SENATE . . . . . No. 3047

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

by adding the following sections:-

"SECTION 135A. Chapter 239 of the General Laws is hereby amended by adding the following section:-

Section 15. (a) The following words, as used in this section, shall have the following meanings unless the context clearly requires otherwise:-

"Consumer report", written, oral or other communication of any information by a consumer reporting agency bearing on a person's credit worthiness, credit standing or credit capacity that is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the person's eligibility for rental housing or other purposes authorized under section 51 of chapter 93.

"Consumer reporting agency", individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity that, 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", 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", 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, that concern a person and relate to the nature or disposition of an eviction action or a lessor action.

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

"Lessor action" 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" 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; provided, however that a "no-fault eviction" shall include an action brought after termination of a tenancy for economic, business or other reasons not constituting a violation of the terms of the tenancy.

(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 of the commonwealth, 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 1 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 only pertains to a no-fault eviction and the action has concluded with all rights of appeal exhausted. Such court may, in its discretion, process such petitions administratively without a hearing.

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

(d) Nothing in this section shall prohibit the dissemination of information contained in a record sealed pursuant to this section as the court deems necessary or appropriate: (i) for the collection of a money judgment; (ii) to pursue a criminal investigation; (iii) to pursue a criminal prosecution; or (iv) where information in the sealed record was entered into evidence in a criminal prosecution that resulted in a criminal charge.

(e) Nothing in this section shall prohibit a person or their representative from petitioning the court to obtain access to sealed eviction records in which the person is a party.

(f) A consumer reporting agency shall not disclose the existence of, or information regarding, an eviction record sealed under this section or use information contained in a sealed court record as a factor to determine any score or recommendation to be included in a consumer report unless the court record was available for inspection with the court not more than 30 days of the report date. A consumer reporting agency may include in a consumer report, information found in publicly available court records, provided, however, that the consumer report shall include a 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. Information contained in a sealed court record shall be removed from the consumer report or from the calculation of any score or recommendation to be included in a consumer report not more than 30 days of the sealing of the court record from which it is derived. Any consumer reporting agency that violates this subsection shall be liable to the person who is the subject of the consumer report in an amount equal to the sum of any actual damages sustained by the consumer as a result of the failure and, the costs of the action, including reasonable attorney's fees. The attorney general shall enforce the provisions of this paragraph and remedies provided hereunder shall not be exclusive. Nothing in this subsection shall be deemed to waive the rights or remedies of any person under any other law or regulation.

(g) An application used to screen applicants for housing or credit that seeks information concerning prior eviction actions of the applicant shall include the following statement: "An applicant for housing or credit with a sealed record on file with the court pursuant to section 15

of chapter 239 of the General Laws may answer ‘no record’ to an inquiry relative to that sealed court record.”.

(h) A party who obtains a judgment in an eviction action or a lessor action, or enters into an agreement regarding an eviction solely for nonpayment of rent, shall, not more than 14 days after satisfaction of the judgment or agreement, file with the court in which the judgment or agreement was entered a notice of satisfaction of the judgment or agreement. A party that has satisfied a judgment or agreement 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 reasonable attorney’s fees. Upon the filing of a notice of satisfaction of judgment or an agreement, or court judgment deeming the judgment or agreement satisfied, 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 of the commonwealth, 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 1 court during its pendency, a petition may be filed in each such court. Notice need not be given to parties to the original action. Such court shall comply with the petitioner’s request and seal the court record if the judgment or agreement has been satisfied and the action has concluded with all rights of appeal exhausted. The court may process such petitions administratively without a hearing.”; and

SECTION XX. Section 52 of chapter 93 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended, in subsection (a), by inserting at the end thereof the following clause:- (7) eviction records sealed pursuant to section 15 of chapter 239.

SECTION XX. Subsection (f) of section 15 of Chapter 239 shall take effect May 1, 2023.