

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

James M. Murphy

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to enact emergency financial protections and forbearance for consumers and small business during the COVID-19 pandemic.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>James M. Murphy</i>	<i>4th Norfolk</i>	<i>4/3/2020</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>4/7/2020</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>4/7/2020</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>4/7/2020</i>
<i>Richard M. Haggerty</i>	<i>30th Middlesex</i>	<i>4/7/2020</i>
<i>RoseLee Vincent</i>	<i>16th Suffolk</i>	<i>4/7/2020</i>
<i>Diana DiZoglio</i>	<i>First Essex</i>	<i>4/7/2020</i>
<i>Michael J. Finn</i>	<i>6th Hampden</i>	<i>4/7/2020</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>4/7/2020</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	<i>4/7/2020</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>4/7/2020</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	<i>4/7/2020</i>
<i>Claire D. Cronin</i>	<i>11th Plymouth</i>	<i>4/7/2020</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>4/7/2020</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>4/7/2020</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>	<i>4/7/2020</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>	<i>4/7/2020</i>

<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>	<i>4/7/2020</i>
<i>John C. Velis</i>	<i>4th Hampden</i>	<i>4/7/2020</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>4/7/2020</i>
<i>Michael S. Day</i>	<i>31st Middlesex</i>	<i>4/7/2020</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	<i>4/7/2020</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	<i>4/7/2020</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	<i>4/7/2020</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>4/7/2020</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>	<i>4/7/2020</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>4/7/2020</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>	<i>4/7/2020</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>4/7/2020</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	<i>4/7/2020</i>
<i>William M. Straus</i>	<i>10th Bristol</i>	<i>4/8/2020</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>	<i>4/8/2020</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>4/8/2020</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>4/8/2020</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>	<i>4/8/2020</i>
<i>Andres X. Vargas</i>	<i>3rd Essex</i>	<i>4/8/2020</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>	<i>4/8/2020</i>
<i>Jon Santiago</i>	<i>9th Suffolk</i>	<i>4/8/2020</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>4/8/2020</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>	<i>4/8/2020</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>4/8/2020</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>	<i>4/8/2020</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>4/8/2020</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>	<i>4/8/2020</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>	<i>4/8/2020</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>4/8/2020</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>4/9/2020</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>4/13/2020</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>4/13/2020</i>
<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>	<i>4/13/2020</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>4/13/2020</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>4/13/2020</i>

HOUSE No.

By Mr. Murphy of Weymouth, a petition (subject to Joint Rule 12) of James M. Murphy and others relative to emergency financial protections and forbearance for consumers and small business during the COVID-19 pandemic. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

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

An Act to enact emergency financial protections and forbearance for consumers and small business during the COVID-19 pandemic.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a Moratorium on debt collection during the Governor’s COVID 19 emergency declaration, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public peace, 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.

2 (a) Definitions in this bill:

3 (1) The term “consumer”

4 (A) Means any natural person obligated or allegedly obligated to pay any debt; and

5 (B) Includes a Small business 50 or less full-and part-time employees, including
6 nonprofits obligated or allegedly obligated to pay any debt.

7 (2) “Creditor” means a person or entity to whom a debt is owed, including a
8 judgment creditor and any other person or entity that obtains an execution on a debt. Creditors
9 shall include but not limited to; Financial Institutions, Banks, Credit Unions, Mortgage lenders,
10 Mortgage brokers, Mortgage loan originators, Consumer finance companies, Money service
11 businesses, Debt collectors and Loan servicers chartered or licensed in the Commonwealth of
12 Massachusetts and subject to examination under section 2 of chapter 167.

13 (3) “Crediting Reporting Agency” means any entity which, for monetary fees, dues,
14 or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of
15 assembling or evaluating consumer credit information or other information on consumers for the
16 purpose of furnishing consumer reports to third parties, and which uses any means or facility of
17 interstate commerce for the purpose of preparing or furnishing consumer reports.

18 (4) The term “Debt” means any obligation or alleged obligation of a consumer to pay
19 money

20 (A) arising out of a transaction in which the money, property, insurance or services which
21 are the subject of the transaction are primarily for personal, family, household, or commercial
22 purposes ,whether or not such obligation has been reduced to judgment;

23 (B) owed by a business as defined in Section 1(a)(1)(B)

24 (C) owed to a governmental entity.

25 (D) “Mortgage loan” as defined in section 1 of chapter 255E

26 (E) “Student Loans” as defined in section 19A of chapter 15A

27 (F) “Credit Cards” as defined in section 37A of chapter 266

28 (G) “Motor Vehicles” as defined in section 1 of chapter 90

29 (H) “Consumer Lease” as defined in section 93 of chapter 90

30 (I) Without limitation, included in the definition of “debt” are all obligations secured by
31 real property; mortgages, whether commercial or residential; all obligations secured by personal
32 property, including but not limited to motor vehicles and manufactured homes; student loans;
33 credit card or other payments pursuant to a revolving credit agreement; and payments on any
34 closed-end credit obligation, including small business loans.

