

SENATE No. 886

The Commonwealth of Massachusetts

PRESENTED BY:

Adam Gomez

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 enabling local options for tenant protections.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|---------------------------|------------------------------------|------------------|
| <i>Adam Gomez</i> | <i>Hampden</i> | |
| <i>Jack Patrick Lewis</i> | <i>7th Middlesex</i> | <i>2/25/2021</i> |
| <i>Mike Connolly</i> | <i>26th Middlesex</i> | <i>3/11/2021</i> |
| <i>Sal N. DiDomenico</i> | <i>Middlesex and Suffolk</i> | <i>4/8/2021</i> |
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> | <i>1/10/2022</i> |
| <i>Lydia Edwards</i> | <i>First Suffolk and Middlesex</i> | <i>2/1/2022</i> |

SENATE No. 886

By Mr. Gomez, a petition (accompanied by bill, Senate, No. 886) of Adam Gomez, Jack Patrick Lewis, Mike Connolly and Sal N. DiDomenico for legislation to enable local options for tenant protections. Housing.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act enabling local options for tenant protections.

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. Chapter 40P of the General Laws, as appearing in the 2018 Official Edition,
2 is hereby amended by striking out its title and inserting in place thereof the following title:-

3 TENANT PROTECTION ACT.

4 SECTION 2. Said chapter 40P, as so appearing, is hereby further amended by striking out
5 sections 1 to 5, inclusive, and inserting in place thereof the following 9 sections:-

6 Section 1. PURPOSE.

7 The purpose of this chapter is to provide municipalities with a variety of flexible options
8 to help address the housing emergency in a locally appropriate manner.

9 Section 2. GENERAL COURT FINDINGS.

10 The general court hereby finds and declares that homelessness, displacement, foreclosure
11 and excessive rent burden is commonplace throughout the commonwealth. This housing
12 emergency impacts all but the wealthiest of the commonwealth's residents.

13 Section 3. LOCAL ACCEPTANCE OF ANY SECTION.

14 A city or town may accept any of the sections of this chapter in the manner provided in
15 section 4 of chapter 4 and a city or town that has accepted a section may, in like manner, revoke
16 its acceptance.

17 Section 4. PLENARY POWER FOR LOCAL RENT AND EVICTION REGULATION.

18 (a) A city or town accepting this section may, by local charter provision, ordinance or by-
19 law regulate the rent and eviction of tenants in multi-family housing and provide for reasonable
20 exemptions from such regulation. Such city or town may also provide by local charter provision,
21 ordinance or by-law for rent and eviction regulation or exemption in distinct anti-displacement
22 zones, in which it has been determined that residential households of low, moderate or middle
23 income are at risk of displacement, as further defined by the municipality provided, that a
24 community organization, as defined by the municipality, may petition for the establishment of an
25 anti-displacement zone.

26 (b) A city or town may provide for fair return standards for the regulation of rent.

27 (c) For the purposes of this section the term "multi-family housing" shall not include 3 or
28 less dwelling units in an owner occupied dwelling.

(d) Any city or town that adopts this section may ensure that dwelling units governed by such measures are only eligible for those individuals or households who meet income-based eligibility requirements as provided for by the city or town.

(e) A city or town may establish or designate an administrator, board or committee to promulgate regulations pursuant to this section and govern local rent and eviction regulation.

Section 5. JUST CAUSE EVICTION PROTECTION.

(a) The provisions of this section shall be applicable to all housing accommodations in any city or town of the commonwealth that adopts this section; provided however, that a city or town may provide for exemptions from the provisions of this section and any such exemption shall be included in an ordinance or by-law adopted by the municipality. A city or town that accepts this section, may by ordinance or by-law provide that a lessor shall not recover possession of a leased unit within multi-family housing or residential dwellings, as otherwise defined by the municipality, which shall not include 3 or less dwelling units in an owner occupied dwelling, unless the court finds that:

(1) the lessee has failed to pay the rent to which the lessor is entitled;

(2) the lessee has violated an obligation or covenant of his or her tenancy not inconsistent with chapter 93A, or this section, or the regulations issued pursuant thereto, other than the obligation to surrender possession upon proper notice; and the lessee has failed to cure such violation after having received written notice thereof from the lessor;

(3) the lessee is committing or permitting to exist a nuisance in or is causing substantial damage to the leased unit, or is creating a substantial interference with the comfort, safety or enjoyment of the lessor or other occupants of the same or any adjacent accommodations;

(4) the lessee has used or permitted a leased unit to be used for any illegal purposes;

(5) the lessee, who had a written lease agreement which terminated or is a tenant at will, has refused, after written request or demand by the lessor, to execute a written extension or renewal thereof or lease for a further term of like duration, at a rental rate that does not exceed a certain percentage, set by the municipality, of the consumer price index of the rental rate under the prior lease agreement or at will tenancy, and on such terms that are not inconsistent with or violative of any provision of said chapter 93A or of this section; provided, that for purposes of this clause, the term "consumer price index" refers to the annual 12-month average change in the Consumer Price Index for All Urban Consumers, New England Division (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor in September of the prior calendar year;

(6) the lessee has refused the lessor reasonable access to the unit for the purpose of making necessary repairs or improvements required by the laws of the commonwealth or any political subdivision thereof, or for the purpose of inspection as permitted or required by such lessee's lease agreement or by law, or for the purpose of showing the leased unit to any prospective purchaser or mortgagee;

(7) the person holding at the end of a lease term is a sublessee not approved by the lessor;

(8) the lessor seeks in good faith to recover possession of a leased unit for his or her own use and occupancy or for the use and occupancy by his or her spouse, children, grandchildren,

great grandchildren, parents, grandparents, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law, and has provided the tenant with 180 days written notice and an offer of a relocation assistance payment equal to at least 3 months' rent, unless, for example, a municipality has further provided for a partial or complete exemption to the relocation assistance payment provision as it applies to low-income or moderate-income landlords; or

(9) the lessor seeks to recover possession for any other just cause, provided that his or her purpose is not in conflict with the provisions and purposes of said chapter 93A or this section.

