

## MASSACHUSETTS MORATORIUM ON EVICTIONS

As of April 20, 2020, a new law that provides for a moratorium on evictions and foreclosures during the COVID-19 Emergency is temporarily in effect. The moratorium will expire on the earlier date of 120 days from April 20, 2020 or 45 days from the end of the COVID-19 Emergency. The governor may extend the expiration in 90-day increments, but the expiration shall not be extended beyond 45 days of the end of the COVID-19 Emergency.

### “NON-ESSENTIAL EVICTIONS”

**This law does not provide that tenants are no longer responsible for rent payments. Tenants are still required to make rent payments; landlords still have the right to collect unpaid rent through the court system (after the expiration of this moratorium).**

The moratorium on evictions applies to “non-essential evictions,” defined as evictions for:

- Non-payment of rent;
- Resulting from foreclosure;
- For no fault or no cause; or
- For cause that does not involve:
  - Allegations of criminal activity or lease violations that may impact the health and safety of other residents, health care workers, emergency personnel, persons lawfully on the subject property, or the general public.

A non-essential eviction does not include an eviction with respect to a small business premises whereby the lease term has expired or a tenant defaulted prior to the COVID-19 Emergency, so small businesses who were in trouble before April 20 are still subject to eviction through the courts.

A “**small business premises unit**” is defined as a premises occupied by a tenant for commercial purposes—for-profit or non-profit—as long as the tenant or the party controlling/controlled by/in common control with the tenant:

- Does not operate in a multi-state capacity;
- Does not operate multi-nationally;
- Is not publicly traded; or
- Does not have more than 150 full-time employees.

With respect to non-essential evictions for **residential dwelling units** or **small business premises units**, during the COVID-19 Emergency, **landlords** are prohibited from:

- Terminating tenancies; and
- Sending any notices requesting or demanding that a tenant of a residential dwelling unit leave said unit (this prohibition includes service of notices to quit).

Furthermore, landlords are prohibited from charging late fees for non-payment of rent for residential dwelling units or small business premises units and providing rental payment data to consumer reporting agencies with respect to said non-payment of rent if, within thirty days of the rent non-payment, the tenant furnishes notice and documents to the landlord that the non-payment was caused by the financial impact of the COVID-19 Emergency.

The law permits landlords who received a tenant's last month's rent the ability to access said rent to pay for certain expenses, such as, mortgage payments, utilities, and repairs—not the tenant's unpaid rent. If the landlord uses the last month's rent, the landlord is required to notify tenant of same. The tenant must receive the same interest he or she would have received on the last month's rent if the landlord had not accessed same.

With respect to non-essential evictions for **residential dwelling** units or **small business premises units**, during the COVID-19 Emergency, **courts** are prohibited from:

- Accepting filings of writs, summonses, or complaints;
- Entering judgments or default judgments for plaintiffs for possession of residential dwelling units or small business premises units;
- Issuing executions for possession of residential dwelling units or small business premises units;
- Denying a defendant's request to stay an execution or denying a party's request to continue a summary process proceeding; or
- Scheduling court events (including summary process trials).

All deadlines and time periods for action with respect to non-essential evictions (even if same began before this law was enacted) are tolled.

Sheriffs, constables, or any other individuals are prohibited from enforcing executions for possessions with respect to non-essential evictions of a residential dwelling unit or small business premises unit.

## **FORECLOSURES**

**This law does not provide that mortgagors are no longer responsible for mortgage payments. Mortgagors are still required to make mortgage payments; mortgagees still have the right to collect unpaid mortgage payments (after the expiration of this moratorium).**

The holder of a mortgage with respect to a residential property not vacated or abandoned is prohibited from:

- Publishing a notice of foreclosure sale;
- Exercising power of sale;
- Initiating a foreclosure (judicial or non-judicial); or
- Filing a complaint pursuant to the Servicemembers Civil Relief Act.

The holder of a mortgage shall grant a forbearance to a mortgagor with respect to a residential property upon the mortgagor's request that he or she has experienced a financial impact from the COVID-19 Emergency. Said forbearance shall not last beyond 180 days. Fees, penalties, and interest shall not accrue during the forbearance.