

Acts (2020)

Chapter 257

AN ACT PROVIDING FOR EVICTION PROTECTIONS DURING THE COVID-19 PANDEMIC EMERGENCY

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for eviction protections during the COVID-19 pandemic emergency, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety, health 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:

SECTION 1. (a) Notwithstanding section 11 or section 12 of chapter 186 of the General Laws, chapter 239 of the General Laws or any other general or special law to the contrary, on and after the effective date of this act until the termination of the state of emergency concerning the outbreak of COVID-19 as declared by the governor on March 10, 2020, a notice to quit for nonpayment of rent given in writing by a landlord to a residential tenant pursuant to said section 11 or said section 12 of said chapter 186 shall be accompanied by a form that shall include, but not be limited to: (i) an attestation as to whether the tenant provided a declaration form pursuant to the federal Centers for Disease Control and Prevention order entitled “Temporary Halt in

Residential Evictions to Prevent the Further Spread of COVID-19”; (ii) an attestation as to whether the dwelling unit is a covered dwelling under section 4024(a)(1) of the federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136, and whether the notice to quit is in compliance with section 4024(c) of said act; (iii) documentation of any agreements between the tenant and landlord for the tenant to repay the landlord for non-payment of rent; and (iv) information on: (A) rental assistance programs including, but not limited to, the residential assistance for families in transition program and the emergency rental and mortgage assistance program; (B) applicable trial court rules, standing orders or emergency administrative orders pertaining to actions for summary process; and (C) any relevant federal or state legal restrictions on residential evictions. The form shall also prominently display the following statement:

“THIS NOTICE TO QUIT IS NOT AN EVICTION. YOU DO NOT NEED TO IMMEDIATELY LEAVE YOUR UNIT. YOU ARE ENTITLED TO A LEGAL PROCEEDING IN WHICH YOU CAN DEFEND AGAINST THE EVICTION. ONLY A COURT ORDER CAN FORCE YOU TO LEAVE YOUR UNIT.”

The executive office of housing and economic development shall develop the form required under this subsection and make it publicly available on its website not later than December 18, 2020. The information in clause (iv) shall be made available in the 5 most common languages in the commonwealth, in addition to English. On or after December 18, 2020, a court having jurisdiction over an action for summary process pursuant to said chapter 239, including the Boston municipal court department, shall not, in an eviction for

nonpayment of rent for a residential dwelling unit, except for filing a writ, summons or complaint without proof of delivery of the form required under this subsection.

(b) Notwithstanding section 11 or section 12 of chapter 186 of the General Laws or any other general or special law to the contrary, from the passage of this act until the termination of the state of emergency concerning the outbreak of the novel coronavirus disease, also known as COVID-19, declared by the governor on March 10, 2020, a landlord shall send electronically a copy of any notice to quit for nonpayment of rent given in writing by the landlord to a residential tenant pursuant to said section 11 or said section 12 of said chapter 186 to the executive office of housing and economic development; provided, however, that personal identifying information in notices to quit received by the executive office of housing and economic development shall not be a public record as defined by clause Twenty-sixth of section 7 of chapter 4 of the General Laws or chapter 66 of the General Laws. The executive office of housing and economic development shall keep any personal identifying information in a notice to quit confidential; provided, however, that the executive office of housing and economic development may share such information with the individuals named in the notice to quit, the landlord or, to the extent permitted under federal law, a regional administering agency or housing consumer education center for the purposes of providing housing stability resources to tenants at risk of eviction.

(c) The executive office of housing and economic development shall issue emergency regulations as necessary to implement this section.

SECTION 2. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

“COVID-19 emergency”, the state of emergency concerning the outbreak of COVID-19 as declared by the governor on March 10, 2020.

“Short-term emergency rental assistance”, temporary financial assistance provided to a residential tenant to prevent an eviction or homelessness under the residential assistance for families in transition program, the emergency rental and mortgage assistance program or any other program established or modified as a result of the COVID-19 emergency and administered by the department of housing and community development, a municipality or a nonprofit entity administering such program, using public funds, on behalf of the department, a municipality or a federal agency to cure rent arrearage or provide financial assistance for moving cost assistance, including the payment of a security deposit.

(b) Notwithstanding chapter 239 of the General Laws or any other general or special law, rule, regulation or order to the contrary, during the COVID-19 emergency, a court having jurisdiction over an action for summary process under said chapter 239, including the Boston municipal court department, shall grant a continuance for a period as the court may deem just and reasonable if, either at the time the answer is timely filed or on the date the trial is scheduled to commence: (i) the tenancy is being terminated solely for non-payment of rent for a residential dwelling unit; (ii) the non-payment of rent was due to a financial hardship related to or exacerbated by the COVID-19

emergency; and (iii) the defendant demonstrates, to the satisfaction of the court, a pending application for short-term emergency rental assistance; provided, however, notwithstanding this subsection, the court may consider any meritorious counterclaim brought in said action for summary process; provided further, that the court shall issue a stay of execution on a judgment for possession if the requirements in clauses (i) to (iii), inclusive, are met; and provided further, that the court shall not enter a judgment or issue an execution before the application has been approved or denied.