(b) A lessor shall notify the clerk's office of the city or town in which the leased unit is located prior to initiating judicial proceedings in compliance with this section.

(c) A lessor who recovers possession of a leased unit in violation of this section shall be punished by a fine not less than \$5,000. Each such recovery in violation of this section shall constitute a separate offense. The housing court shall have jurisdiction over an action arising from a violation of this section and shall have jurisdiction in equity to restrain any such violation. It shall be a defense to a lessee in an action pursuant to this section that a lessor attempted to recover a leased unit in violation of this section.

Section 6. TENANCY PRESERVATION NOTICES.

(a) Notwithstanding section 11 or section 12 of chapter 186, chapter 239 or any other general or special law to the contrary, a notice to quit for nonpayment of rent given in writing by a landlord to a residential tenant pursuant to said section 11 or said section 12 of said chapter 186 shall be accompanied by a form that shall include, but not be limited to: (i) documentation of any agreements between the tenant and landlord for the tenant to repay the landlord for non-payment of rent; and (ii) information on: (A) rental assistance programs including, but not limited to, the

residential assistance for families in transition program and the emergency rental and mortgage assistance program; (B) applicable trial court rules, standing orders or emergency administrative orders pertaining to actions for summary process; and (C) any relevant federal or state legal restrictions on residential evictions. The form shall also prominently display the following statement:

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

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

(b) Notwithstanding section 11 or section 12 of chapter 186 or any other general or special law to the contrary, a landlord shall send electronically a copy of any notice to quit for nonpayment of rent given in writing by the landlord to a residential tenant pursuant to said section 11 or said section 12 of said chapter 186, to the executive office of housing and economic development and to the chief executive officer of the municipality in which the premises is located; provided, however, that personal identifying information in notices to quit received by

the executive office of housing and economic development and the municipality shall not be a public record as defined by clause Twenty-sixth of section 7 of chapter 4 of the General Laws or chapter 66 of the General Laws. The executive office of housing and economic development and the chief executive officer of the municipality shall keep any personal identifying information in a notice to quit confidential; provided, however, that the executive office of housing and economic development and the chief executive officer of the municipality may share such information with the individuals named in the notice to quit, the landlord or, to the extent permitted under federal law, a regional administering agency or housing consumer education center for the purposes of providing housing stability resources to tenants at risk of eviction.

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

Section 7. ROLL BACK PROTECTION FROM IMMEDIATE RENT INCREASES.

Unless otherwise provided for in this chapter, the maximum rent of a regulated rental unit shall be the rent charged the occupant for the month 12 months prior to the acceptance of this section by a municipality. If the rental unit was unoccupied at that time but was occupied at any time prior to acceptance of this section, the maximum rent shall be the rent charged therefor for the month closest to 12 months prior to the effective date of this section. If the maximum rent is not otherwise established, it shall be established by the city or town as provided for in this chapter. Any maximum rent may be subsequently adjusted under the provisions of this chapter.

Section 8. REGULATION OF TENANT DEPOSITS AND FEES, INCLUDING BROKERS FEES.

(a) A city or town that adopts this section may regulate by ordinance or by-law the payment of deposits and non-refundable move-in fees paid by a residential tenant or prospective tenant, notwithstanding any general or special law to the contrary; provided however, that no by-law or ordinance shall provide that a lessor may require a tenant or prospective tenant to pay any amount in excess of the amount provided for in section 15B of 186.

(b) Such regulation may include installment payment options for a tenant's last month's rent and security deposit pursuant to this section.

(c) A city or town ordinance or by-law may provide that a tenant may elect to pay a security deposit and last month's rent in installments as follows:

(1) for any rental agreement term that establishes a tenancy for 6 months or longer, the tenant may elect to pay the security deposit and last month's rent in 6 consecutive, equal monthly installments that begin at the inception of the tenancy or the tenant may propose an alternative installment schedule. If the landlord agrees to the tenant's alternative installment schedule the schedule shall be described in the rental agreement;

(2) for any other rental agreement term that establishes a tenancy, the tenant may elect to pay the security deposit and last month's rent in no more than 4 equal amounts that begin at the inception of the tenancy and are paid in installments of equal duration or the tenant may propose an alternative installment schedule. If the landlord agrees to the tenant's alternative installment schedule the schedule shall be described in the rental agreement.

(d) Landlords may not impose any fee, charge any interest, or otherwise impose a cost on a tenant because a tenant elects to pay the last month's rent in installments.

(e) A landlord who fails to comply with the requirements of any ordinance or by-law promulgated pursuant to this section shall be liable to the tenant for \$1,000 plus reasonable attorney fees and costs in addition to any other remedy available at law.

(f) This section shall not apply to a tenant who rents a unit in an owner occupied dwelling with 3 or less dwelling units.

(g) In addition to the powers granted to a city or town in this section and notwithstanding section 87DDD½ of chapter 112, a city or town may by local charter provision, ordinance or by-law regulate, limit or prohibit the business of finding dwelling accommodations for a fee.

Section 9. MUNICIPAL ANTI-DISPLACEMENT ZONES.

(a) A city or town accepting any section in this chapter may, in addition to municipal-wide implementation of such section, provide for the implementation or exemption of such section's provisions, in distinct anti-displacement zones, in which it has been determined that residential households of low, moderate or middle income have been displaced or are at risk of displacement, as defined by the municipality.

(b) A community organization, as defined by the municipality, may petition the municipality for the establishment of an anti-displacement zone.