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Moratorium on Evictions and Foreclosures Offers Protection to Some Individuals, Small Businesses and Nonprofits

A bill was signed into law by Governor Baker on April 20 that places a moratorium on eviction and foreclosure actions related to residential property and includes limited protections for small businesses. Small businesses, whether for-profit or not-for-profit, with fewer than 150 full-time equivalent employees that operate only in Massachusetts and are not publicly traded are protected by the statute.

Effective Time Period

The law's moratoriums on evictions and foreclosures became effective on April 20 and was extended by Governor Baker on July 21 until October 17. The moratorium was originally set to expire on August 18, but the law provides that the Governor may extend it in increments of not more than 90 day each, but no later than 45 days after the COVID-19 state of emergency declaration is lifted. The extended timeframe is meant to prevent a flood of eviction and foreclosure actions as courts reopen. The legislature is currently considering additional measures that, if enacted, would extend the moratorium for an additional 12 months following the lifting of the state of emergency, among other reforms.

Limits on Terminating a Tenancy

The law provides that a landlord of a residential dwelling unit shall not terminate a tenancy or "send any notice, including a notice to quit, requesting or demanding that a tenant of a residential dwelling unit vacate the premises."

The law further provides that courts may not accept a filing or otherwise process a "non-essential eviction" for a residential dwelling unit or a small business premises unit. A "non-essential eviction" is an eviction that does not include allegations of criminal activity or lease violations that may impact the health and safety of other residents, healthcare workers, emergency personnel, or other members of the general public lawfully on the premises. An eviction for non-payment of rent is a non-essential eviction and is prohibited. In addition, any deadline for action by a party to a non-essential eviction is tolled.

Law Delays Rent Collection – It Does Not Forgive Payments

Further, the landlord may not impose a late fee for non-payment of rent if, within 30 days after the missed payment, the tenant provides notice and documentation that the non-payment was due to a financial impact from COVID-19.

Importantly, the statute does not relieve a tenant from the obligation to pay rent or restrict the ability of the landlord to recover missed rent.

The law also provides that residential landlords may use last month's rent received from tenants in advance for limited purposes: to make mortgage payments, to pay for utilities, to



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make repairs and perform required upkeep, but not for payment of rent. The landlord remains obligated to apply the full amount that the tenant paid in advance as rent for the last month of the tenancy.

Foreclosure Relief for Homeowners

To assist homeowners who can document a financial impact from COVID-19, the law prohibits foreclosure actions and requires lenders to provide relief by granting forbearance for up to 180 days on mortgage payments on the primary residence of the owner. The foreclosure and forbearance protections do not apply to investment property or residential property that is collateral for a commercial loan. The homeowner must request the payment relief and attest that it is necessary due to the COVID-19 crisis and is still responsible for the missed payments at the end of the term of the loan, or earlier if agreed.

Regulations, Forms and Documentation

On April 24, the Massachusetts Executive Office of Housing and Economic Development, as directed by the law, issued regulations with guidance for landlords and tenants on complying with the moratorium, as well as forms and recommendations for notice and documentation that non-payment of rent or mortgage payments is due to a financial impact from COVID-19. [View the regulations here.](#)

For Businesses and Nonprofits that Do Not Qualify for These Protections

Although many business and nonprofit commercial tenants do not qualify for this law's protections, the reduced capability of courts to handle cases has limited a landlord's ability to enforce the payment of rent.

COVID-19 Resources

Please visit our [COVID-19 resource page](#) for additional resources related to COVID-19.

Contact Us

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