

SENATE No. 2831

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia D. Jehlen

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>6/30/2020</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>7/1/2020</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>7/1/2020</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>	<i>7/1/2020</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>7/1/2020</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>7/2/2020</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>7/2/2020</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>7/3/2020</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>7/6/2020</i>
<i>Nick Collins</i>	<i>First Suffolk</i>	<i>7/7/2020</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>7/8/2020</i>
<i>James T. Welch</i>	<i>Hampden</i>	<i>7/13/2020</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>7/13/2020</i>
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	<i>7/13/2020</i>
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	<i>7/28/2020</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>9/18/2020</i>

SENATE No. 2831

By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 2831) (subject to Joint Rule 12) of Patricia D. Jehlen, Sal N. DiDomenico, Jason M. Lewis, James B. Eldridge and other members of the General Court for legislation to guarantee housing stability during the COVID-19 emergency and recovery. Housing.

The Commonwealth of Massachusetts

**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. "Eviction", an action, without limitation, by an owner or lessor or manager
2 of a housing accommodation which is intended to actually or constructively evict a tenant or
3 otherwise compel a tenant to vacate such housing accommodation.

4 "Housing accommodation", a building or structure, or part thereof or land appurtenant
5 thereto, and any other real or personal property used, rented or offered for rent for living or
6 dwelling purposes, together with all services connected with the use or occupancy of such
7 property.

8 “Just cause”, one of the following: (1) the tenant has failed to pay the rent and is not
9 subject to the protections of Section 2, below; (2) the tenant has materially violated an obligation
10 or covenant of the tenancy or occupancy, other than the obligation to surrender possession upon
11 proper notice, and has failed to cure such violation within 30 days after having received written
12 notice thereof from the owner; (3) the tenant is committing a nuisance in the unit, is permitting a
13 nuisance to exist in the unit, is causing substantial damage to the unit or is creating a substantial
14 interference with the quiet enjoyment of other occupants; (4) the tenant is using or permitting the
15 unit to be used for any illegal purpose.

16 “Tenant”, a person or group of persons who is entitled to occupy a housing
17 accommodation pursuant to a lease or tenancy or a tenancy at will, or a former homeowner
18 residing in a property that has been foreclosed on.

19 SECTION 2. (a) Notwithstanding chapters 186 or 239 of the General Laws or any other
20 general or special law to the contrary, no plaintiff in a non-payment eviction action may recover
21 possession of a residential dwelling unit at any time on the basis of any rent or use and
22 occupancy payments due and payable during the period from the Governor’s March 10, 2020
23 emergency declaration designated as executive order number 591 (“Emergency Declaration”) until
24 12 months after the Emergency Declaration is rescinded, nor shall such rent or use and
25 occupancy payments be recoverable in any proceeding under chapter 239, where the failure to
26 pay such rent or use and occupancy resulted from a loss of income or other change in economic
27 circumstances caused in any way, directly or indirectly, by the conditions and/or events
28 described in the Emergency Declaration.

29 (b) In any proceeding under chapter 239 where the plaintiff's complaint for possession
30 and/or rent due is based upon any rent or use and occupancy due and payable during the period
31 from March 10, 2020 until 12 months after the Emergency Declaration is rescinded, it shall be a
32 rebuttable presumption that the tenant or occupant was unable to pay such rent or use and
33 occupancy payments because of such lost income or other change in economic circumstances,
34 and such presumption shall be rebutted only by clear and convincing evidence that the failure to
35 pay rent was not based in whole or in part upon such lost income or other change in economic
36 circumstances.

37 (c) No person shall initiate, file or threaten to file a negative credit report to a credit
38 reporting agency due to the nonpayment of rent or use and occupancy referred to in this section.

39 SECTION 3. (a) Notwithstanding any general or special law to the contrary, during the
40 state of the Emergency Declaration and for 12 months after the Emergency Declaration is
41 rescinded, no person shall (1) attempt to commence, or commence, an eviction, except for just
42 cause; or (2) charge or collect rent or use and occupancy payments in excess of the agreed-upon
43 amount as of March 10, 2020, except that housing authorities and landlords with tenants whose
44 rent payments are partially or fully subsidized shall be excluded from the rent change provision
45 of subsection (2), above. Any waiver of any provision of this section shall be against public
46 policy and void. This section shall not be applicable to owner-occupied buildings composed of
47 four or fewer rental units.

