by reason of suspension under this section of the
40 obligation to make mortgage payments.

41 (c) A mortgagee, or servicer for such mortgagee, under a residential
42 mortgage loan to a small homeowner may not commence or continue any
43 judicial foreclosure action or non-judicial foreclosure process or any
44 action for failure to make a payment due under such mortgage that is
45 suspended pursuant to this section.

46 (d) No fees, penalties, or additional interest beyond the amounts
47 scheduled or calculated as if the mortgagor made all contractual
48 payments on time and in full under the terms of the mortgage contract in
49 effect as of the commencement of the COVID-19 suspension period shall
50 accrue.

51 (e) The nonpayment of a mortgage payment by a mortgagor pursuant to
52 suspension of the obligation to make such payment under this section
53 shall not be reported to a consumer reporting agency nor shall such
54 nonpayment adversely affect a mortgagor's credit score.

1 (f) Assistance may not be provided under this section with respect to
2 any dwelling for which assistance is provided pursuant to section seven
3 or eight of this act.

4 § 6. Assistance to residential housing cooperatives losing maintenance
5 and rental income. (a) Except as modified in this section, any residen-
6 tial housing cooperatives that can demonstrate they lost maintenance or
7 rental income during the period from March 7, 2020 until the expiration
8 of 90 days after the executive declares that the state disaster emergen-
9 cy has ended shall be entitled to a payment of the total amount of main-
10 tenance or rental income lost during that period.

11 (b) (i) The commissioner of housing and community renewal, shall issue
12 regulations establishing an application procedure for a residential
13 housing cooperative seeking payment of lost maintenance or rental
14 income.

15 (ii) Such regulations shall provide that as a condition of such
16 assistance payments, a residential housing cooperative shall agree and
17 shall be obligated, through executing an instrument in a form specified
18 in the regulations issued hereunder to provide any tenants residing in
19 the housing cooperative with a renewal lease of at least 1 year, at the
20 same rental amount actually charged and collected 6 months prior to the
21 application for relief.

22 (iii) Such regulations shall further provide that any rental housing
23 cooperative shall not be eligible for the relief provided herein for
24 rental or maintenance income imputable to any illegal unit or unit occu-
25 pied in violation of the cooperative's bylaws or for rental income
26 imputable to a unit containing uncorrected, as of the time of the appli-
27 cation, immediately hazardous violations of a state or local housing or
28 building code that existed prior to March 7, 2020 and which are the
29 housing cooperative's legal duty to remedy.

30 (c) Any residential cooperative that receives payment for unpaid main-
31 tenance under this section shall waive all rights to receive said main-
32 tenance payments from the cooperative shareholder of the dwelling unit
33 for which payment was received.

34 § 7. Assistance to affordable housing operators losing rental income.

35 (a) Except as modified in this section, any affordable housing operator
36 that can demonstrate they lost rental income during the period from
37 March 7, 2020 until the expiration of 90 days after the executive
38 declares that the state disaster emergency has ended shall be entitled
39 to a payment of the total amount of rental income lost during that peri-
40 od.

41 (b) The commissioner of housing and community renewal, shall issue
42 regulations establishing an application procedure for an affordable
43 housing operator seeking payment of lost rental income.

44 (c) The commissioner may provide a payment under this section only
45 with respect to rental dwellings that meet all the following require-
46 ments:

47 (i) The affordable housing operator of the rental dwelling has made
48 such certifications to, and entered into such binding agreements with,
49 the commissioner as the commissioner considers necessary to ensure that
50 during the five year period beginning upon initial receipt by such
51 affordable housing operator of payment under this section for such
52 dwelling, such dwelling shall be subject to the following requirements:

53 (1) the monthly rental amounts for the rental units within the proper-
54 ty may not be increased from the amount of such rent charged as of the
55 date of the enactment of this act;

1 (2) tenants of the rental units may be evicted only for the following
2 reasons:

