

HOUSE No. 5181

Sections 79, 80, 88 and 103 contained in the engrossed Bill making appropriations for the fiscal year 2021 for the maintenance of the departments, boards, commissions, institutions and certain activities of the commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 5164), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see Attachment E of House, No. 5190). December 14, 2020.

The Commonwealth of Massachusetts

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

An Act providing for eviction protections during the COVID-19 pandemic emergency.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for eviction protections during the COVID-19 pandemic emergency, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety, health 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. (a) Notwithstanding section 11 or section 12 of chapter 186 of the General
2 Laws, chapter 239 of the General Laws or any other general or special law to the contrary, on
3 and after the effective date of this act until the termination of the state of emergency concerning
4 the outbreak of COVID-19 as declared by the governor on March 10, 2020, a notice to quit for
5 nonpayment of rent given in writing by a landlord to a residential tenant pursuant to said section
6 11 or said section 12 of said chapter 186 shall be accompanied by a form that shall include, but
7 not be limited to: (i) an attestation as to whether the tenant provided a declaration form pursuant
8 to the federal Centers for Disease Control and Prevention order entitled “Temporary Halt in

9 Residential Evictions to Prevent the Further Spread of COVID-19”; (ii) an attestation as to
10 whether the dwelling unit is a covered dwelling under section 4024(a)(1) of the federal
11 Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136, and whether the notice to
12 quit is in compliance with section 4024(c) of said act; (iii) documentation of any agreements
13 between the tenant and landlord for the tenant to repay the landlord for non-payment of rent; and
14 (iv) information on: (A) rental assistance programs including, but not limited to, the residential
15 assistance for families in transition program and the emergency rental and mortgage assistance
16 program; (B) applicable trial court rules, standing orders or emergency administrative orders
17 pertaining to actions for summary process; and (C) any relevant federal or state legal restrictions
18 on residential evictions. The form shall also prominently display the following statement:

19 “THIS NOTICE TO QUIT IS NOT AN EVICTION. YOU DO NOT NEED TO
20 IMMEDIATELY LEAVE YOUR UNIT. YOU ARE ENTITLED TO A LEGAL PROCEEDING
21 IN WHICH YOU CAN DEFEND AGAINST THE EVICTION. ONLY A COURT ORDER
22 CAN FORCE YOU TO LEAVE YOUR UNIT.”

23 The executive office of housing and economic development shall develop the form
24 required under this subsection and make it publicly available on its website not later than
25 December 18, 2020. The information in clause (iv) shall be made available in the 5 most
26 common languages in the commonwealth, in addition to English. On or after December 18,
27 2020, a court having jurisdiction over an action for summary process pursuant to said chapter
28 239, including the Boston municipal court department, shall not, in an eviction for nonpayment
29 of rent for a residential dwelling unit, accept for filing a writ, summons or complaint without
30 proof of delivery of the form required under this subsection.

31 (b) Notwithstanding section 11 or section 12 of chapter 186 of the General Laws or any
32 other general or special law to the contrary, from the passage of this act until the termination of
33 the state of emergency concerning the outbreak of the novel coronavirus disease, also known as
34 COVID-19, declared by the governor on March 10, 2020, a landlord shall send electronically a
35 copy of any notice to quit for nonpayment of rent given in writing by the landlord to a residential
36 tenant pursuant to said section 11 or said section 12 of said chapter 186 to the executive office of
37 housing and economic development; provided, however, that personal identifying information in
38 notices to quit received by the executive office of housing and economic development shall not
39 be a public record as defined by clause Twenty-sixth of section 7 of chapter 4 of the General
40 Laws or chapter 66 of the General Laws. The executive office of housing and economic
41 development shall keep any personal identifying information in a notice to quit confidential;
42 provided, however, that the executive office of housing and economic development may share
43 such information with the individuals named in the notice to quit, the landlord or, to the extent
44 permitted under federal law, a regional administering agency or housing consumer education
45 center for the purposes of providing housing stability resources to tenants at risk of eviction.

