

Instructions for Landlords – Compliance with Notice to Quit and Summary Process Filing Requirements

Massachusetts recently passed a law that requires a landlord giving a notice to quit for nonpayment of rent to a residential tenant to also give the tenant, at the same time, an attestation form with certain information and landlord statements. This requirement will apply from the effective date of the law, December 31, 2020, per [Massachusetts Housing Court First Amended Standing Order 6-20](#), [Massachusetts District Court Second Amended Standing Order 10-20](#), and [Boston Municipal Court Second Revised Standing Order 11-20](#) until the end of the COVID-19 state of emergency declared by the Governor. The law and the attestation form can be found here: <https://www.mass.gov/noticetoquit>.

[The Courts' Standing Orders also require that any case filing on or after January 25, 2021 must be accompanied by an affidavit swearing that the attestation form has been given to the tenant. The affidavit created by the Trial Court of Massachusetts must be used, and can be found here: Court-Required Affidavit re Attestation Form.](#)

The following instructions are to provide guidance to landlords when completing and signing the attestation form.

Preliminary Information:

You are required to provide the name of the landlord(s), the names of the tenant(s) and the address where the tenant(s) live(s).

Name(s) of tenant(s): If there is more than one tenant, you should list all persons listed on the lease. If there is no lease, you should list all persons over the age of 18 you know to be residing at the premises.

Name(s) of landlord(s): If the housing unit is owned jointly by more than one individual, you should list all owners as the landlord. If the landlord is a corporation, limited liability company, partnership, trust or other business entity, then by signing this notice form you are representing that you are authorized to send a notice to quit on behalf of the landlord. If the notice to quit is sent on behalf of the landlord by a third party, such as a property management company, then by signing this form you are representing that you are authorized to send a notice to quit on behalf of the landlord.

Statement #1: CDC Declaration

You are required to state whether the tenant provided a declaration form under the Federal Centers for Disease Control and Prevention (CDC) order entitled “Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19”. This declaration form is Attachment A to the CDC order. It can be found at <https://www.cdc.gov/coronavirus/2019-ncov/downloads/declaration-form.pdf>.

If your tenant has not provided you with the CDC declaration form, but you have reason to believe that your tenant is eligible for the protections of the CDC order, you should provide a copy of the CDC declaration form to your tenant.

Statement #2: CARES Act Compliance

You are also required to provide a statement as to whether the housing unit is a “covered dwelling” under the CARES Act, and whether the notice to quit complies with the CARES Act requirements. You must make these statements in good faith, to the best of your knowledge and after review of the following information. The following information is not legal advice: you are encouraged to consult a lawyer if you are not sure how the CARES Act applies to your property.

a. Determining if a unit is a “covered dwelling”

Under the CARES Act, “covered dwellings” are housing units occupied by a tenant with or without a lease in “covered properties.” Covered properties include:

- Properties with federal rental assistance from a voucher or grant program
- Properties assisted through federally-subsidized housing programs (see list at the end of these Instructions for Landlords)
- Properties with “federally backed mortgage loans.” (See below for more information on the definition of “federally backed mortgage loans.”)

The definition of “federally backed mortgage loan” covers many properties that are not “subsidized housing.”

- It includes FHA-insured loans on 1-4 family properties, such as duplexes and triple deckers.
- It also includes loans that have been bought by government agencies such as Fannie Mae, Freddie Mac, or the USDA.

If your property is mortgaged, you may need to do some research to find out if it is a federally backed mortgage. The Federal Consumer Protection Finance Bureau offers suggestions for how to find out if a property has a federally backed mortgage at <https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/renter-protections/>.

b. CARES Act notice requirements

You are required to state whether your notice to quit complies with the notice requirements of section 4024(c) of the CARES Act. That section prohibits a landlord of a covered dwelling unit from requiring a tenant to vacate a covered dwelling unit sooner than 30 days after the landlord provides the tenant with a notice to vacate. Therefore, if your property is a covered property, your statement of compliance with section 4024(c) of the CARES Act means you have provided your tenant with at least 30 days’ notice before terminating the lease or otherwise requiring the tenant to vacate the premises.

Statement #3: Existing Agreements with Tenant

You are also required to provide documentation of any agreements with the tenant related to the payment of rent. If there are written agreements, you should provide copies to the tenant with the notice to quit. If you have an agreement with the tenant that has not been put in writing, you should check the “yes” box indicating that there is an agreement, and check the box indicating that the agreement is not in writing.

Additional Information About the CDC Moratorium

Please note, although you are not required to swear to compliance with other sections of the CARES Act, an eviction moratorium remains in place for some types of “covered properties.”

- Several Federal agencies, including the FHA, HUD, VA, USDA, and Fannie Mae and Freddie Mac have extended until at least March 31, 2021 the eviction moratorium for owner-occupied properties covered by mortgage loans backed by those agencies.
- Fannie Mae and Freddie Mac have extended until at least February 28, 2021 the eviction moratorium for properties that they own (real estate owned, or “REO” properties).

- If the owner of a covered property with 5 or more housing units received forbearance from its mortgage lender (extra time for a mortgage payment), the owner cannot evict a tenant while the owner is receiving forbearance (see section 4023(d) of the CARES Act).

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Properties Assisted Through Federally-Subsidized Housing Programs

A housing unit in a property subsidized under any of the following housing programs will be considered a “covered dwelling”:

Department of Housing and Urban Development (HUD)

- o Public housing (42 U.S.C. § 1437d)
- o Section 8 Housing Choice Voucher program (42 U.S.C. § 1437f)
- o Section 8 project-based housing (42 U.S.C. § 1437f)
- o Section 202 housing for the elderly (12 U.S.C. § 1701q)
- o Section 811 housing for people with disabilities (42 U.S.C. § 8013)
- o Section 236 multifamily rental housing (12 U.S.C. § 1715z-1)
- o Section 221(d)(3) Below Market Interest Rate (BMIR) housing (12 U.S.C. § 17151(d) o HOME (42 U.S.C. § 12741 et seq.)
- o Housing Opportunities for Persons with AIDS (HOPWA) (42 U.S.C. § 12901, et seq.) o McKinney-Vento Act homelessness programs (42 U.S.C. § 11360, et seq.)

Department of Agriculture

- o Section 515 Rural Rental Housing (42 U.S.C. § 1485)
- o Sections 514 and 516 Farm Labor Housing (42 U.S.C. §§ 1484, 1486)
- o Section 533 Housing Preservation Grants (42 U.S.C. § 1490m)
- o Section 538 multifamily rental housing (42 U.S.C. § 1490p-2)

Department of Treasury

- o Low-Income Housing Tax Credit (LIHTC) (26 U.S.C. § 42)