3 (A) the tenant is violating a substantial obligation of their tenancy
4 other than the obligation to surrender possession of such housing accom-
5 modation and has failed to cure such violation after written notice by
6 the landlord that the violation cease within 10 days, or within the 3
7 month period immediately prior to the commencement of the proceeding the
8 tenant has willfully violated such an obligation inflicting serious and
9 substantial injury to the landlord;

10 (B) the tenant is committing or permitting a nuisance in such housing
11 accommodation or is maliciously or by reason of gross negligence
12 substantially damaging the housing accommodations, or the tenant's
13 conduct is such as to interfere substantially with the comfort or safety
14 of the landlord or of other tenants or occupants of the same or other
15 adjacent building or structure;

16 (C) occupancy of the housing accommodations by the tenant is illegal
17 because of the requirements of law, and the landlord is subject to civil
18 or criminal penalties therefor, or both;

19 (D) the tenant is using or permitting such housing accommodation to be
20 used for an illegal purpose;

21 (E) the tenant who had a written lease or other written rental agree-
22 ment which terminates on or after the effective date of this statute,
23 has refused upon demand of the landlord to execute a written extension
24 or renewal thereof for a further term of like duration not in excess of
25 one year but otherwise on the same terms and conditions as the previous
26 lease except in so far as such terms and conditions are inconsistent
27 with this act; or

28 (F) the tenant has unreasonably refused the landlord access to the
29 housing accommodations for the purpose of making necessary repairs or
30 improvements required by law or for the purpose of inspection or of
31 showing the accommodations to a prospective purchaser, mortgagee or
32 prospective mortgagee, or other person having a legitimate interest
33 therein; provided, however, that in the latter event such refusal shall
34 not be grounds for removal or eviction if such inspection or showing of
35 the accommodations is contrary to the provisions of the tenant's lease
36 or other rental agreement;

37 (3) the rental dwelling shall not have any outstanding violations for
38 hazardous or immediately hazardous conditions;

39 (4) the affordable housing operator may not refuse to rent any rental
40 dwelling unit, or discriminate in the renting of any rental dwelling
41 unit, to a household based on the source of income of such household,
42 including income under the program under section 8(o) of the United
43 States Housing Act of 1937 (42 U.S.C. 1437f(o)) or any similar tenant-
44 based rental assistance program;

45 (5) the affordable housing operator may not restrict tenancy of the
46 dwelling unit on the basis of sexual identity or orientation, gender
47 identity or expression, conviction or arrest record, credit history, or
48 immigration status;

49 (6) the affordable housing operator may not retaliate in any way
50 against a tenant of the dwelling unit; and

51 (7) the affordable housing operator may not report the tenant of the
52 dwelling unit or provide any adverse information regarding the tenant to
53 any credit reporting or tenant screening agency.

54 (ii) Assistance may not be provided under this section with respect to
55 any dwelling unit for which assistance is provided pursuant to section
56 five, six or eight of this act.

1 (d) (i) Subject to paragraph (ii) of this subdivision, the amount of a
2 payment under this section with respect to a rental dwelling may not
3 exceed the aggregate amount of rent for the rental dwelling suspended
4 pursuant to subdivision (a) of section four of this act and attributable
5 only to days from March 7, 2020 until the expiration of 90 days after
6 the executive declares that the state disaster emergency has ended
7 during which the dwelling unit was occupied by a tenant otherwise
8 required to pay rent for such occupancy.

9 (ii) In making payments under this section with respect to any rental
10 dwelling unit for which a tenant made a payment of rent during the peri-
11 od run from March 7, 2020 until the expiration of 90 days after the
12 executive declares that the state disaster emergency has ended the
13 commissioner of housing and community renewal agency shall:

14 (1) reduce the amount of the payment to the affordable housing opera-
15 tor under paragraph (i) of this subdivision by the amount of any such
16 rent paid; and

17 (2) make a payment to such tenant in the amount of any such rent paid.

18 (iii) In making payments under this section with respect to any dwell-
19 ing for which the affordable housing operator received mortgage payment
20 relief under section five of this act the commissioner shall reduce the
21 amount of the payment to the affordable housing operator for lost rent
22 by the amount of mortgage payment relief received under section five of
23 this act.