46 (c) The executive office of housing and economic development shall issue emergency
47 regulations as necessary to implement this section.

48 SECTION 2. (a) As used in this section, the following words shall have the following
49 meanings unless the context clearly requires otherwise:

50 “COVID-19 emergency”, the state of emergency concerning the outbreak of COVID-19
51 as declared by the governor on March 10, 2020.

52 “Short-term emergency rental assistance”, temporary financial assistance provided to a
53 residential tenant to prevent an eviction or homelessness under the residential assistance for
54 families in transition program, the emergency rental and mortgage assistance program or any
55 other program established or modified as a result of the COVID-19 emergency and administered
56 by the department of housing and community development, a municipality or a nonprofit entity
57 administering such program, using public funds, on behalf of the department, a municipality or a
58 federal agency to cure rent arrearage or provide financial assistance for moving cost assistance,
59 including the payment of a security deposit.

60 (b) Notwithstanding chapter 239 of the General Laws or any other general or special law,
61 rule, regulation or order to the contrary, during the COVID-19 emergency, a court having
62 jurisdiction over an action for summary process under said chapter 239, including the Boston
63 municipal court department, shall grant a continuance for a period as the court may deem just
64 and reasonable if, either at the time the answer is timely filed or on the date the trial is scheduled
65 to commence: (i) the tenancy is being terminated solely for non-payment of rent for a residential
66 dwelling unit; (ii) the non-payment of rent was due to a financial hardship related to or
67 exacerbated by the COVID-19 emergency; and (iii) the defendant demonstrates, to the
68 satisfaction of the court, a pending application for short-term emergency rental assistance;
69 provided, however, notwithstanding this subsection, the court may consider any meritorious
70 counterclaim brought in said action for summary process; provided further, that the court shall
71 issue a stay of execution on a judgment for possession if the requirements in clauses (i) to (iii),
72 inclusive, are met; and provided further, that the court shall not enter a judgment or issue an
73 execution before the application has been approved or denied.

74 (c) Notwithstanding any general or special law to the contrary, not later than the fifteenth
75 day of each month during the COVID-19 emergency, the executive office of the trial court shall
76 submit a report for the previous month to the clerks of the senate and house of representatives,
77 the senate and house committees on ways and means, the joint committee on housing and the
78 joint committee on the judiciary that shall include, but not be limited to: (i) the number of actions
79 for summary process entered and filed with each court having jurisdiction over an action for
80 summary process; (ii) the number of default judgments entered, delineated by the reason for the
81 summary process filing; (iii) the number of execution for possession orders granted, delineated
82 by the reason for the summary process filing; (iv) the number of continuances requested and
83 granted due to pending applications for short-term emergency rental assistance pursuant to
84 subsection (b); (v) the number of stays issued due to pending applications for short-term
85 emergency rental assistance pursuant to subsection (b); (vi) the average length of a continuance
86 and stay granted under said subsection (b); (vii) the number of stays requested, granted or denied
87 pursuant to sections 9 and 10 of chapter 239 of the General Laws; (viii) the number of landlords
88 and tenants participating in pre-trial mediation and, to the extent practicable, the outcome of each
89 mediation; (ix) the number of landlords and tenants receiving legal representation and legal
90 services through on-site court diversion and support resources; and (x) any other relevant
91 information as the trial court may decide.

92 SECTION 3. Notwithstanding any general or special law to the contrary, on or before
93 the fifteenth day of each month, during the COVID-19 emergency, the department of housing
94 and community development shall submit a report to the house and senate committees on ways
95 and means and the joint committee on housing, detailing the activities of the governor's COVID-
96 19 eviction diversion initiative from the prior month. The report shall include a breakdown of

