

# HOUSE . . . . . No. 5018

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, October 1, 2020.

The committee on Housing to whom was referred the petition (accompanied by bill, House, No. 4878) of Mike Connolly, Kevin G. Honan and others relative to the housing market during the COVID-19 emergency and recovery, reports recommending that the accompanying bill (House, No. 5018) ought to pass [Representatives DeCoste of Norwell and Crocker of Barnstable dissent].

For the committee,

KEVIN G. HONAN.

**HOUSE . . . . . No. 5018**

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-First General Court  
(2019-2020)**  
\_\_\_\_\_

An Act to guarantee housing stability during the COVID-19 emergency and recovery.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith ongoing stabilization of the housing market for renters and homeowners during the COVID-19 emergency and recovery, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and convenience.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 6 of chapter 62 of the General Laws, as appearing in the 2018  
2 Official Edition, is hereby amended by adding the following subsection:-

3           (w)(1) A taxpayer engaged in the business of renting residential dwelling units in the  
4 commonwealth shall be allowed a credit against the taxes imposed by this chapter to the extent  
5 provided for in this subsection for rental losses during the state of emergency concerning the  
6 novel coronavirus disease outbreak declared by the governor on March 10, 2020.

7           (2) Except as otherwise provided in this subsection the amount of credit shall be the  
8 difference between the cumulative amount of rents owed on a monthly basis pursuant to the  
9 rental agreement covering each occupied dwelling unit minus the tenant's rental obligation, for

10 those months occurring during the state of emergency concerning the novel coronavirus disease  
11 outbreak declared by the governor on March 10, 2020.

12 (3) The secretary of housing and economic development, in consultation with the  
13 commissioner of revenue, shall promulgate regulations for an application process for the credit  
14 and shall receive applications for the credit. The application for the credit by the owner or  
15 owners of the rental property shall include the amount of the credit requested, which shall be  
16 based upon the cumulative monthly rent owed by tenants pursuant to the rental agreement  
17 covering each occupied dwelling unit during each month of the state of emergency concerning  
18 the novel coronavirus disease outbreak declared by the governor on March 10, 2020, and the  
19 actual monthly rent collected during each respective month of the state of emergency, to be  
20 allocated by the secretary. The application shall also include the tenant's name and mailing  
21 address for each dwelling unit for which credit is sought. The applicant shall have the burden of  
22 providing sufficient proof to the secretary for review and determination. The application shall  
23 contain sufficient information to identify each such dwelling unit and the taxpayer or taxpayers  
24 with respect to each such dwelling unit, and such other information as the secretary, in  
25 consultation with the commissioner, shall prescribe. The secretary shall develop procedures for  
26 verifying the tenant's rental obligation for the tax credit benefit period.

27 (4) While the application is pending, the applicant shall not issue a notice to quit or  
28 commence a summary process action to recover possession of the dwelling unit for the non-  
29 payment of rent, which is the subject of the application.

30 (5) Subject to the availability of credits, the amount of the credit available for each  
31 dwelling unit shall be the actual difference between the monthly lease amounts for occupied

32 units minus the tenant's rental obligation and the actual amount of monthly rent collected, as  
33 determined by the commissioner. Upon approval of the credit to an owner, the owner shall  
34 release the occupants of the dwelling unit from any liability for the non-payment of rent that is  
35 the subject of the credit.

36 (6) Owners shall not be eligible for credit: (i) if such owner has received property tax  
37 relief, rental voucher assistance or any other federal, state or locally funded benefit intended to  
38 pay, abate or compensate the owner for unpaid rent: (ii) if the owner has commenced a  
39 proceeding to recover possession of the property for the non-payment of rent, which is the  
40 subject of the application; or (iii) another owner, co-owner or applicant has applied for tax  
41 credits for the unpaid rent of the same units.

42 (7) The secretary shall prioritize credit applications for dwelling units whose rent is at or  
43 below the fair market rent as most recently calculated by the United States Department of  
44 Housing and Urban Development for the area in which the dwelling unit is located.

45 (8) If the amount of the credit allowed under this subsection for any taxable year exceeds  
46 the taxpayer's tax liability for that tax year the taxpayer may carry forward and apply in any  
47 subsequent taxable year, the portion, as reduced from year to year of those credits, which exceed  
48 the tax for the taxable year.