24 (e) If an affordable housing operator violates any requirement with
25 respect to a covered rental dwelling unit under any certification or
26 agreement entered into pursuant to paragraph (i) of subdivision (c) of
27 this section, the commissioner shall recapture from the affordable hous-
28 ing operator an amount equal to the entire amount of assistance provided
29 under this section that is attributable to such dwelling unit and ensure
30 that such amount is recaptured.

31 (f) There is hereby authorized to be appropriated such sums as may be
32 necessary to reimburse all affordable housing operators for all rent
33 payments suspended pursuant to subdivision (a) of section four of this
34 act.

35 (g) (i) Any affordable housing operator may apply for an exemption
36 from one or more of the requirements set forth in subdivision (c) of
37 this section and the commissioner shall grant exemptions from the
38 requirements set forth in subdivision (c) of this section upon determin-
39 ing that the affordable housing operator would otherwise suffer undue
40 financial hardship resulting from the requirements for which exemption
41 is sought.

42 (ii) Any affordable housing operator aggrieved by the commissioner's
43 decision on an application under this section or for a hardship
44 exemption pursuant to paragraph (i) of this subdivision may within 30
45 days of the commissioner's decision seek judicial review pursuant to
46 article 78 of the civil practice law and rules. In the event that the
47 court may find that the decision of the commissioner constitutes the
48 equivalent of a taking without compensation, it may, at the election of
49 the commissioner, either set aside the decision or order the payment of
50 just compensation by the commissioner.

51 § 8. Landlord relief fund, application, fair rental requirements,
52 prohibition on duplication of assistance. (a) The commissioner of hous-
53 ing and community renewal shall establish and manage a landlord relief
54 fund, or in this section referred to as "the fund", to provide lessors
55 payments under this section to reimburse such lessors for rent payments
56 cancelled pursuant to subdivision (a) of section four of this act.

1 (b) The commissioner shall provide for lessors of rental dwellings to
2 apply for reimbursement payments from the fund, which applications shall
3 include the certifications and binding agreements required pursuant to
4 subdivision (c) of this section.

5 (c) The commissioner may provide a payment under this section only
6 with respect to rental dwellings that meet all of the following require-
7 ments:

8 (i) The lessor of the rental dwelling has made such certifications to,
9 and entered into such binding agreements with, the commissioner as the
10 commissioner considers necessary to ensure that during the five year
11 period beginning upon initial receipt by such lessor of payment under
12 this section for such dwelling, such dwelling shall be subject to the
13 following requirements:

14 (1) the monthly rental amounts for the rental units within the proper-
15 ty may not be increased from the amount of such rent charged as of the
16 date of the enactment of this act;

17 (2) tenants of the rental units may be evicted only for the following
18 reasons:

19 (A) the tenant is violating a substantial obligation of his tenancy
20 other than the obligation to surrender possession of such housing accom-
21 modation and has failed to cure such violation after written notice by
22 the landlord that the violation cease within ten days, or within the 3
23 month period immediately prior to the commencement of the proceeding the
24 tenant has willfully violated such an obligation inflicting serious and
25 substantial injury to the landlord;

26 (B) the tenant is committing or permitting a nuisance in such housing
27 accommodation or is maliciously or by reason of gross negligence
28 substantially damaging the housing accommodations; or his conduct is
29 such as to interfere substantially with the comfort or safety of the
30 landlord or of other tenants or occupants of the same or other adjacent
31 building or structure;

32 (C) occupancy of the housing accommodations by the tenant is illegal
33 because of the requirements of law, and the landlord is subject to civil
34 or criminal penalties therefor, or both;

35 (D) the tenant is using or permitting such housing accommodation to be
36 used for an illegal purpose;

37 (E) the tenant who had a written lease or other written rental agree-
38 ment which terminates on or after the effective date of this statute,
39 has refused upon demand of the landlord to execute a written extension
40 or renewal thereof for a further term of like duration not in excess of
41 one year but otherwise on the same terms and conditions as the previous
42 lease except in so far as such terms and conditions are inconsistent
43 with this act; or

