

# **AN ACT TO GUARANTEE HOUSING STABILITY DURING THE COVID-19 EMERGENCY & RECOVERY H.5018 / S.2918**

We are still in the grips of a public health emergency: COVID-19 infections are increasing every day as officials brace for another wave of infections. The Governor has not extended the moratorium on evictions and foreclosures, putting tens of thousands of Massachusetts residents – tenants, homeowners, and small landlords – at risk of displacement at this dangerous time. Recent actions by the Governor and Courts are important first steps, but these efforts alone cannot prevent the predictable humanitarian disaster.

**The Legislature must act immediately to ensure that a crisis of evictions and foreclosures does not put lives at risk and increase homelessness; instead we must start on the path to housing stability by passing H.5018/S.2918.**

The Housing Stability bill, if passed, will stop displacement by protecting tenants from eviction, providing financial assistance to landlords, and preventing foreclosures.

## **Tenant protections:**

- Prohibits “non-essential” evictions for the state of emergency and 1 year after it is lifted.
- Provides a local option for municipalities to adopt “just cause” eviction protections, excluding owner-occupants of dwellings with 4 or fewer units.
- Increases eligibility for COVID RAFT to households of up to 100% Area Median Income.
- Freezes rents at amount agreed upon as of March 10, 2020, excluding owner-occupants of dwellings with 4 or fewer units.
- Seals eviction records for non-payment of rent cases filed within 1 year of the end of the state of emergency.

## **Homeowner & Landlord protections:**

- Creates COVID-19 Housing Stability Fund to provide grants or loans to landlords owning 15 or fewer residential units who are experiencing financial hardship, or;
- Provides a tax credit to residential landlords equal to the difference between tenants’ rental obligations and actual rents collected.
- Prohibits foreclosures until 12 months after the end of the state of emergency.
- Provides mortgage forbearance, regardless of whether borrower is current, and removes existing 180-day cap on forbearance.
- Expands forbearance protections to residential property owners of 15 or fewer units and to nonprofit owners.

# **An Act to Guarantee Housing Stability during the COVID-19 Emergency & Recovery H.5018 / S.2918**

## **FREQUENTLY ASKED QUESTIONS**

### **What about the Courts?**

**The Courts alone cannot avert the coming humanitarian crisis; we should instead provide relief to prevent cases from getting filed.** The number of renter households experiencing financial distress is at unprecedented levels, putting tens of thousands of people at risk of eviction, displacement, and homelessness. Even recently-announced programs do not affect the ultimate duty of the courts, which is to apply the law, not stabilize tenancies. Given the dire financial circumstances of tenants and homeowners, this means many people will be evicted. In addition, many families are displaced through ‘informal evictions’ with no opportunity to defend themselves, and the court’s own data shows us that about 25% of tenants default in their court cases.

### **What about the federal CDC moratorium?**

**The CDC moratorium will not prevent most cases from moving forward quickly, and only protects tenants who affirmatively complete a form.** In September the Centers for Disease Control issued a moratorium order barring evictions for certain cases until December 31, 2020. However, these protections only apply to tenants who have provided a sworn declaration to their landlords. The Department of Justice has issued an opinion saying the moratorium only protects the ultimate order to remove a tenant - allowing landlords to serve notices to leave on tenants, file eviction cases, and obtain a judgment to be used as early as January 1, 2021. This significantly reduces its protections and wastes judicial resources, as these issues are likely to be litigated. The CDC order does not provide any financial relief, and does not protect homeowners or landlords at all.

### **What about increased Residential Assistance for Families in Transition (RAFT) funds?**

**Even increased RAFT funding is not sufficient to meet the current need.** While increasing funding for RAFT is critical, the increased levels will not be sufficient to prevent a catastrophic displacement crisis when the moratorium is lifted. Administering agencies have already been stretched to capacity, and vulnerable residents across the state have been unable to access this resource given the technological and language limitations the pandemic has compounded.

### **Does this bill help landlords?**

**Yes – direct financial assistance or tax deductions are available to landlords.** This bill creates a Housing Stability and Relief Fund for landlords of 15 or fewer residential units, intended to distribute funds quickly to stabilize landlords in need. This bill will extend the ban on foreclosures and make mortgage forbearance available to larger landlords while strengthening mortgage forbearance provisions by ensuring there are enforcement options against lenders who fail to provide required forbearance options and terms. This bill also gives landlords the option of taking an income tax deduction equal to the difference between rent owed and rent received.

### **Does this bill cancel rents?**

**No.** This bill would continue to make clear that rent is still owed and would also provide financial relief for landlords. Landlords could still bring civil claims for rent owed in Housing Courts, giving tenants and landlords time to seek assistance from the Recovery Fund and other resources.

### **Is this bill constitutional? What about the lawsuits against the current moratorium?**

**Yes.** This bill is constitutional and recent court rulings in cases challenging the current eviction moratorium confirm that fact. Judges in both state Superior Court and federal District Court rejected every state and federal constitutional argument that was brought to try and strike down the current moratorium. The courts confirmed that restrictions can be placed on the eviction process without unconstitutionally interfering with court access, free speech rights or private property interests, and that the Legislature acted reasonably given the significant government interest in protecting public health during this pandemic.

### **What's the scale of the crisis?**

A tool co-developed by the National Coalition for Civil Right to Counsel and Stout (a global advisory firm that has compiled eviction data and resources) estimated that by January 2021 between 119,000 to 169,000 eviction cases could be filed in Massachusetts, representing a rent shortfall between \$605 million and \$757 million dollars. The Metropolitan Area Planning Council (MAPC) recently estimated that 45,000 renter and 35,000 owner households with a worker on standard unemployment will have trouble covering housing costs and basic needs in October, representing a housing cost shortfall as high as \$42.3 million for this month alone. MAPC has previously estimated that the housing assistance need could be over \$117 million per month—*before* the inclusion of workers, like undocumented residents, ineligible for standard or expanded unemployment benefits.

### **Why is this is a racial justice, economic justice, and equity issue?**

Black people and communities of color were [disproportionately affected by the housing crisis before](#) COVID-19, and have also been [hit hardest by the virus](#) and related economic impacts. Mass evictions would have a devastating impact on people of all backgrounds across the state, but would particularly [harm people of color](#) and working class neighborhoods.

### **Who supports this bill?**

Ninety Senators and Representatives have signed on as cosponsors, originally filed by Representative Kevin Honan, Representative Mike Connolly, and Senator Pat Jehlen. The long and growing list of community supporters can be found on the [Homes for All – Mass. webpage](#) and includes the Massachusetts AFL-CIO, Mass Senior Action, the Black Ministerial Alliance of Greater Boston, MCAN, Catholic Charities of the Archdiocese of Boston, and many more groups from across the state.