49 (9) This section shall apply to taxable years beginning on or after January 1, 2020.

50 SECTION 2. Chapter 63 of the General Laws, as so appearing, is hereby amended by  
51 inserting after section 38HH the following section:-

52           Section 38II. (a) A taxpayer engaged in the business of renting residential dwelling units  
53 in the commonwealth shall be allowed a credit against the taxes imposed by this chapter to the  
54 extent provided for in this subsection for rental losses during the state of emergency concerning  
55 the novel coronavirus disease outbreak declared by the governor on March 10, 2020.

56           (b) Except as otherwise provided in this subsection the amount of credit shall be the  
57 difference between the cumulative amount of rents owed on a monthly basis pursuant to the  
58 rental agreement covering each occupied dwelling unit minus the tenant's rental obligation, for  
59 those months occurring during the state of emergency concerning the novel coronavirus disease  
60 outbreak declared by the governor on March 10, 2020.

61           (c) The secretary of housing and economic development, in consultation with the  
62 commissioner of revenue, shall promulgate regulations for an application process for the credit  
63 and shall receive applications for the credit. The application for the credit by the owner or  
64 owners of the rental property shall include the amount of the credit requested, which shall be  
65 based upon the cumulative monthly rent owed by tenants pursuant to the rental agreement  
66 covering each occupied dwelling unit during each month of the state of emergency concerning  
67 the novel coronavirus disease outbreak declared by the governor on March 10, 2020, and the  
68 actual monthly rent collected during each respective month of the state of emergency, to be  
69 allocated by the secretary. The application shall also include the tenant's name and mailing  
70 address for each dwelling unit for which credit is sought. The applicant shall have the burden of  
71 providing sufficient proof to the secretary for review and determination. The application shall  
72 contain sufficient information to identify each such dwelling unit and the taxpayer or taxpayers  
73 with respect to each such dwelling unit, and such other information as the secretary, in

74 consultation with the commissioner, shall prescribe. The secretary shall develop procedures for  
75 verifying the tenant's rental obligation for the tax credit benefit period.

76 (d) While the application is pending, the applicant shall not issue a notice to quit or  
77 commence a summary process action to recover possession of the dwelling unit for the non-  
78 payment of rent, which is the subject of the application.

79 (e) Subject to the availability of credits, the amount of the credit available for each  
80 dwelling unit shall be the actual difference between the monthly lease amounts for occupied  
81 units minus the tenant's rental obligation and the actual amount of monthly rent collected, as  
82 determined by the commissioner. Upon approval of the credit to an owner, the owner shall  
83 release the occupants of the dwelling unit from any liability for the non-payment of rent that is  
84 the subject of the credit.

85 (f) Owners shall not be eligible for credit: (i) if such owner has received property tax  
86 relief, rental voucher assistance or any other federal, state or locally funded benefit intended to  
87 pay, abate or compensate the owner for unpaid rent: (ii) if the owner has commenced a  
88 proceeding to recover possession of the property for the non-payment of rent, which is the  
89 subject of the application; or (iii) another owner, co-owner or applicant has applied for tax  
90 credits for the unpaid rent of the same units.

91 (g) The secretary shall prioritize credit applications for dwelling units whose rent is at or  
92 below the fair market rent as most recently calculated by the United States Department of  
93 Housing and Urban Development for the area in which the dwelling unit is located.

94 (h) If the amount of the credit allowed under this subsection for any taxable year exceeds  
95 the taxpayer's tax liability for that tax year the taxpayer may carry forward and apply in any

96 subsequent taxable year, the portion, as reduced from year to year of those credits, which exceed  
97 the tax for the taxable year.

98 (i) This section shall apply to taxable years beginning on or after January 1, 2020.

99 SECTION 3. Chapter 186 of the General Laws is hereby amended by adding the  
100 following section:-

101 Section 31. (a) For the purposes of this section, the words “just cause” shall mean that:  
102 (1) the tenant has failed to pay the rent; (2) the tenant has materially violated an obligation or  
103 covenant of the tenancy or occupancy, except the obligation to surrender possession upon proper  
104 notice, and has failed to cure such violation within 30 days after having received written notice  
105 thereof from the owner; (3) the tenant is committing a nuisance in the unit, is permitting a  
106 nuisance to exist in the unit, is causing substantial damage to the unit or is creating a substantial  
107 interference with the quiet enjoyment of other occupants; (4) the tenant is using or permitting the  
108 unit to be used for any illegal purpose; or (5) the owner intends to make bona fide personal use  
109 of the unit within 180 days, including use of the unit as the owner’s primary residence or the use  
110 of the unit by a member of the owner’s family as a primary residence.