44 (F) the tenant has unreasonably refused the landlord access to the
45 housing accommodations for the purpose of making necessary repairs or
46 improvements required by law or for the purpose of inspection or of
47 showing the accommodations to a prospective purchaser, mortgagee or
48 prospective mortgagee, or other person having a legitimate interest
49 therein; provided, however, that in the latter event such refusal shall
50 not be grounds for removal or eviction if such inspection or showing of
51 the accommodations is contrary to the provisions of the tenant's lease
52 or other rental agreement;

53 (3) the rental dwelling shall not have any outstanding violations for
54 hazardous or immediately hazardous conditions;

55 (4) the lessor may not refuse to rent any rental dwelling unit, or
56 discriminate in the renting of any rental dwelling unit, to a household

1 based on the source of income of such household, including income under
2 the program under section 8(o) of the United States Housing Act of 1937
3 (42 U.S.C. 1437f(o)) or any similar tenant-based rental assistance
4 program;

5 (5) the lessor may not restrict tenancy of the dwelling unit on the
6 basis of sexual identity or orientation, gender identity or expression,
7 conviction or arrest record, credit history, or immigration status;

8 (6) the lessor may not retaliate in any way against a tenant of the
9 dwelling unit; and

10 (7) the lessor may not report the tenant of the dwelling unit or
11 provide any adverse information regarding the tenant to any credit
12 reporting or tenant screening agency.

13 (ii) Assistance may not be provided under this section with respect to
14 any dwelling unit for which assistance is provided pursuant to section
15 five, six or seven of this act.

16 (d) (i) Subject to paragraph (ii) of this subdivision, the amount of a
17 payment under this section with respect to a rental dwelling may not
18 exceed the aggregate amount of rent for the rental dwelling suspended
19 pursuant to subdivision (a) of section four of this act and attributable
20 only to days from March 7, 2020 until the expiration of 90 days after
21 the executive declares that the state disaster emergency has ended
22 during which the dwelling unit was occupied by a tenant otherwise
23 required to pay rent for such occupancy.

24 (ii) In making payments under this section with respect to any rental
25 dwelling unit for which a tenant made a payment of rent during the peri-
26 od run from March 7, 2020 until the expiration of 90 days after the
27 executive declares that the state disaster emergency has ended the
28 commissioner shall:

29 (1) reduce the amount of the payment to the lessor under paragraph (i)
30 of this subdivision by the amount of any such rent paid; and

31 (2) make a payment to such tenant in the amount of any such rent paid.

32 (iii) In making payments under this section with respect to any dwell-
33 ing for which the lessor received mortgage payment relief under section
34 five of this act the commissioner shall reduce the amount of the payment
35 to the lessor for lost rent by the amount of mortgage payment relief
36 received under section five of this act.

37 (e) In making payments under this section, the commissioner shall
38 establish a tiered system for priority for such payments based on
39 assets, revenues, and disclosure requirements with respect to lessors.
40 Such system shall provide priority for making payments to eligible small
41 homeowners and lessors having the fewest available amount of assets.

42 (f) If a lessor violates any requirement with respect to a covered
43 rental dwelling unit under any certification or agreement entered into
44 pursuant to paragraph (i) of subdivision (c) of this section, the
45 commissioner shall recapture from the lessor an amount equal to the
46 entire amount of assistance provided under this section that is attrib-
47 utable to such dwelling unit and ensure that such amount is recaptured
48 into the fund.

49 (g) There is authorized to be appropriated for the fund established
50 pursuant to this section such sums as may be necessary to reimburse all
51 lessors for all rent payments suspended pursuant to subdivision (a) of
52 section four of this act.

53 (h) (i) Any lessor may apply for an exemption from one or more of the
54 requirements set forth in subdivision (c) of this section and the
55 commissioner shall grant exemptions from requirements set forth in
56 subdivision (c) of this section upon determining that the lessor would

1 otherwise suffer undue financial hardship resulting from the require-
2 ments for which exemption is sought.

