

Real Estate Impacted by Looming Issues Tied to Emergency's End

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When Gov. Charlie Baker first declared a state of emergency around COVID-19 on March 10, 2020, one of the reasons he cited [in his order](#) was that it would be “critical to take additional steps to prepare for, respond to, and mitigate the spread of COVID-19 to protect the health and welfare of the people of the Commonwealth.”

Now, after Baker announced Monday that he would end the state of emergency on June 15, the governor and lawmakers have just more than four weeks to decide which of those additional steps they will keep in place moving forward.

“Once the emergency order is over, the emergency order is over,” Baker said, going on to say that one reason for leaving the emergency in place until next month “is to figure out if there are things we need to work with our colleagues in the Legislature to address that are sort of part of that basket of orders that aren’t particularly related to the stuff that people pay the most attention to.”

“We’re going to do a review of that and work with our colleagues in the Legislature to deal with whatever is sort of undone by this,” he said.

In a press release, Baker’s office said the administration “will work with legislative and municipal partners during this period in order to manage an orderly transition from emergency measures adopted by executive order and special legislation during the period of the State of Emergency.”

Baker plans to lift orders restricting business operations on May 29, but beyond that, various measures governing everything from notary services to takeout cocktails, put in place through executive order and legislation alike, have end dates linked to the expiration of the state of emergency. Among them are:

- Virtual Public Meetings:** Baker's COVID-19 Order #1, issued March 12, 2020, tweaked open meeting law requirements for the duration of the state of emergency to allow remote participation, with public access methods required, as a way to keep state and local governments running while in-person gatherings were discouraged. While some state entities, like the T's Fiscal and Management Control Board and the Board of Elementary and Secondary Education, were already accustomed to streaming their meetings online, the move to the digital realm was a new frontier for many and quickly became seen as a boon for transparency, opening up participation to those beyond the greater Boston area where most state offices are clustered. The open meeting law does not apply to the state Legislature, and the House and Senate adopted emergency rules to allow lawmakers to remotely vote and speak during sessions. The Senate's pandemic rules (S 12) expire Jan. 1, 2022, and the House's emergency rules (H 59) say they remain "effective until a majority of the House adopts an Order declaring the state of emergency within the House has ceased or until 11:59 P.M. on July 15, 2021." A separate [order](#) allows for Governor's Council members to participate in their meetings remotely. Like the Legislature, the Governor's Council typically meets in the State House, which [remains closed](#) to the public. Senate President Karen Spilka [said last year](#) that the State House would stay closed "through the duration of the state of emergency," and House Speaker Ron Mariano last month [suggested](#) "that maybe by the fall we can begin to open this building and start to have some hearings and get people in to testify and make their points."
- Restaurant Relief:** With sit-down dining banned early in the pandemic, takeout and delivery became crucial to restaurants, and remained major pieces of many establishments' business models once patrons began returning for outdoor and indoor dining. With those dynamics in mind, legislators temporarily authorized the sale of [beer and wine](#) and then later [cocktails](#) with to-go food orders, and included language in an [economic development law](#) capping the fees that third-party delivery services, like UberEats, DoorDash and Grubhub, can charge restaurants at 15 percent until the state of emergency ends. Restaurant owners and advocates are [already advocating](#) for an extension of those measures, either through Senate budget amendments or standalone legislation.
- Eviction Protections:** While the state of emergency is in place, landlords issuing residential tenants a notice to quit for non-payment of rent must also provide them with other documents, including information on rental assistance and on the Center for Disease Control's eviction moratorium (which is set to expire June 30). [The same law](#) directs courts to grant a continuance in eviction cases for non-payment of rent during the emergency if the defendant has a pending application for emergency rental assistance. The Baker administration rolled out a \$171 million eviction diversion initiative after allowing a state-level eviction and foreclosure moratorium to lapse in October. On Monday, Baker said the diversion program "has actually worked pretty well" and recently "received a very significant

boost financially from the federal government program in the CARES Act 2, which basically provided about \$475 million to support that initiative here in Massachusetts.” “Since we’d built an infrastructure for it, unlike a lot of states where they still haven’t quite figured out how to move the money and to get it out the door and deal with eligibility, we have all that stuff in place, and I think that will help a great deal with one of the biggest concerns a lot of people have,” he said. State housing officials during the state of emergency have to report each month to the Legislature on the eviction diversion initiative, and the law calls for a task force to “track the initiative’s outcomes and make recommendations on how to improve its effectiveness, efficiency and reach” to exist until 45 days after the expiration of the emergency.

- **Virtual Notarization:** An April 2020 law [allowing notaries public](#) to “perform an acknowledgement, affirmation or other notarial act” through real-time electronic video conferencing instead of face-to-face will be repealed three business days after the state of emergency ends.