

## **The Case for House 5018 and Senate 2831, *An Act to Guarantee Housing Stability During the COVID-19 Emergency and Recovery.***

### **Context and Framing:**

On May 28, we knew that more than 80 long-term care facilities have had at least 20 resident deaths. Five homes recorded more than 50 deaths. 60% of COVID deaths were in nursing homes. Only two states with far larger populations than Massachusetts had more nursing home resident deaths. We know in retrospect action could have been taken to prevent and greatly lessen that.

**Evictions that force people to double up with friends or family, or go to homeless shelters, or to the streets will cause many more COVID-19 infections and deaths.**

**The pandemic is growing. The 25 Coronavirus Hot Spots are Lynn, Chelsea, Everett, Revere, Lawrence, Swansea, Brockton, Winthrop, Framingham, Saugus, Methuen, Milford, North Attleborough, Peabody, New Bedford, Salem, South Hadley, Boston, Springfield, Fall River, Malden, Canton, Dedham, Agawam.**

**\*\*This is a preventable crisis and calamity if we take the steps to pass needed emergency legislation like the Housing Stability Bill and provide large amounts of funding for tenants and homeowners who have been unable to pay their full rent or mortgage because of the pandemic.** All this is often most deeply experienced disproportionately by race in terms of who is unemployed, who works at low wages, and who isn't even eligible for unemployment.

### **Enclosed please find:**

#### **1. Bill Summary**

**2. Why the Federal CDC Moratorium is too weak to protect tenants and homeowners so we need this Housing Stability bill**

**3. New MAPC Study on numbers unemployed who need rental or mortgage assistance and how much this would cost**

#### **4. How the state has \$818 Million in unspent CARES act that could fund rental and mortgage insurance**

#### **5. The recent state and federal Court Cases and why they are not a barrier to passing this bill**

### **I. Bill Summary**

NOTE: this is not the final final summary as our Legal Service lawyers are still further reviewing it.

#### **Major provisions of the bill include:**

##### **Protecting tenants**

- protects tenants who are unable to pay rent due to a direct or indirect impact of COVID-19 against eviction for non-payment (for payments missed 3/10/20 through 12 months after the end of the State of Emergency)
- has local option “just cause” protection that whereby landlords would have to prove specific common sense reasons to evict a tenant like the tenant destroyed their apartment, tenant is operating illegal activities, the landlord’s immediate family members want to move in
- halts rent increases through 12 months after the end of the State of Emergency
- prevents unfair damage to credit and negative court records [\\*](#)

##### **Assisting homeowners**

- extends the ban on foreclosures of most owner-occupied properties [\\*](#)
- extends the right to mortgage deferment (with payments put on the end of the loan) through 12 months after the end of the State of Emergency
- ensures borrowers cannot be charged penalties for missed payments during the forbearance

##### **Stabilizing landlords**

- expands the right to a mortgage deferment to landlords who own up to 15 rental units
- provides a tax credit for landlords for a portion of rents tenants cannot pay
- establishes a COVID-19 Housing Stability and Recovery Fund to assist property owners who lost rental income or missed mortgage payments due to the pandemic
- ensures working-class homeowners and owner-occupant, non-profit, and small-scale landlords have first priority in receiving support from the Fund, and creates an oversight board with representation from communities hardest hit by the pandemic and housing crisis

Does this cancel rent?

No. Rent is still owed and this bill prevents landlords from evicting and removing

tenants for non-payment where the failure to pay is due to the pandemic. Landlords could still bring civil claims for rent owed in Housing Courts, giving tenants and landlords time to seek assistance from the Recovery Fund in the bill and/or other sources like RAFT.

## **II. Why the Federal CDC Moratorium is Inadequate to protect Tenants and Homeowners so state legislation is needed**

Here is a link to the OCC eviction moratorium form from the NHRC website that tenants would have to fill out:

<https://www.hsgcenter.org/wp-content/uploads/2020/09/Eviction-Moratorium-Form.pdf>

a. Requires complicated form for tenants to fill out and if the landlord challenges them in court, 93% of tenants will not have lawyers representing them. And many would not even contest the eviction because tenants often don't understand the eviction process or feel they could not win so they just have to move.

For example, in the required affidavit, the tenant has to sign under threat of criminal and civil action and fines that....

"If evicted I would likely become homeless, need to move into a homeless shelter, or need to move into a new residence shared by other people who live in close quarters because I have no other available housing options."

What if the tenant balks at signing because they don't know for sure if they will become homeless or move in with others or are embarrassed to sign that this will definitely happen to them? And if they don't sign it, they are out.

**b. IT does NOT extend any relief to homeowners from foreclosure like the Moratorium does and the Housing Stability bill would continue it beyond October 17.** Does NOT extend any forbearance relief to homeowners

c. Does NOT extend forbearance relief to small landlords owning 15 or less units and to homeowners like the Housing Stability bill does.

d. Its provisions for tenants only go until December 31 and that's a tough time for the Legislature to act, for tenants to face moving if necessary, so more time is needed beyond that which the Housing Stability bill provides.

