

SENATE No. 2631

The Commonwealth of Massachusetts

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

SENATE, April 9, 2020.

The committee on Senate Ways and Means to whom was referred the House Bill providing for a moratorium on evictions and foreclosures during the COVID-19 Emergency (House, No. 4615); reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2631 (also based on Senate, No. 2621).

For the committee,
Michael J. Rodrigues

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**In the One Hundred and Ninety-First General Court
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1 SECTION 1. As used in this act, the following words shall have the following meanings
2 unless the context clearly requires otherwise:

3 “COVID-19 emergency”, the state of emergency concerning the novel coronavirus
4 disease outbreak declared by the governor on March 10, 2020.

5 “Non-essential eviction”, an eviction: (i) for non-payment of rent; (ii) resulting from a
6 foreclosure; (iii) for no fault or no cause; or (iv) for cause that does not involve or include
7 allegations of criminal activity or allegations of lease violations that may impact the health or
8 safety of other residents, health care workers, emergency personnel, persons lawfully on the
9 subject property or the general public; provided, however, that a “non-essential eviction” shall
10 not include an eviction for a small business premises unit on account of the expiration of the
11 term of a lease or tenancy or a default by the tenant under the terms of its lease or tenancy that
12 occurred before the declaration of the COVID-19 emergency.

13 “Small business premises unit”, a premises occupied by a tenant for commercial
14 purposes, whether for-profit or not-for-profit; provided, however, that a “small business premises
15 unit” shall not include a premises occupied by a tenant if the tenant or a party that controls, is

16 controlled by or is in common control with the tenant: (i) operates multi-state; (ii) operates multi-
17 nationally; (iii) is publicly traded; or (iv) has not less than 150 full-time equivalent employees.

18 SECTION 2. Notwithstanding section 7A of chapter 167E or section 65C1/2 of chapter
19 171 of the General Laws or any other general or special law to the contrary, from the passage of
20 this act until the COVID-19 emergency declaration has been lifted, written certification from a
21 counselor with a third-party organization that a mortgagor has received counseling via a
22 synchronous, real-time video conference or by telephone in lieu of counseling in person shall
23 satisfy the requirements of clause (ii) of subsection (b) of said section 7A of said chapter 167E or
24 clause (ii) of subsection (b) of said section 65C1/2 of said chapter 171; provided, however, that
25 the third-party organization shall have been approved by the executive office of elder affairs for
26 purposes of such counseling.

27 SECTION 3. (a) Notwithstanding chapter 186 or chapter 239 of the General Laws or any
28 other general or special law, rule, regulation or order to the contrary, a landlord or owner of a
29 property shall not, for the purposes of a non-essential eviction for a residential dwelling unit: (i)
30 terminate a tenancy; or (ii) send any notice, including a notice to quit, requesting or demanding
31 that a tenant of a residential dwelling unit vacate the premises.

32 (b) Notwithstanding chapter 186 or chapter 239 of the General Laws or any other general
33 or special law to the contrary, a court having jurisdiction over an action for summary process
34 pursuant to said chapter 239, including the Boston municipal court department, shall not, in a
35 non-essential eviction for a residential dwelling unit or a small business premises unit: (i) accept
36 for filing a writ, summons or complaint; (ii) enter a default judgment for a plaintiff for

37 possession of a residential dwelling unit or small business premises unit; or (iii) schedule a court
38 event, including a summary process trial.

39 (c) A deadline or time period for action by a party to a non-essential eviction for a
40 residential dwelling unit or small business premises unit, whether such deadline or time period
41 was established before or after the passage of this act, including, but not limited to, a date to
42 answer a complaint, appeal a judgment or levy upon an execution for possession or a money
43 judgment, shall be tolled.

44 (d) A sheriff, deputy sheriff, constable or other person shall not enforce or levy upon an
45 execution for possession for a non-essential eviction of a residential dwelling unit or small
46 business premises unit.

47 (e) A landlord shall not impose a late fee for non-payment of rent for a residential
48 dwelling unit or a small business premises unit or furnish rental payment data to a consumer
49 reporting agency related to the non-payment of rent, if, not later than 30 days after the missed
50 rent payment, the tenant provides notice and documentation to the landlord that the non-payment
51 of rent was due to a financial impact from COVID-19.

52 The executive office of housing and economic development, in consultation with the
53 department of public health, shall develop forms and recommendations for the provision of
54 notice and documentation to a landlord that the non-payment of rent was due to a financial
55 impact from COVID-19.

56 (f) Nothing in this section shall relieve a tenant from the obligation to pay rent or restrict
57 a landlord's ability to recover rent.

58 SECTION 4. (a) Notwithstanding chapter 239 or chapter 244 of the General Laws or any
59 other general or special law to the contrary, a creditor, mortgagee or person having estate in the
60 land mortgaged, a person authorized by a power of sale pursuant to section 14 of said chapter
61 244 or right of entry or the attorney duly authorized by a writing under seal or the legal guardian
62 or conservator of such mortgagee or person acting in the name of such mortgagee or person shall
63 not, for the purposes of foreclosure of a residential property as defined in section 35B of said
64 chapter 244 that is not vacant or abandoned, from the passage of this act until 120 days after the
65 passage of this act: (i) cause notice of a foreclosure sale to be published pursuant to said section
66 14 of said chapter 244; (ii) exercise a power of sale; (iii) exercise a right of entry; (iv) initiate a
67 judicial or non-judicial foreclosure process; or (v) file a complaint to determine the military
68 status of a mortgagor under the federal Servicemembers Civil Relief Act, 50 USC 3901 to 4043,
69 inclusive.

70 (b) A creditor or mortgagee shall grant a forbearance to a mortgagor of a mortgage loan
71 for a residential property as defined in section 35B of said chapter 244 if the mortgagor submits a
72 request during the period from the passage of this act until 120 days after the passage of this act
73 to the mortgagor's servicer affirming that the mortgagor has experienced a financial impact from
74 COVID-19. The forbearance shall be for not more than 180 days. Fees, penalties or interest
75 beyond the amounts scheduled and calculated as if the mortgagor made all contractual payments
76 on time and in full under the terms of the mortgage contract shall not accrue during the period of
77 forbearance granted under this subsection. A payment subject to the forbearance shall be added
78 to the end of the term of the loan unless otherwise agreed to by the mortgagor and mortgagee.
79 Nothing in this subsection shall prohibit a mortgagor and mortgagee from entering into an
80 alternative payment agreement for the payments subject to the forbearance. The mortgagee shall

81 not furnish negative mortgage payment information to a consumer reporting agency related to
82 mortgage payments subject to forbearance under this act.

83 SECTION 5. Section 3 shall expire 120 days after the passage of this act; provided,
84 however, that the governor may postpone such expiration in increments of not more than 90
85 days; provided further, that the governor shall not postpone such expiration to later than 30 days
86 after the COVID-19 emergency declaration has been lifted; and provided further, that any
87 deadline or time period for action that is tolled under subsection (c) of said section 3 shall begin
88 to run upon the expiration of said section 3.