

COMPARISON OF HOUSE & SENATE EVICTION & FORECLOSURE MORATORIUM LEGISLATION

This document compares the House ([H.4615](#)) and Senate ([S.2631](#)) versions of the eviction and foreclosure moratorium bills passed by the respective chambers. The legislation was assigned to a conference committee on April 9, 2020.

EFFECTIVE DATES

Non-Essential Eviction Moratorium

House Effective Date: Until 30 days after the end of the emergency declaration

The time periods and deadlines for non-essential eviction actions shall begin to run 31 days after the termination of the emergency declaration.

Senate Effective Date: 120 days, with the option for the Governor to extend the moratorium in increments of up to 90 days. The Governor may not extend the moratorium beyond 30 days after the emergency declaration has been lifted.

The time periods and deadlines for non-essential eviction actions shall begin to run upon the expiration of the moratorium.

Foreclosure Moratorium

House Effective Date: 30 days after the end of the emergency declaration

Senate Effective Date: 120 days after the passage of this act

NON-ESSENTIAL EVICTION MORATORIUM

Definition of Non-Essential Eviction

Both the House and Senate versions prohibit non-essential evictions. Both versions define non-essential evictions as those actions:

(i) for non-payment of rent; or

(ii) for cause that does not involve or include allegations of criminal activity or allegations of lease violations that may impact the health or safety of other residents, health care workers, emergency personnel, persons lawfully on the subject property or the general public.

The Senate bill also includes eviction actions resulting from a foreclosure or for no fault or no cause in the definition for non-essential evictions.

Eviction Moratorium for Commercial Tenants

The House bill extends the non-essential eviction moratorium to all commercial tenants.

The Senate bill extends this moratorium to “small business premises units” defined as small businesses that do not operate in other states or countries, are not publicly traded, and that do not have more than 150 full time employees.

Prohibitions on Landlords & Owners

For non-essential evictions of residential units, the bill prohibits landlords or owners from:

- (i) terminating a tenancy; or
- (ii) sending any notice, including a notice to quit, requesting or demanding that a tenant vacate the premises.

Stopping & Delaying Non-Essential Eviction Actions in Court

For non-essential eviction actions, both the House and Senate prohibit courts from:

- (i) accepting for filing a writ, summons or complaint for possession;
- (ii) scheduling a court event, including a summary process trial.

The House bill prohibits courts from entering either a judgement or default judgment. The Senate only prohibits courts from entering default judgements.

This means that the Senate bill would allow a court to grant a judgment in a case where the landlord and tenant have reached an out-of-court agreement or settlement. The House would not allow the court to issue judgements based on these out-of-court agreements.

Both bills pause any deadline or time period for action in a non-essential eviction case for residential or small business premises units, the bill prohibits courts. These time periods include a date to answer a complaint, appeal a judgment, execution for possession or money judgment.

Prohibiting Executions for Possession

Both bills prohibit a sheriff or anyone else from enforcing an execution for possession for a non-essential eviction for residential units.

The House applies this prohibition to all commercial tenants. The Senate applies this to small business premises units.

Prohibiting Late Fees or Negative Credit Reporting

Both bills prohibit a landlord from charging late fees for non-payment or providing rental payment data to any consumer reporting agency related to the non-payment if a tenant provides notice and documentation within 30 days of the non-payment that the non-payment was because of financial impact related to the COVID-19 outbreak.

The House bill directs the Department of Housing and Community Development, in consultation with the Department of Health, to develop forms and recommendations for the provision of the notice and documentation to the landlord.

The Senate bill directs the Executive Office of Housing and Economic Development to develop these forms.

Obligation to Pay Rent

Both bills explicitly state that nothing in this legislation shall be construed to relieve a tenant from the obligation to pay rent, or restrict a landlord's ability to recover rent.

EMERGENCY FOR CAUSE EVICTIONS

The House bill would explicitly allow "emergency for cause actions" to move forward.

From the effective date of this act until 30 days after the end of the emergency declaration, the House bill allows a landlord or owner of residential or commercial property to terminate a tenancy for an emergency for cause eviction only after the owner provides the tenant with a 10 days' notice to quit.

An owner may pursue an action for summary process if the tenant does not vacate the property after the 10 days' notice to quit in an emergency for cause eviction.

The House bill directs the Housing Court to issue a standard notice to quit form for emergency for cause evictions within 5 days after the effective date of this act.

FORECLOSURE MORATORIUM

Both the House and Senate prohibit foreclosures on residential properties. Specifically, the bills prohibit a party from:

- (i) Publishing a notice of a foreclosure;
- (ii) Exercising a power of sale;

- (iii) Exercising a right of entry;
- (iv) Initiating a judicial or non-judicial foreclosure process; or
- (v) File a complaint to determine the military status of a mortgagor under the federal Servicemembers Civil Relief Act.

The House effective date for this moratorium is until 30 days after the end of the emergency declaration. The Senate effective date is for 120 days.

MORTGAGE FORBEARANCE

Only the Senate bill includes language on mortgage forbearances.

The Senate bill requires financial institutions to grant a forbearance to residential mortgages upon the homeowner's request if the homeowner has experienced a financial impact related to COVID-19.

The homeowner must request a forbearance within 120 days from the passage of this act. The forbearance cannot be for longer than 180 days. A financial institution may not charge fees, penalties, or interest related to these late payments. The missed mortgage payments shall be added to the end of the loan term, unless otherwise agreed to by the homeowner and the financial institution.

The bill also prohibits financial institutions from reporting negative data to credit reporting agencies for the mortgage payments subject to forbearance.

OBLIGATION TO MAKE MORTGAGE PAYMENTS

The House bill explicitly states that nothing in this act shall be construed to relieve someone from the obligation to make mortgage payments. Nor does the act restrict a duly authorized person from the right to collect mortgage payments. The Senate bill does not contain this language.

REVERSE MORTGAGE COUNSELING

Both the House and Senate allow counseling for reverse mortgages to be done by video-conference during the emergency declaration. Once the emergency declaration lapses, counseling for reverse mortgages will revert back to the requirement that counseling be in person.

The Senate bill includes an additional requirement that reverse mortgage counselors must be approved by the Executive Office of Elder Affairs.