### **III. How many people need rental or mortgage assistance and how much money is needed for that?**

<https://www.mapc.org/planning101/covid-housing-gap-update-august>

### **How Much COVID-19 Related Housing Assistance Will MA Municipalities Need?**

Statewide, we estimate that **108,700 households** who filed unemployment claims will have trouble paying their mortgage or rent: 61,000 (55%) renter households and 47,700 (45%) owner households.

We predict that these households will need about **\$117 million per month** in housing assistance. Of that, **renters will need \$57.2 million per month** to make ends meet. The average monthly assistance needed is **\$940 per rental household** and **\$1,250 per owner household** to fill the gap between the household's income with unemployment and the cost of housing and other necessities.

**These estimates are almost certainly underestimating the cost of providing housing support to those who will need it:** MAPC's analysis didn't include workers who have filed for the Pandemic Unemployment Assistance (PUA) program, which serves self-employed and seasonal workers or people such as the maybe 20,000+ undocumented immigrants who are ineligible for unemployment insurance.

### **IV. \$818 Million in unspent Federal CARES Act could be allocated to the Housing Stability Fund in the legislation or otherwise committed to eviction and foreclosure prevention like to the RAFT program by the Governor**

See table for the uses of CARES Act Coronavirus Relief Fund (CVRF). There are lots of accounting issues here, because the state is also using FEMA money as much as possible to substitute in for

this CVRF spending. So even though we can say that a certain amount of money was appropriated into reserves in the Governor’s supplemental budget legislation (including Chapter 124), we don’t know which revenue sources are being used to pay for the spending.

CvRF approx. total for Mass.	\$ 2.673b
Less approx. \$121m to Boston	-121m
Less approx. \$91m to Plymouth County	-91m
Total available for state uses	\$ 2.461b
May 14: municipal distribution (excludes Boston and Plymouth Cty towns)	-501.6m
Aug. 12: Ch. 124 (see table below for housing details of this total)	-1.141b
<b>Estimated remainder</b>	<b>\$ 818m</b>

2. There was housing-related \$ in other sections of CARES besides just CvRF.
  - a. CDBG (3 phases: \$61m, \$26m, \$26m)
  - b. Emergency Solutions Grants (2 phases: \$30m, \$74m)
  - c. Housing for Persons with AIDS: \$1m
  - d. Public housing operating fund for housing authorities: \$26m
  - e. Rental assistance “Moving-to-Work” for Cambridge Housing Authority: \$1m
  - f. Supplemental Administrative Fee Funding (Mainstream) for housing authorities: \$20m
  
3. This is the housing funding specified in the Chapter 124 budget supplemental legislation:

4000-0007	Unaccompanied Homeless Youth	1,000,000
7004-0101	Emergency Assistance Family Shelters and Services	1,250,000
7004-0102	Homeless Individuals Assistance	10,500,000
7004-0104	Home and Healthy for Good Program	5,800,000
7004-3036	Housing Services and Counseling	1,500,000
7004-9005	Subsidies to Public Housing Authorities	13,500,000
7004-9316	Residential Assistance for Families in Transition	20,000,000
	TOTAL	53,330,000

## V. Impact of pending State and Federal Court cases filed by landlords challenging the present Moratorium

NOTE: Our Legal Services attorneys who were defending this law in court will write up a more detailed case than this preliminary material.

In both State and Federal Court suits, the Judges denied Preliminary Injunctions on the ground that the case was not likely to proceed successfully. But the cases are still pending.

Since the Moratorium is likely to end October 17, these cases may not go forward. Our Legal Services lawyers feel this legislation is constructed in a way that it would survive court challenges. But more will be sent on this.

**VI. SAMPLE LETTER or EMail TO LEGISLATORS & PHONE CALLS TO LEGISLATORS.**

Dear Representative/Senator \_\_\_\_\_,

We need your help to pass **House 5018** (formerly H 4878) and **Senate 2831, *An Act to Guarantee Housing Stability During the COVID-19 Emergency and Recovery.***

Governor Baker is ending the Eviction and Foreclosure Moratorium on October 17.

So we need the Legislature to pass this bill to extend protections for tenants, homeowners, and small landlords. It would extend eviction and foreclosure protections for tenants and homeowners for a year if they've lost income because of COVID-19, extend forbearance to homeowners and small landlords owning 15 or less units.

If this bill is not passed, the 10,000 eviction cases put on hold by the Moratorium in April will proceed along with many thousands more against tenants who haven't been able to pay all the rent due during this time of high unemployment. During the public health emergency of COVID-19 pandemic and with approaching cold weather, we don't need people being evicted and then doubling up with others or going to shelters or the streets.

**\*\*We need you to as soon as possible speak to Speaker Robert DeLeo or Senate President Karen Spilka about scheduling this bill for a vote very soon.**

Thanks for considering this.

Sincerely,