48 (b) A city or town may provide that the just cause eviction protections of this chapter be
49 extended beyond the expiration of Section 3(a), and for any duration, by legislative enactment in

50 the manner provided in section 4 of chapter 4 of the General Laws, and may, in like manner,
51 terminate such extension.

52 SECTION 4. Notwithstanding any general or special law, rule, or regulation to the
53 contrary, no court having jurisdiction of a summary process action or any other trial court
54 department shall make public or publish, in any manner, the name or other identifying
55 information, such as the person's address, of any person named as a party to a summary process
56 or civil action where the plaintiff seeks non-payment of rent from a period beginning with the
57 commencement of the Emergency Declaration until 12 months after its termination; provided,
58 further, that such information shall be impounded and shall remain permanently unavailable for
59 public inspection or publication, except to the parties to the action or their attorney, or as ordered
60 by the court for good cause shown.

61 SECTION 5. Notwithstanding any general or special law or rule or regulation to the
62 contrary, a creditor, mortgagee or person having estate in the land mortgaged, a person
63 authorized by a power of sale pursuant to section 14 of said chapter 244 or right of entry or the
64 attorney duly authorized by a writing under seal or the legal guardian or conservator of such
65 mortgagee or person acting in the name of such mortgagee or person shall not, for the purposes
66 of foreclosure of a residential property as defined in section 35B of said chapter 244 that is not
67 vacant or abandoned: (i) cause notice of a foreclosure sale to be published pursuant to said
68 section 14 of said chapter 244; (ii) exercise a power of sale; (iii) exercise a right of entry; (iv)
69 initiate a judicial or non-judicial foreclosure process; or (v) file a complaint to determine the
70 military status of a mortgagor under the federal Servicemembers Civil Relief Act, 50 USC
71 sections 3901 to 4043, inclusive, on the basis of mortgage payments due and payable from the
72 Emergency Declaration until 12 months after the Emergency Declaration is rescinded, or the end

73 of any forbearance period granted pursuant to Section 5(b) of Chapter 65 of the Acts of 2020.
74 Any foreclosure actions taken in violation of this statute shall be against public policy and void.

75 SECTION 6. (a) Section 5(b) of Chapter 65 of the Acts of 2020 is amended and replaced
76 in full with the following paragraph:-

77 A creditor or mortgagee shall grant forbearance to a mortgagor of a mortgage loan for a
78 residential property as defined in said section 35B of said chapter 244 if the mortgagor submits a
79 request to the mortgagor's servicer affirming that the mortgagor has experienced a financial
80 impact from COVID-19. The request may be made in any form, written or oral, and the
81 forbearance shall be granted regardless of the mortgagor's delinquency status. The forbearance
82 shall last 180 days, although at the mortgagor's request, the period of forbearance may begin in
83 an increment shorter than 180 days and then extended at the mortgagor's request. The
84 forbearance shall be extended for an additional 180 days at the mortgagor's request. Fees,
85 penalties or interest beyond the amounts scheduled and calculated as if the mortgagor made all
86 contractual payments on time and in full under the terms of the mortgage contract shall not
87 accrue during the period of forbearance granted under this subsection. A payment subject to the
88 forbearance, including any escrow payments required to be paid in the mortgage contract, shall
89 be added to the end of the term of the loan unless otherwise agreed to by the mortgagor and
90 mortgagee. Nothing in this subsection shall prohibit a mortgagor and mortgagee from entering
91 into an alternative payment agreement for the payments subject to the forbearance. The
92 mortgagee shall not furnish information to a consumer reporting agency related to mortgage
93 payments subject to forbearance under this act. Nothing in this Act reduces a mortgagor's rights
94 under the CARES Act as applied to federally backed mortgage loans.