35 (5) “Governmental Entity” means the Commonwealth of Massachusetts, any municipality
36 within the Commonwealth of Massachusetts, any administrative agency or administrative body
37 of the Commonwealth of Massachusetts, and any administrative agency or body of a
38 municipality within the Commonwealth of Massachusetts.

39 (6) “Execution”, an attachment, levy, garnishment or other disablement, freeze or seizure
40 of property, whether pre-judgment or post-judgment, to satisfy a debt or a creditor’s exercise of a
41 right of setoff to collect a debt; provided, however, that it shall not include self-help repossession
42 of collateral.

43 (7) “Garnishment”, a legal or equitable procedure through which the earnings, property or
44 funds of a person are required by a court of competent jurisdiction to be withheld by another
45 entity for payment of a debt to a creditor.

46 SECTION 2: Prohibit Debt Collection, Repossession, and Garnishment of Wages During
47 the Pandemic

48 (a) A creditor or governmental entity upon a consumer demonstrated financial
49 hardship shall not:

50 (1) Commence or take any further actions to prosecute any judicial, administrative, or
51 other action or proceeding against a consumer to collect a debt.

52 (2) Issue or employ any process to or against a debtor in order to collect a debt.

53 (3) Enforce any judgment obtained against a consumer, including, but not limited to,
54 through wage or bank account garnishment;

55 (4) Act to obtain or exercise control over any property of a consumer. This includes
56 without limitation a bar on wage and bank account garnishment, and repossession of chattel. In
57 addition, it includes a bar on termination of any public utilities, including electricity or gas
58 services.

59 (5) Create, perfect, or enforce any lien against property of a consumer.

60 (6) Act to collect, assess, or recover a claim against a consumer.

61 (7) Set off any debt owed to the creditor or governmental entity that is owed by the
62 consumer.

63 (8) Deny relief to any consumer who requests forbearance of payments on residential
64 or commercial mortgages, student loans, car payments, credit card payments, lines of credit or
65 other debts due to hardships caused by the coronavirus crisis.

66 (b) Any deadline for any creditor, governmental entity, or consumer to act under any
67 statute, rule, or other law shall be tolled for the duration of this act.

68 (c) Any writs of execution are stayed.

69 (d) Any property garnished or attached after March 10, 2020, shall be returned to the
70 debtor with 15 business days for the enactment of this statute.

71 SECTION 3: Preventing default during the state of emergency

72 (a) No creditor or governmental entity shall demand payment of any debt from a
73 consumer for the duration of this act. Notwithstanding this provision, creditors and governmental
74 entity may send consumers regular monthly statements.

75 (b) No consumer shall be in default on any debt owed to any creditor or governmental
76 entity for failure to make payments during the duration of this Act.

77 (c) No creditor or governmental entity shall assess any monetary charge or penalty of
78 any kind—including but not limited to interest and late fees—on any debt owed by a consumer
79 for the duration of this Act.

80 (d) No interest shall accrue on any judgment entered by a Massachusetts court for the
81 duration of this Act.

82 (e) Upon termination of this act, no creditor shall require a lump sum payment or
83 assess any monetary charge or penalty of any kind—including but not limited to interest and late
84 fees—on any debt owed by a consumer for the duration of this Act. After forbearance, a servicer
85 must work with the borrower on a permanent workout option to help maintain or reduce monthly
86 payment amounts as necessary, including a loan modification.

87 SECTION 4: Limiting Communications from Debt Collectors During State of
88 Emergency

89 (a) For the purposes of this section only, the term “debt” means any obligation or
90 alleged obligation of a consumer to pay money --- arising out of a transaction in which the
91 money, property, insurance or services that are the subject of the transaction are primarily for
92 personal, family household or commercial purposes, whether or not such obligation has been
93 reduced to judgment.

94 (b) For the purposes of this section only, the term “debt collector” means any person
95 or entity who uses an instrumentality of interstate commerce or the mails in any business the
96 principal purpose of which is the collection of a debt, or who regularly collects or attempts to
97 collect, directly or indirectly, a debt owed or due or asserted to be owed or due another.

98 (c) No debt collector shall communicate with any consumer or any member of their
99 household in order to collect a debt, other than in writing.

100 (d) All written communications from a debt collector to a consumer must include a
101 notice that states the following:

102 “There will be no enforcement of the debt, including applicable remedies (termination,
103 repossession, eviction, garnishment, bank attachment, lawsuits or threats of lawsuits, etc.) for the
104 period of the COVID-19 emergency plus 90 days. No fees or default interest rates will be
105 assessed during this period. You will be given time after the end of the emergency period (90
106 days) to repay any past due obligations.”

107 SECTION 5: Suspension of All Negative Consumer Credit Reporting During the
108 Pandemic.

109 No creditor or governmental entity shall report any negative consumer information to the
110 Credit Reporting Agencies during the duration of this Act. Credit Reporting Agencies shall be
111 prohibited from lowering a consumer’s credit score during the duration of this Act.

112 SECTION 6: Powers

113 (a)The Attorney General and the Division of Banks shall have the power to enact rules
114 and regulations in furtherance on this act.

115 This Act shall remain in effect for 90 days after the end of the Massachusetts State of
116 Emergency.