

# HOUSE . . . . . No. 4934

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, August 3, 2020.

The committee on the Judiciary to whom were referred the petition (accompanied by bill, Senate, No. 824) of Joseph A. Boncore, Boston City Councilor, Lydia Edwards, Michael D. Brady, Sal N. DiDomenico and other members of the General Court for legislation to promote housing opportunity and mobility through eviction sealing (HOMES), the petition (accompanied by bill, Senate, No. 850) of William N. Brownsberger and Kevin G. Honan for legislation to protect the privacy of children in eviction proceedings, and the petition (accompanied by bill, House, No. 3566) of Michael J. Moran and others relative to certain court records in eviction actions, reports recommending that the accompanying bill (House, No. 4934) ought to pass.

For the committee,

CLAIRE D. CRONIN.

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## The Commonwealth of Massachusetts

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In the One Hundred and Ninety-First General Court  
(2019-2020)  
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An Act promoting housing opportunity and mobility through eviction sealing (HOMES).

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Chapter 239 of the General Laws is hereby amended by adding after  
2   Section 14 the following 2 sections:-

3           Section 15. The following words, as used in section 16, shall, unless the context clearly  
4   requires otherwise, have the following meanings:-

5           “Consumer report”, means any written, oral or other communication of any information  
6   by a consumer reporting agency bearing on a person’s credit worthiness, credit standing or credit  
7   capacity which is used or expected to be used or collected in whole or in part for the purpose of  
8   serving as a factor in establishing the person’s eligibility for rental housing or other purposes  
9   authorized under section 51 of chapter 93.

10          “Consumer reporting agency”, means any individual, partnership, corporation, trust,  
11   estate, cooperative, association, government or governmental subdivision or agency, or other  
12   entity, which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in

whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

"Court", means the trial court of the commonwealth established pursuant to section 1 of chapter 211B and any departments or offices established within the trial court.

"Court record", means paper or electronic records or data in any communicable form compiled by, on file with or in the care custody or control of, the court, which concern a person and relate to the nature or disposition of an eviction action or a lessor action.

"Eviction action", means a summary process action under chapter 239 to recover possession of residential premises, a civil action under section 19 of chapter 139 to obtain an order requiring a tenant or occupant to vacate residential premises, a civil action brought pursuant to section 11, 12 or 13 of chapter 186 or section 4(a) of chapter 186A or any other civil action brought against a tenant or occupant of residential premises to obtain possession of or exclusive access to the residential premises.

"Fault eviction", means an eviction action brought pursuant to section 4(a)(ii) of chapter 186A, pursuant to section 19 of chapter 139 or in which the notice to quit, notice of termination or complaint alleges a material violation of the terms of a residential tenancy or occupancy, including nonpayment of rent and failure to vacate following the termination or conclusion of a tenancy by the tenant or occupant. An action brought after termination of a tenancy for economic, business, or other reasons not constituting a violation of the terms of the tenancy shall not be deemed a fault eviction for purposes of this section.

"Lessor action" means any civil action brought against the owner, manager, or lessor of residential premises by the tenant or occupant of such premises relating to or arising out of such

property, rental, tenancy, or occupancy for breach of warranty, breach of any material provision of the rental agreement, or violation of any other law.

"No-fault eviction" means any eviction action in which the notice to quit, notice of termination or complaint does not include an allegation of nonpayment of rent or of violation of any material term of the tenancy by the tenant or occupant. An action brought after termination of a tenancy for economic, business, or other reasons not constituting a violation of the terms of the tenancy shall be deemed a no-fault eviction for purposes of this section.

Section 16. (a) Any person having a court record of a fault eviction or lessor action on file in a court may, on a form furnished by the Trial Court and signed under the penalties of perjury, petition the court to seal the court record. The petition shall be filed in the same court as the action sought to be sealed. If an action was active in more than one court during its pendency, then a petition may be filed in each such court. Notice need not be given to parties to the original action. The court shall comply with the petitioner's request provided that the record of the action which the petitioner seeks to seal concluded, including exhaustion of all rights of appeal, not less than 3 years before the request and no eviction action or lessor action has been brought against the petitioner within the Commonwealth in the 3 years preceding the request. The court may, in its discretion, process such petitions administratively without a hearing.

(b) Any person having a court record of a no-fault eviction on file in a court may petition the court to seal the court record at any time after the conclusion of the action, including exhaustion of all rights of appeal. The petition shall be on a form furnished by the Trial Court, signed under the penalties of perjury, and filed in the same court as the action sought to be sealed. If an action was active in more than one court during its pendency, then a petition may be

57 filed in each such court. Notice need not be given to parties to the original action. The court shall  
58 comply with the petitioner's request provided that the record only pertains to a no-fault eviction  
59 and the action has concluded with all rights of appeal exhausted. The court may, in its discretion,  
60 process such petitions administratively without a hearing.

