

**SENATE . . . . . No. 2831**

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**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>

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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.

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**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.