95 (b) Notwithstanding any general or special law, rule, or regulation to the contrary, a
96 creditor or mortgagee shall grant forbearance to a mortgage loan for residential property owned
97 by a nonprofit entity (or an affiliate or agent of such non-profit entity) or where the mortgagor
98 (including affiliates and agents) owns 15 or fewer residential apartments, if the mortgagor
99 submits a request to the mortgagor's servicer affirming that the mortgagor has experienced a
100 financial impact from COVID-19. The forbearance shall last 180 days, although at the
101 mortgagor's request, the period of forbearance may begin in an increment shorter than 180 days
102 and then extended at the mortgagor's request, may be extended an additional 180 days at the
103 mortgagor's request, and shall be offered on the same terms and conditions as those specified at
104 Section 5(b) of Chapter 65 of the Acts of 2020, as amended by Section 6(a) of this statute and
105 must be requested on or prior to the date specified at Section 7 of Chapter 65 of the Acts of 2020.

106 (c) A mortgagor who has requested and received mortgage forbearance under this section
107 or under Section 5(b) of Chapter 65 of the Acts of 2020, as amended by this statute, must, for
108 each month of the mortgage forbearance period, waive and forever hold tenants harmless from
109 the obligation to pay that month's rent for each rental unit located on the property that is secured
110 by the mortgage and which is occupied by a household who resided lawfully in the unit as of
111 March 10, 2020, except where the mortgagor demonstrates by clear and convincing evidence that
112 the tenant's failure to pay rent did not result from a loss of income or other change in economic
113 circumstances caused directly or indirectly by the conditions and/or events described in the
114 Emergency Declaration.

115 SECTION 7. The commissioner of banks and/or the office of the Attorney General, to the
116 extent feasible and practicable in facilitating the timely implementation of this act, may develop
117 and promulgate regulations and standardized forms for the written documentation required in

118 section 6; provided, however, that the absence of such forms shall not render the provisions of
119 this act inoperable.

120 SECTION 8. (a) There shall be established and set upon the books a COVID-19 Housing
121 Stability and Recovery Fund (Fund) to be administered by the department of housing and
122 community development, to provide assistance to owners of residential units who were unable to
123 pay housing and housing-related costs for reasons related directly or indirectly to the conditions
124 or events described in the Emergency Declaration. Priority for such funds shall be given to
125 owner-occupant landlords, elderly landlords on fixed incomes, non-profit landlords, and
126 Massachusetts-based commercial landlords owning 15 or fewer units, with oversight from an
127 Oversight and Advisory Board.

128 (b) The said Fund shall consist of public and private sources such as revenue from
129 appropriations or other monies authorized by the general court and specifically designated to be
130 credited to the fund, funds from the federal government, and all other sources. Money remaining
131 in the fund at the end of a fiscal year shall not revert to the general fund.

132 (c) An Oversight and Advisory Board shall be comprised of members of the Legislature's
133 coronavirus working groups, who will select no fewer than 8 people from communities hardest
134 hit by the COVID-19 pandemic, assessed by the rate of COVID-19 cases in municipalities and
135 neighborhoods and informed by the fact that there are disparities in COVID-19 infection rates by
136 race, ethnicity, and income. The Oversight and Advisory Board shall monitor and evaluate the
137 use of funds to ensure they are equitably distributed, with priority given to low- and middle-
138 income renters and homeowners affected by the COVID-19 crisis, and shall make

139 recommendations regarding the administration of the fund. The Oversight and Advisory Board
140 shall pursue all federal, state, and other funds available to assist renters and homeowners.

141 SECTION 9. Notwithstanding any general or special law to the contrary, the Housing
142 Court shall have sole and exclusive jurisdiction over all civil claims for rent or mortgage
143 payments due and payable during the period running from March 10, 2020 until 12 months after
144 the date the Emergency Declaration is rescinded.

145 SECTION 10. Violations of this chapter shall constitute unfair or deceptive acts or
146 practices as that term is defined under G.L. c. 93A, § 2 and/or 940 C.M.R. 3.00 et seq., and shall
147 be enforceable by the Attorney General as well as by aggrieved tenants, homeowners, or other
148 occupants in the same manner and to the same extent as other violations of c. 93A. All the
149 remedies of G.L. c. 93A shall be available for violations of all sections of this chapter.

150 SECTION 11. If any provision or provisions of this chapter is or are declared
151 unconstitutional or inoperative by a final judgment, order or decree of the supreme court of the
152 United States or of the supreme judicial court of the commonwealth, the remaining parts of said
153 chapter shall not be affected thereby.