

An Act Establishing A Fair and Equal Housing Guarantee via Surety Bonds

Whereas the deferred operation of this act would tend to defeat its purpose, which is to stabilize rental housing by guaranteeing rent-payment surety bonds, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public 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. The General Laws are hereby amended by inserting after chapter 121G the following chapter:-

CHAPTER 121H

FAIR AND EQUAL HOUSING GUARANTEE FUND

Section 1. Definitions. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings.

The term “lessor” means the owner of land or tenements used for residential purposes, including landlords.

The term “lessee” means the lessee of land or tenements used for residential purposes, including tenants.

The term “rent-payment surety bond” means a bond conditioned on the payment of rent or use-and-occupancy payments by a lessee to a lessor.

Section 2. In order to stabilize rental housing indefinitely by guaranteeing the purchase of rent-payment surety bonds, there is hereby established a fund to be known as the Fair and Equal Housing Guarantee Fund, to which shall be credited the proceeds of any bonds or notes of the commonwealth issued for this purpose, and any appropriations authorized by the general court specifically designated to be credited to the fund.

Section 3. The secretary of housing and economic development shall instruct the department of housing and community development to administer the fund in order to enable lessors to purchase rent-payment surety bonds from companies authorized to transact business by the division of insurance. The department shall, up to the amount of \$1,000,000,000, guarantee all surety companies against all losses that result from a breach of the terms of any rent-payment surety bonds issued pursuant to this chapter, and provide to lessors upon satisfactory application the full amount of all premiums and other amounts paid for such bonds, subject to the following conditions:

(a) Each applicant for a surety bond shall provide satisfactory evidence of ownership of the premises, that the applicant is not subject to sanctions administered by the federal Office of Foreign Asset Control, that the use of the premises as a residential dwelling is lawful, that the dwelling unit is real and preexisting, and that the lease or rental agreement pertaining to the premises existed prior to the effective date of this act. Satisfactory evidence of a written lease or rental agreement shall include any written lease or tenancy-at-will dated prior to the declaration

of surety. Satisfactory evidence of an unwritten agreement shall include copies of voided checks or other proof of repeat payment prior to the declaration or affidavits executed by the parties averring the existence and terms of their agreement.

(b) Each lessor seeking payment from the surety company shall provide evidence that the proximate cause of the lessee's nonpayment of rent or use and occupancy is (i) the 2019 novel Coronavirus (COVID 19), or (ii) the federal, state, and local governmental responses thereto, including the state of emergency declared by the governor on March 10, 2020, the governor's orders issued on March 23 (COVID 19 Order No. 13), on March 31 (COVID 19 Order No. 21), and all executive orders and advisories issued in connection with COVID 19.

(c) Each lessor shall demonstrate to the satisfaction of the department that the lessor has not previously sought payment from the surety in connection with the same lessee or premises for the same rental period.

(d) The department shall promulgate emergency regulations establishing the procedure, and provide the necessary forms, by which applicants may apply for surety from authorized surety companies, obtain from the department and convey to surety companies the premium payments, and make claims in the event of nonpayment by lessees.

Section 4. No court having jurisdiction of an action for summary process pursuant to chapter 239 or other form of eviction action, except for cause, shall accept for filing a writ, summons or complaint for possession of a residential dwelling arising out of a lease or rental agreement subject to a surety bond guaranteed pursuant to this chapter, unless the surety company has paid or denied the claim for surety. The department and the department of the trial court shall establish a procedure by which it will be apparent on the face of documents presented for filing whether the dwelling was subject to such bond.

SECTION 2

To provide for the establishment and operation of the Fair and Equal Housing Guarantee Fund the sum set forth below is hereby appropriated from the General Fund for the several purposes of and subject to the conditions specified in this act, and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2021.

For the Department of Housing and Economic Development to operate and administer the Fair and Equal Housing Guarantee Fund \$25,000,000

Fair and Equal Housing Guarantee Fund... \$25,000,000

SECTION 3

Chapter 64D of the General Laws is hereby amended by adding the following section:-

Section 14. Where the interest or property conveyed consists of a single family dwelling, except where the property is located in a zoning district in which multi-family dwellings are allowed as of right, when the consideration of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, exceeds one hundred dollars, the excise tax shall be ten dollars for each one-thousand dollars or fractional part of said consideration, excluding a consideration of between zero and one hundred dollars. Such excise taxes shall be deposited in the Fair and Equal Housing Guarantee Fund.