97 each rental and housing assistance program, including, but not limited to: (a) the expansion of
98 the residential assistance for families in transition program, which shall include: (i) the number
99 of households who applied for assistance; (ii) the number of households approved for assistance;
100 (iii) the number of households denied assistance and reason for such denial; (iv) the minimum,
101 median and average amount of financial assistance awarded; (v) the average number of days
102 between the submission of an application and its approval or denial; (vi) the number of landlords
103 who applied for assistance on behalf of tenants; and (vii) a breakdown of how assistance was
104 utilized by each household receiving assistance, including, but not limited to, curing rental
105 arrears, moving expenses, security deposit, first and last month's rent or other purposes; (b) the
106 emergency rental and mortgage assistance program, which shall include: (i) the number of
107 households who applied for assistance, delineated by rental assistance and mortgage assistance;
108 (ii) the number of households approved for assistance, delineated by rental assistance and
109 mortgage assistance; (iii) the number of households denied assistance and reason for such denial;
110 (iv) the minimum, median and average amount of financial assistance awarded; (v) the average
111 number of days between the submission of an application and its approval or denial; and (vi) a
112 breakdown of how assistance was utilized by each household receiving assistance, including, but
113 not limited to, curing rental arrears, curing mortgage arrears, moving expenses, security deposit,
114 first and last month's rent or other purposes; (c) the expansion of the housing consumer
115 education centers, which shall include: (i) the number of households served, including number of
116 households served by geographic area; and (ii) the number of special services coordinators
117 assigned to each site; (d) rapid rehousing assistance through the HomeBase program, the
118 Strategic Prevention Initiative and any other temporary program established to assist in rapid
119 rehousing of families and individuals which shall include: (i) the number of households receiving

120 assistance; (ii) the type of assistance given; and (iii) the average amount provided to each
121 household receiving assistance; (e) the expansion of the tenancy preservation program which
122 shall include: (i) the number of households served; (ii) the number of trained staff; and (iii) the
123 number of applications filed; and (f) any other relevant information as the department may
124 decide. The report shall also include the number of notices to quit received by the executive
125 office of housing and economic development under section 1.

126 SECTION 4. For the purposes of this section, “COVID-19 emergency” shall mean the
127 state of emergency concerning the novel coronavirus disease outbreak declared by the governor
128 on March 10, 2020.

129 From the passage of this act until 45 days after the termination of the COVID-19
130 emergency, there shall be a task force on the COVID-19 eviction diversion initiative. The task
131 force shall track the initiative’s outcomes and make recommendations on how to improve its
132 effectiveness, efficiency and reach.

133 The task force shall make recommendations relative to all aspects of the COVID-19
134 eviction diversion initiative including, but not limited to, the administration and accessibility of:
135 (i) Mass211 Inc. services; (ii) intakes and referrals by housing consumer education centers; (iii)
136 short-term emergency rental assistance programs including, but not limited to, the rental
137 assistance for families in transition program and the emergency rental and mortgage assistance
138 program; (iv) the upstream tenancy preservation program; (v) community mediation; (vi) legal
139 representation and related services; (vii) the HomeBASE household assistance program; (viii)
140 the strategic prevention initiative; and (ix) the eviction process in the trial court of the

141 commonwealth. The task force may also propose new initiatives to supplement existing
142 programs intended to prevent evictions or homelessness during the COVID-19 emergency.

143 The task force shall consist of the following persons or their designees: the chairs of the
144 joint committee on housing, who shall serve as co-chairs; the secretary of housing and economic
145 development; the chief justice of the trial court; the chief justice of the housing court department;
146 and 8 persons appointed by the governor, 4 of whom shall represent organizations dedicated to
147 preserving residential tenancies or housing low or moderate income households and 4 of whom
148 shall represent landlords or real estate organizations. The task force shall consult with other
149 individuals with relevant expertise, including academics, researchers and housing stability
150 service providers, as needed.

151 The task force shall meet as frequently as the co-chairs deem necessary, but not less than
152 once a month. Not later than January 31, 2021, and as frequently as the co-chairs deem necessary
153 thereafter, the task force shall submit a report of its findings and recommendations, together with
154 drafts of any legislation necessary to carry its recommendations into effect, by filing the same
155 with the clerks of the senate and house of representatives and the house and senate committees
156 on ways and means; provided, however, that the task force may submit interim reports and
157 recommendations at any time.