

## SUMMARY OF HOUSING STABILITY BILL

*Last updated July 6, 2020*

**Title:** An Act to guarantee housing stability during the COVID-19 emergency and recovery  
**Number:** [HD.5166](#)  
**Sponsors:** Reps. Mike Connolly & Kevin Honan  
**History:** 06/30/2020: Bill filed (HD.5166)

### Summary

On June 30, 2020, Representatives Mike Connolly and Kevin Honan filed HD.5166 to expand protections to promote housing stability for tenants, homeowners, and certain multifamily housing owners impacted by COVID-19. The bill also creates a fund to support landlords.

For the period from March 10, 2020, until one year after the end of the COVID-19 emergency declaration, HD.5166:

- Stops evictions for non-payment;
- Creates just cause eviction protections;
- Cancels missed rent payments;
- Freezes rent levels as of March 10, 2020;
- Seals eviction records for non-payment cases;
- Prohibits foreclosure proceedings;

HD.5166 also expands mortgage forbearance protections for homeowners and certain multifamily property owners.

The bill makes any violation of HD.5166 subject to the Massachusetts Consumer Protection Law, M.G.L. ch.93A.

Finally, HD.5166 creates a COVID-19 Housing Stability and Recovery Fund to assist multifamily housing owners who were unable to pay housing costs related to the COVID-19 emergency.

### **Stopping Evictions for Non-Payment Until One Year After Emergency Declaration Ends**

HD.5166 prohibits a landlord from taking possession of any residential unit from a tenant for the non-payment of rent from March 10, 2020, until one year after the COVID-19 emergency declaration ends.

### **Just Cause Eviction Protections**

HD.5166 prohibits landlords from starting or attempting to start any eviction, except for just cause, until one year after the end of the emergency declaration. HD.5166 defines just cause evictions to include the following:

- (1) the tenant missed rent payments from March 10, 2020, until one year after the end of the emergency declaration and the missed payments were not related to COVID-19;
- (2) the tenant has materially violated the occupancy agreement and has not cured the violation within 30 days of receiving written notice of the violation;
- (3) the tenant is creating or allowing a nuisance, is causing substantial damage, or creating a substantial interference with the quiet enjoyment of other occupants; or
- (4) the tenant is using or allowing the unit to be used for any illegal purpose.

The bill allows municipalities to vote to extend for any duration these just cause eviction protections.

### **Canceling Missed Rent Payments Related to COVID-19**

HD.5166 prevents landlords from recovering any missed rent payments from between March 10, 2020, until one year after the end of the emergency declaration from tenants if the failure to pay was related to COVID-19.

### **Presumption that Missed Rent is Related to COVID-19**

HD.5166 creates a presumption that any missed rent payment from March 10, 2020, until 12 months after the emergency declaration ends are related to COVID-19. The burden will be on the landlord to rebut this presumption by clear and convincing evidence.

### **Rent Freeze**

HD.5166 freezes rent levels at the payment amount as of March 10, 2020, until one year after the end of the emergency declaration. The rent freeze does not apply to:

- (1) rents of tenants in public or subsidized housing; or
- (2) owner-occupied buildings of four or fewer rental units.

### **Eviction Case Records Sealing**

HD.5166 prohibits courts from making public or publishing the name or other identifying information of any party to an eviction case for non-payment of rent from March 10, 2020, until one year after the end of the emergency declaration. This information shall remain permanently unavailable.

### **Housing Court's Sole Jurisdiction for All Nonpayment Cases**

HD.5166 grants Housing Court sole jurisdiction for all civil claims for rent or mortgage payments due from March 10, 2020, until one year after the end of the emergency declaration.

### **Prohibiting Foreclosures**

HD.5166 prohibits any foreclosure proceeding from March 10, 2020, until one year after the end of the emergency declaration.

### **Mortgage Forbearance Protections for Homeowners**

HD.5166 requires financial institutions to grant mortgage forbearance upon any request by a homeowner who has been financially impacted by COVID-19. The forbearance shall last for at least 180 days, unless the homeowner requests a shorter forbearance period. The homeowner can extend the forbearance for an additional 180 days.<sup>1</sup> These protections apply to owner-occupied 1–4 unit family housing.

These protections shall be in place until August 18, 2020. However, the Governor may extend these protections in increments 90 days, provided that they shall not extend later than 45 days after the end of the COVID-19 emergency declaration.

### **Mortgage Forbearance Protections for Nonprofit & Multifamily Housing**

HD.5166 requires financial institutions to grant mortgage forbearance upon any request, written or oral, by a nonprofit property owner or an owner with 15 or fewer units. The forbearance shall last for at least 180 days, unless the property owner requests a shorter forbearance period. The property owner can extend the forbearance for an additional 180 days.

These protections shall be in place until August 18, 2020. However, the Governor may extend these protections in increments 90 days, provided that they shall not extend later than 45 days after the end of the COVID-19 emergency declaration.

### **Rent Forgiveness for Tenants of Multifamily Housing in Mortgage Forbearance**

HD.5166 waives the obligation of any tenant to pay rent for each month that a multifamily property owner receives mortgage forbearance under this bill, unless the owner demonstrates that the tenant's failure to pay rent was not related to COVID-19.

### **No Negative Credit Reporting**

HD.5166 prohibits any negative credit reporting for missed rent or mortgage payments related to COVID-19.

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<sup>1</sup> Current state forbearance protections under 2020 Mass. Acts 65, §5(b) only apply for up to 180 days.

### **Violations Subject to Massachusetts Consumer Protection Law**

HD.5166 makes any violation of this bill an unfair or deceptive act or practice subject to the Massachusetts Consumer Protection Law.<sup>2</sup>

### **COVID-19 Housing Stability & Recovery Fund**

HD.5166 creates a COVID-19 Housing Stability and Recovery Fund, administered by the Department of Housing and Community Development, to provide assistance to owners of residential units who were unable to pay housing costs related to the emergency declaration. Priority for the Fund shall be given to owner-occupant landlords, elderly landlords on fixed incomes, non-profit landlords, and Massachusetts-based landlords with 15 or fewer units.

The bill directs that funding will come from public and private sources but does not appropriate any actual funds.

HD.5166 creates an Oversight and Advisory Board to make recommendations for, monitor, and evaluate the use of the Fund and to make sure funds are equally distributed, with priority given to low- and middle-income renters and homeowners affected by the COVID-19 crisis.

The Board shall be comprised of members of the Legislature's coronavirus working groups, who will at least 8 people from communities hardest hit by COVID-19.

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<sup>2</sup> M.G.L. ch.93A.