61 (c) Upon motion and for good cause shown, or as otherwise authorized by this section,  
62 court records sealed under this section may at the discretion of the court upon a balancing of the  
63 interests of the litigants and the public in nondisclosure of the information with the interests of  
64 the requesting party, be made available for scholarly, educational, journalistic, or governmental  
65 purposes only, provided, however, that identifying information of parties shall remain sealed  
66 unless the court determines that release of such information is appropriate under this paragraph  
67 and necessary to fulfill the purpose of the request. Nothing in this paragraph shall be deemed to  
68 permit the release of personal identifying information for commercial purposes.

69 (d) Nothing in this section shall prohibit the dissemination of information regarding a  
70 money judgment as necessary for the sole purpose of collection.

71 (e) A consumer reporting agency shall not disclose the existence of, or information  
72 regarding, a court record of an eviction action, a lessor action, or any other civil action sealed  
73 under this section nor shall the consumer reporting agency use information contained in a sealed  
74 court record as a factor to determine any score or recommendation to be included in a consumer  
75 report unless such court record was available for inspection with the court within 30 days of the  
76 report date. A consumer reporting agency may include in a consumer report information found  
77 in publicly available court records, provided, however, that the consumer report shall include a  
78 person's full name, whether an eviction action was a fault eviction, a no-fault eviction, or a

lessor action and the outcome of any eviction action if such information is contained in the publicly available court record. All information contained in a sealed court record must be removed from the consumer report or from the calculation of any score or recommendation to be included in a consumer report within 30 days of the sealing of the court record from which it is derived. Any credit reporting agency that violates this subsection shall be liable in tort, in a court of competent jurisdiction, to the person who is the subject of the consumer report for damages or for \$100 per day of such violation, whichever is greater, and the costs of the action, including reasonable attorney's fees. Nothing in this subsection shall be deemed to waive the rights or remedies of any person under any other law or regulation.

(f) An application used to screen applicants for housing or credit which seeks information concerning prior eviction actions or lessor actions of the applicant shall include the following statement: "An applicant for housing or credit with a sealed record on file with the court in an eviction action or lessor action may answer 'no record' to an inquiry relative to that sealed court record."

(g) A party who obtains a judgment in an eviction action or a lessor action shall, within 14 days of satisfaction of the judgment, file with the court in which the judgment was entered a notice of satisfaction of the judgment. A party that has satisfied a judgment may, upon noncompliance with this subsection by the other party, seek equitable relief to correct the court record, and shall be entitled to costs and a reasonable attorney's fees. Upon the filing of a notice of satisfaction of judgment or court judgment deeming the judgment satisfied in an eviction action or lessor action, a party may petition the court to seal the court record pertaining to that action. The petition shall be on a form furnished by the Trial Court, signed under the penalties of perjury, and filed in the same court as the action sought to be sealed. If an action was active in

102 more than one court during its pendency, a petition may be filed in each such court. Notice need  
103 not be given to parties to the original action. The court shall comply with the petitioner's request  
104 and seal the court record provided that the judgment has been satisfied and the action has  
105 concluded with all rights of appeal exhausted. The court may, in its discretion, process such  
106 petitions administratively without a hearing.

107 (h) The court shall collect and maintain a record in the aggregate of the number of fault  
108 and no-fault eviction actions, a count of the final dispositions of such eviction actions, the  
109 number of default judgments entered by type of eviction action, and any other information the  
110 court deems relevant to the effective execution of this section, to the extent such information is  
111 available. The court shall compile a report and file its findings annually with the clerks of the  
112 house of representatives and the senate and the house and senate chairs of the joint committee on  
113 the judiciary within 120 days of the close of the court's fiscal year in such a manner as to protect  
114 the identity of the parties.

115 SECTION 2. Section 2 of chapter 239 of the General Laws, as appearing in the 2018  
116 Official Edition, is hereby amended by adding following paragraph:-

117 In any action under this chapter, it shall be unlawful to knowingly name a minor as a  
118 defendant in the action. Upon notification, the court shall impound the name of any person  
119 named as a party to an action under this chapter when that person was a minor and the name  
120 shall remain permanently unavailable for public inspection except as ordered by the court for  
121 good cause shown.

122           SECTION 3. Section 19 of chapter 139 of the General Laws, as appearing in the 2018  
123   Official Edition, is hereby amended by inserting after the third sentence the following 2  
124   sentences:-

125           It shall be unlawful to knowingly name a minor as a defendant in any such action. Upon  
126   notification, the court shall impound the name of any person named as a party to an action under  
127   this chapter when that person was a minor and the name shall remain permanently unavailable  
128   for public inspection except as ordered by the court for good cause shown.