3 (ii) Any lessor aggrieved by the commissioner's decision on an appli-
4 cation to the Fund or for a hardship exemption pursuant to paragraph (i)
5 of this subdivision may within 30 days of the commissioner's decision
6 seek judicial review pursuant to article 78 of the civil practice law
7 and rules. In the event that the court may find that the decision of the
8 commissioner constitutes the equivalent of a taking without compen-
9 sation, it may, at the election of the commissioner, either set aside
10 the decision or order the payment of just compensation by the commis-
11 sioner.

12 § 9. Assistance to public housing authorities. (a) The commissioner of
13 housing and community renewal shall establish and manage a public hous-
14 ing relief fund, or in this section referred to as "the public housing
15 relief fund", to provide public housing authorities with funds to
16 compensate for expenses related to COVID-19 and unpaid rent that would
17 have been payable by residential tenants pursuant to 42 U.S.C. 1437a
18 during the period from March 7, 2020 until the expiration of 90 days
19 after the executive declares that the state disaster emergency has
20 ended.

21 (b) The commissioner shall provide for public housing authorities to
22 apply for payments from the public housing relief fund and shall promul-
23 gate regulations establishing the procedural requirements for such
24 applications.

25 (c) It is hereby declared to be the intent of the legislature that to
26 the extent that any part of this section is inconsistent with article 4
27 of the public housing law, this statute will prevail.

28 § 10. Civil action. (a) Any individual aggrieved by an adverse action
29 taken by a lessor, affordable housing operator, public housing authori-
30 ty, or mortgagee for exercising rights under section four or five of
31 this act may commence a civil action under this section against the
32 lessor, affordable housing operator, public housing authority, or mort-
33 gagee violating such section in an appropriate state court or a local
34 court of competent jurisdiction not later than 2 years after such
35 violation occurs for damages under subdivision (b) of this section.

36 (b) Any lessor or mortgagee found to have taken adverse action against
37 any lessee or mortgagor for exercising rights under section four or five
38 of this act shall be liable:

39 (i) to the individual aggrieved by such violation, for any actual
40 damages as a result of such adverse action; and

41 (ii) for a fine in the amount of:

42 (1) \$10,000, in the case of a violation that is the first violation by
43 such lessor or mortgagee;

44 (2) \$20,000, in the case of a violation that is the second violation
45 by such lessor or mortgagee; and

46 (3) \$100,000 or forfeiture of the property, in the case of a violation
47 that is the third or subsequent violation by such lessor or mortgagee.

48 (c) In an action brought under this section, the court:

49 (i) may award preventative relief, including a permanent or temporary
50 injunction or other order, to ensure the full rights granted by sections
51 four and five of this act; and

52 (ii) shall award any prevailing plaintiff reasonable attorney's fees
53 and costs.

54 (d) The attorney general may bring a civil action in any appropriate
55 court against any individual or entity which violates section four or

1 five of this act for fines under paragraph (ii) of subdivision (b) of
2 this section.

3 § 11. Non-severability clause. If section four of this act is adjudged
4 by a court of competent jurisdiction to be invalid, then sections six,
5 seven and eight of this act shall also be deemed invalid and it is here-
6 by declared to be the intent of the legislature that sections six, seven
7 and eight of this act would not have been enacted if section four of
8 this act had not been included herein.

9 § 12. Severability clause. If any clause, sentence, paragraph, subdi-
10 vision, section or part of this act other than section four of this act
11 shall be adjudged by a court of competent jurisdiction to be invalid,
12 such judgment shall not affect, impair or invalidate the remainder ther-
13 eof, but shall be confined in its operation to the clause, sentence,
14 paragraph, subdivision, section or part thereof directly involved in the
15 controversy in which such judgment shall have been rendered. It is here-
16 by declared to be the intent of the legislature that this act would have
17 been enacted even if such invalid provisions had not been included here-
18 in.

19 § 13. This act shall take effect immediately.