111 (b) A city or town that adopts this section in the manner provided in section 4 of chapter  
112 4 may require that any summary process action for a residential dwelling unit, except an owner-  
113 occupied dwelling with 4 or fewer units in said city or town, is for just cause.

114 SECTION 4. Item 7004-9316 of section 2 of chapter 41 of the acts of 2019 is hereby  
115 amended by adding the following words:- ; provided further, that households with a median  
116 income of no more than 100 per cent of median income and are at risk of becoming homeless  
117 due to a significant reduction of income or increased expenses due to the inability to pay rent for

118 a residential dwelling unit caused by the outbreak of the 2019 novel coronavirus, also known as  
119 COVID-19, or the effects of the governor's March 10, 2020 emergency declaration shall be  
120 eligible for rental assistance pursuant to this item and that such assistance shall be remitted by  
121 voucher to the renter's landlord.

122 SECTION 5. Chapter 65 of the acts of 2020 is hereby amended by inserting after section  
123 3 the following 2 sections:-

124 (a)SECTION 3A. Notwithstanding any general or special law to the contrary, no  
125 person shall: (1) commence or attempt to commence a non-essential eviction or (2) charge or  
126 collect rent or use and occupancy payments in excess of the agreed-upon amount as of March 10,  
127 2020, except that housing authorities and landlords with tenants whose rent payments are  
128 partially or fully subsidized shall be exempt from clause (2). Any waiver of this section included  
129 in a lease or other contract shall be against public policy and shall be void. This section shall not  
130 apply to owner-occupied buildings composed of 4 or fewer rental units.

131 SECTION 3B. Notwithstanding any general or special law, rule, regulation or order to  
132 the contrary, no court having jurisdiction of a summary process action or any other trial court  
133 department shall make public or publish, in any manner, the name or other identifying  
134 information, including, but not limited to, the person's address, of any person named as a party to  
135 a summary process or civil action where the plaintiff seeks non-payment of rent from a period  
136 beginning with the COVID-19 emergency and for 1 year after the termination of the state of  
137 emergency; provided, further, that such information shall be impounded and shall remain  
138 permanently unavailable for public inspection or publication, except to the parties to the action  
139 or their attorney, or as ordered by the court for good cause shown.



140 SECTION 6. Section 5 of said chapter 65 is hereby amended by striking out subsection  
141 (b) and inserting in place thereof the following subsection:-

142 (b) A creditor or mortgagee shall grant forbearance to a mortgagor of a mortgage loan for  
143 a residential property as defined in section 35B of said chapter 244 if the mortgagor submits a  
144 request to the mortgagor's servicer affirming that the mortgagor has experienced a financial  
145 impact from COVID-19. The request may be made in any form, written or oral, and the  
146 forbearance shall be granted regardless of the mortgagor's delinquency status. The forbearance  
147 shall last 180 days, although at the mortgagor's request, the period of forbearance may begin in  
148 an increment shorter than 180 days and then extended at the mortgagor's request. The  
149 forbearance shall be extended for an additional 180 days at the mortgagor's request. Fees,  
150 penalties or interest beyond the amounts scheduled and calculated as if the mortgagor made all  
151 contractual payments on time and in full under the terms of the mortgage contract shall not  
152 accrue during the period of forbearance granted under this subsection. A payment subject to the  
153 forbearance, including any escrow payments required to be paid in the mortgage contract, shall  
154 be added to the end of the term of the loan unless otherwise agreed to by the mortgagor and  
155 mortgagee. Nothing in this subsection shall prohibit a mortgagor and mortgagee from entering  
156 into an alternative payment agreement for the payments subject to the forbearance. The  
157 mortgagee shall not furnish information to a consumer reporting agency related to mortgage  
158 payments subject to forbearance pursuant to this act. Nothing in this act shall be interpreted to  
159 reduce a mortgagor's rights under the federal Coronavirus Aid, Relief, and Economic Security  
160 Act, as applied to federally backed mortgage loans.

