



Proposed Massachusetts Act Limiting Landlords from Terminating and Evicting Commercial and Residential Tenants

Hinckley Allen Real Estate

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On April 2, 2020, the Massachusetts House of Representatives passed H. 4615, *An Act providing for a moratorium on evictions and foreclosures during the COVID-19 Emergency*. This bill now moves to the Senate for approval, and if approved by the Senate, will require the governor's signature before becoming effective.

The legislation passed by the House provides that, from the effective date of the Act and for a period of 30 days following the termination of the state of emergency, commercial and residential landlords and property owners shall be prevented (except for emergency for cause evictions^[1]) from the following:

1. Terminating tenancy;
2. Sending a notice to quit and requesting/demanding that a commercial or residential tenant vacate the premises;
3. Imposing a late fee for non-payment of rent, provided that the tenant gives landlord notice and documentation that the non-payment of rent was related, directly or indirectly, to COVID-19 or the related state of emergency^[2]; or
4. Furnishing rental payment data to a consumer-reporting agency related to the non-payment of rent.

The Act also establishes a moratorium on eviction actions against commercial or residential tenants during the state of emergency and for 30 days after the termination of the state of emergency. In addition, the Act proposes a moratorium on foreclosure actions against residential properties during the state of emergency and for 30 days after the termination of the state of emergency. Finally, the Act includes language that permits video conferencing during the state of emergency for reverse mortgage loans (the current regulations require in-person consultations for such loans).

The language of the Act explicitly provides that a tenant is not relieved from paying rent and a mortgagor is not relieved from paying their mortgage.

[1] An "emergency for cause eviction action" shall mean an eviction action that involves or includes: (i) allegations of criminal activity that are detrimental to the health or safety of other residents, health care workers, emergency personnel, persons lawfully on the subject property or the general public; or (ii) allegations of lease violations that are detrimental to the health or safety of other residents, health care workers, emergency personnel, persons lawfully on the subject property or the general public.

[2] The department of housing and community development, in consultation with the department of public health is to develop forms and establish recommendations for the provision of notice necessary to establish non-payment of rent was due to a financial impact related, directly or indirectly, to COVID-19.

We are here to help answer specific questions and offer advice on your options. Feel free to contact any member of our Retail Real Estate Group.

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