(c) Notwithstanding any general or special law to the contrary, not later than the fifteenth day of each month during the COVID-19 emergency, the executive office of the trial court shall submit a report for the previous month to the clerks of the senate and house of representatives, the senate and house committees on ways and means, the joint committee on housing and the joint committee on the judiciary that shall include, but not be limited to: (i) the number of actions for summary process entered and filed with each court having jurisdiction over an action for summary process; (ii) the number of default judgments entered, delineated by the reason for the summary process filing; (iii) the number of execution for possession orders granted, delineated by the reason for the summary process filing; (iv) the number of continuances requested and granted due to pending applications for short-term emergency rental assistance pursuant to subsection (b); (v) the number of stays issued due to pending applications for short-term emergency rental assistance pursuant to subsection (b); (vi) the average length of a continuance and stay granted under said subsection (b); (vii) the number of stays requested, granted or denied pursuant to sections 9 and 10 of chapter 239 of the

General Laws; (viii) the number of landlords and tenants participating in pre-trial mediation and, to the extent practicable, the outcome of each mediation; (ix) the number of landlords and tenants receiving legal representation and legal services through on-site court diversion and support resources; and (x) any other relevant information as the trial court may decide.

SECTION 3. Notwithstanding any general or special law to the contrary, on or before the fifteenth day of each month, during the COVID-19 emergency, the department of housing and community development shall submit a report to the house and senate committees on ways and means and the joint committee on housing, detailing the activities of the governor's COVID-19 eviction diversion initiative from the prior month. The report shall include a breakdown of each rental and housing assistance program, including, but not limited to: (a) the expansion of the residential assistance for families in transition program, which shall include: (i) the number of households who applied for assistance; (ii) the number of households approved for assistance; (iii) the number of households denied assistance and reason for such denial; (iv) the minimum, median and average amount of financial assistance awarded; (v) the average number of days between the submission of an application and its approval or denial; (vi) the number of landlords who applied for assistance on behalf of tenants; and (vii) a breakdown of how assistance was utilized by each household receiving assistance, including, but not limited to, curing rental arrears, moving expenses, security deposit, first and last month's rent or other purposes; (b) the emergency rental and mortgage assistance program, which shall include: (i) the number of households who applied for assistance, delineated by rental assistance and

mortgage assistance; (ii) the number of households approved for assistance, delineated by rental assistance and mortgage assistance; (iii) the number of households denied assistance and reason for such denial; (iv) the minimum, median and average amount of financial assistance awarded; (v) the average number of days between the submission of an application and its approval or denial; and (vi) a breakdown of how assistance was utilized by each household receiving assistance, including, but not limited to, curing rental arrears, curing mortgage arrears, moving expenses, security deposit, first and last month's rent or other purposes; (c) the expansion of the housing consumer education centers, which shall include: (i) the number of households served, including number of households served by geographic area; and (ii) the number of special services coordinators assigned to each site; (d) rapid rehousing assistance through the HomeBase program, the Strategic Prevention Initiative and any other temporary program established to assist in rapid rehousing of families and individuals which shall include: (i) the number of households receiving assistance; (ii) the type of assistance given; and (iii) the average amount provided to each household receiving assistance; (e) the expansion of the tenancy preservation program which shall include: (i) the number of households served; (ii) the number of trained staff; and (iii) the number of applications filed; and (f) any other relevant information as the department may decide. The report shall also include the number of notices to quit received by the executive office of housing and economic development under section 1.

SECTION 4. For the purposes of this section, “COVID-19 emergency” shall mean the state of emergency concerning the novel coronavirus disease outbreak declared by the governor on March 10, 2020.

From the passage of this act until 45 days after the termination of the COVID-19 emergency, there shall be a task force on the COVID-19 eviction diversion initiative.

The task force shall track the initiative’s outcomes and make recommendations on how to improve its effectiveness, efficiency and reach.

The task force shall make recommendations relative to all aspects of the COVID-19 eviction diversion initiative including, but not limited to, the administration and accessibility of: (i) Mass211 Inc. services; (ii) intakes and referrals by housing consumer education centers; (iii) short-term emergency rental assistance programs including, but not limited to, the rental assistance for families in transition program and the emergency rental and mortgage assistance program; (iv) the upstream tenancy preservation program; (v) community mediation; (vi) legal representation and related services; (vii) the HomeBASE household assistance program; (viii) the strategic prevention initiative; and (ix) the eviction process in the trial court of the commonwealth. The task force may also propose new initiatives to supplement existing programs intended to prevent evictions or homelessness during the COVID-19 emergency.

The task force shall consist of the following persons or their designees: the chairs of the joint committee on housing, who shall serve as co-chairs; the secretary of housing and economic

development; the chief justice of the trial court; the chief justice of the housing court department; and 8 persons appointed by the governor, 4 of whom shall represent organizations dedicated to preserving residential tenancies or housing low or moderate income households and 4 of whom shall represent landlords or real estate organizations. The task force shall consult with other individuals with relevant expertise, including academics, researchers and housing stability service providers, as needed.

The task force shall meet as frequently as the co-chairs deem necessary, but not less than once a month. Not later than January 31, 2021, and as frequently as the co-chairs deem necessary thereafter, the task force shall submit a report of its findings and recommendations, together with drafts of any legislation necessary to carry its recommendations into effect, by filing the same with the clerks of the senate and house of representatives and the house and senate committees on ways and means; provided, however, that the task force may submit interim reports and recommendations at any time.