161 SECTION 7. Said section 5 of said chapter 65 is hereby further amended by adding the  
162 following 2 subsections:-

163 (d) Notwithstanding any general or special law, rule, regulation or order to the contrary, a  
164 creditor or mortgagee shall grant forbearance to a mortgage loan for residential property owned  
165 by a nonprofit entity or an affiliate or agent of the non-profit entity or a mortgagor, including  
166 affiliates and agents, that owns 15 or fewer residential apartments, if the mortgagor submits a  
167 request to the mortgagor's servicer affirming that the mortgagor has experienced a financial  
168 impact from the COVID-19 emergency. The forbearance shall last 180 days; provided, that at the  
169 mortgagor's request, the period of forbearance may begin in an increment shorter than 180 days  
170 and then extended at the mortgagor's request, may be extended an additional 180 days at the  
171 mortgagor's request, and shall be offered on the same terms and conditions in subsection (b).

172 (e) A mortgagor who has requested and received mortgage forbearance under subsection  
173 (b) or (d) shall for each month of the mortgage forbearance period, waive and forever hold  
174 tenants harmless from the obligation to pay that month's rent for each rental unit located on the  
175 property that is secured by the mortgage and which is occupied by a household who resided  
176 lawfully in the unit as of March 10, 2020, except if the mortgagor demonstrates by clear and  
177 convincing evidence that the tenant's failure to pay rent did not result from a loss of income or  
178 other change in economic circumstances caused directly or indirectly by the COVID-19  
179 emergency.

180 SECTION 8. Said chapter 65 is hereby further amended by striking out sections 6 to 8,  
181 inclusive, and inserting in place thereof the following 7 sections:-

182 SECTION 5A. The commissioner of banks and the attorney general may develop and  
183 promulgate regulations and standardized forms for the written documentation required in section  
184 5; provided, however, that the absence of such forms shall not render this act inoperable.

185 SECTION 5B. Notwithstanding any general or special law to the contrary, the housing  
186 court department of the trial court shall have exclusive original jurisdiction of all claims for rent  
187 or mortgage payments due and payable during the period running from March 10, 2020 until 1  
188 year after the COVID-19 emergency declaration has been lifted.

189 SECTION 5C. Violations of this act shall constitute unfair or deceptive acts or practices  
190 for the purposes of section 2 of chapter 93A of the General Laws and shall be enforceable by the  
191 attorney general as well as by aggrieved tenants, homeowners or other occupants in the same  
192 manner and to the same extent as other violations of said chapter 93A. All the remedies of said  
193 chapter 93A shall be available for violations of any section of this act.

194 SECTION 6. Section 4 shall expire 120 days after the effective date of this act or  
195 45 days after the COVID-19 emergency declaration has been lifted, whichever is sooner;  
196 provided, however, that the governor may postpone such expiration in increments of not more  
197 than 90 days; provided further, that the governor shall not postpone such expiration to later than  
198 45 days after the COVID-19 emergency declaration has been lifted.

199 SECTION 6A. Section 3 and section 3A shall expire 1 year after the COVID-19  
200 emergency declaration has been lifted; provided, that any deadline or time period for action that  
201 is tolled under subsection (c) of said section 3 shall begin to run upon the expiration of said  
202 section 3.

203 SECTION 7. Subsection (a) of section 5 shall expire 1 year after the COVID-19  
204 emergency declaration has been lifted.

205 SECTION 8. Notwithstanding any general or special law to the contrary, a creditor or  
206 mortgagee shall not be required to grant a forbearance to a mortgagor of a mortgage loan for a

207 residential property under subsection (b) or (d) of section 5 if the mortgagor's request for such  
208 forbearance is made after the expiration date in section 7.

209

210 SECTION 9. (a) There shall be established and set upon the books a COVID-19 Housing  
211 Stability and Recovery Fund to be administered by the department of housing and community  
212 development, to provide assistance to owners of residential units who were unable to pay  
213 housing and housing-related costs for reasons related to the COVID-19 emergency.

214 (b) The Fund shall consist of public and private sources such as revenue from  
215 appropriations or other monies authorized by the general court and specifically designated to be  
216 credited to the fund, funds from the federal government, and all other sources. Amounts credited  
217 to the Fund shall not be subject to further appropriation and any money remaining in the fund at  
218 the end of a fiscal year shall not revert to the General Fund.

