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March 22, 2021

The Honorable Robert E. Craven, Sr., Chair
House Judiciary Committee and Committee Members
State House
Providence, RI 02903

Re: An Act Relating to Property – Residential Landlord
And Tenant Act (H-5309)

Dear Representative Craven and Committee Members:

We are writing on behalf of the Rhode Island Mortgage Bankers Association (“RIMBA”) to oppose H 5309 (the “Proposed Bill”), which establishes a moratorium on eviction proceedings during any period of declared state of emergency and creates a new requirement for an eviction diversion mediation program. Both provisions of the Proposed Bill increase the burdens on landlords at a time when there is a housing shortage in Rhode Island and the General Assembly should be looking for ways to encourage investors to want to invest in housing, not creating barriers that increase expense and uncertainty by making it more difficult for landlords to recover possession of properties when a tenancy has ended or the tenant is in default.

With respect to the moratorium on eviction proceedings during any period of declared state of emergency, RIMBA believes it essential that the Governor make an official determination as part of the Executive Order declaring the existence of the state of emergency that the nature of the state of emergency is such that a moratorium on evictions is warranted. The Governor can declare a state of emergency for any number of reasons, and a state of emergency may affect only a portion of the State. Before governmental action imposed by the decision of a single elected official can change fundamental property rights, at a minimum, there should be an articulation of the rationale why existing circumstances warrant a change or suspension of those fundamental rights. The Proposed Bill, as drafted, triggers a moratorium on evictions simply upon the declaration of a state of emergency, which is unacceptable. Moreover, if it were determined that having a moratorium that can be triggered by Executive Order as part of state law makes sense, the Proposed Bill should make clear that rent continues to accrue during the moratorium.

The eviction diversion mediation program is equally problematic. Why should a landlord be subjected to a mediation process when the landlord has terminated the tenancy or the tenant is in default for non-payment of rent. Self-help repossession was eliminated as a remedy for landlords in exchange for an expedited process in the district court to permit landlords to recover property when the tenant has defaulted on the payment of rent. To invoke the remedy, the tenant must be 15 days in arrears in the

payment of rent, the landlord must give the tenant written notice of the default, and the tenant must fail to remedy the default within 5 days. So long as the tenant is not habitually late, the tenant has the right to cure the default through the time of the hearing. Involving a mandatory eviction diversion program simply adds 30 days to the process, giving the defaulting tenant an additional month to live rent free.

For the foregoing reasons, RIMBA opposes H 5309.

Rhode Island Mortgage Bankers Association



By _____
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