

I. NOTICES TO QUIT

When a notice to quit is being served for non-payment of rent, the New Law imposes two (2) new requirements:

1. Notice of Rights: Any notice to quit for nonpayment of rent given by a landlord to a residential tenant must now include the form attached hereto in which the landlord must also confirm:

- i. whether the landlord has received a CDC Declaration Form from the tenant;
- ii. whether the dwelling unit is a “covered dwelling” pursuant to the CARES act and, if so, that the notice to quit complies with CARES (i.e. provides 30 days’ notice);
- iii. whether there is any repayment agreement between the tenant and landlord, and if so, includes a copy of such agreement.

The required form, as created by the Executive Office of Housing and Economic Development (“EOHED”), also includes information as to: (a) available rental assistance programs such as RAFT; (b) applicable trial court rules, standing orders and/or emergency administrative orders pertaining to eviction actions; and (c) relevant federal or state legal restrictions on residential evictions.

The form also includes the following statement to tenants:

“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 FIGHT THE EVICTION. ONLY A COURT ORDER CAN FORCE YOU TO LEAVE YOUR UNIT.”

A copy of the required form is available at mass.gov/noticetoquit. Completing and attaching this form to your notices to quit will ensure compliance with this law.

2. Filing of Notice to Quit with State: The New Law requires a landlord to send EOHED an electronic copy of any notice to quit for nonpayment of rent given to a residential tenant. EOHED has **created a portal** for landlords to upload the required electronic copy of the notice to quit. This portal can be found at mass.gov/noticetoquit. While the New Law does not establish a timeline for such filing, we would strongly recommend that the Notice to Quit, with the required form, be filed with EOHED as soon as possible after service of the Notice to Quit upon the tenant. Courts will no longer accept a summary process complaint for filing without evidence of compliance with the New Law, including filing a copy of the Notice to Quit (including the required form) with EOHED.

Please note that the foregoing requirements are in addition to the local ordinances currently in effect in many municipalities, including Boston, Cambridge, Somerville, and Salem. See our **prior Memoranda** in relation to these local ordinances and other federal and state eviction restrictions.

II. DISCRETIONARY AND MANDATORY STAYS

The New Law affords a tenant who has applied for emergency rental assistance the opportunity to seek a delay in a summary process action while such application is pending. Specifically, prior to a judgment entering in an eviction case for non-payment of rent, a tenant may request to stay the case until such time as their emergency assistance application is processed. The Court has the authority to grant such a stay for any period it determines if: (a) the case is for non-payment of rent, (b) the non-payment was due to a COVID-19 related economic hardship; and (c) there is a pending application for rental assistance (such as RAFT).

In addition, if a judgment has entered, the court is required to issue a stay of execution until the application for rental assistance is processed, which means that a tenant cannot be physically removed from the leased premises if the court finds each of the foregoing factors are true and the application is still pending. As the Courts already maintain the authority to grant such stays and would likely be inclined to do so where RAFT may pay the balance owed, this “new” authority is unlikely to significantly alter the current process.

The New Law does create certain reporting requirements for the Court system and providers of rental assistance in order to keep the legislature informed of the number of eviction filings and how RAFT and other assistance is being provided to tenants. However, these requirements do not apply to property owner or managers.

The New Law took effect on December 31, 2020 and remains in effect until the expiration of the current COVID-19 State of Emergency. Please note the Bill, as written, contains an effective date of December 18, 2020. However, as the Governor failed to sign same until December 31, 2020, the law does not appear to have any effect on notices served prior to December 31, 2020.

The foregoing is for informational purposes only and should not be considered legal advice.

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