219 (c) Amounts credited to the fund may be used, without further appropriation to provide  
220 grants or loans to landlords of residential dwelling units if: (i) the landlord owns no more than 15  
221 residential dwelling units; and (ii) the landlord is able to demonstrate financial hardship due to  
222 the deprivation of rental income during the novel coronavirus state of emergency declared by the  
223 governor.

224 SECTION 10. (a) There shall be a special legislative commission established  
225 pursuant to section 2A of chapter 4 of the General Laws to study and investigate the effects of  
226 COVID-19 on housing.

227 (b) The commission shall consist of the following 33 members: the house and senate  
228 chairs of the joint committee on housing, who will serve as co-chairs; the chief justice of the  
229 housing court or a designee; the chief of the civil rights division of the attorney general's office  
230 or a designee; the executive director of the Massachusetts Housing Partnership Fund or a  
231 designee; the executive director of Community Economic Development Assistance Corporation  
232 or a designee; the executive director of Massachusetts Housing Finance Agency or a designee;  
233 the executive director of Citizens' Housing and Planning Association, Inc. or a designee; the  
234 executive director of City Life/Vida Urbana or a designee; the executive director of Small  
235 Property Owners Association, Inc. or a designee; the executive director of the Mass Alliance of  
236 HUD Tenants or a designee; the executive director of Massachusetts Immigrant and Refugee  
237 Advocacy Coalition, Inc. or a designee; the executive director of Massachusetts Association of  
238 Community Development Corporations or a designee; the executive director of Preservation of  
239 Affordable Housing, Inc. or a designee; the executive director of the Joint Center for Housing  
240 Studies of Harvard University or a designee; the executive director of the Massachusetts Institute  
241 of Technology Center for Real Estate or a designee; the executive director of the Massachusetts  
242 Institute of Technology Abdul Latif Jameel Poverty Action Lab or a designee; the executive  
243 director of Pine Street Inn, Inc. or a designee; a designee from the Housing Prescription as  
244 Health Care Program at Boston Medical Center; 2 directors of local housing authorities to be  
245 appointed by the chair, 1 of whom shall be from western Massachusetts and 1 of whom shall be  
246 from a gateway municipality; and 12 members to be appointed by the governor, 1 of whom shall  
247 be appointed from a list of nominees provided by the Shriver Center on Poverty Law's Racial  
248 Justice Institute, 1 of whom shall be appointed from a list of nominees provided by Charles  
249 Hamilton Houston Institute for Race and Justice, 1 of whom shall be appointed from a list of

250 nominees provided by the Boston branch of the NAACP, 1 of whom shall be appointed from a  
251 list of nominees provided by the Urban League, 1 of whom shall be appointed from a list of  
252 nominees from the ACLU Racial Justice Program, 1 of whom shall be an expert in medical and  
253 behavioral health appointed from a list of nominees from the Dimock Health Center, 2 of whom  
254 shall be representatives of large affordable housing developers, 2 of whom shall be  
255 representatives of small financial institutions and 2 of whom shall be representatives of large  
256 financial institutions; provided, that the representatives of financial institutions shall include  
257 women and people of color in such proportion as these groups exist in the commonwealth's  
258 population as periodically determined by the state secretary as the commonwealth's chief census  
259 officer.

260 (c) The commission shall investigate and report on the effects of the COVID-19  
261 pandemic on housing, including but not limited to: (i) the cost and supply of housing; (ii)  
262 housing distress to families, seniors, undocumented immigrants and financially vulnerable  
263 populations; (iii) the financial impact on small property owners; (iv) the risks of speculation by  
264 large financial institutions and venture capital; (v) the impact on financing of housing  
265 maintenance and operations; (vi) the impact on employment in the housing maintenance and  
266 operations sectors; (vii) the disparate impact of the COVID-19 pandemic on black, indigenous  
267 and people of color in the area of housing stability; and (viii) the health effects of COVID-19-  
268 related housing instability.

269 (d) Not later than 3 months after the effective date of this act, the commission shall file a  
270 report of its findings and recommendations with the clerks of the house of representatives and  
271 the senate.

272 SECTION 11. Section 4 is hereby repealed.

273 SECTION 12. Section 11 shall take effect 90 days after termination of the governor's  
274 March 10, 2020 declaration of a state of emergency.