HOUSE DOCKET, NO. 3625 FILED ON: 1/20/2023

HOUSE . . . . . No. 1690

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Moran

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act promoting housing opportunity and mobility through eviction sealing (HOMES).

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Michael J. Moran	*18th Suffolk*	*1/20/2023*
Kevin G. Honan	*17th Suffolk*	*1/20/2023*
Sean Garballey	*23rd Middlesex*	*1/22/2023*
Lydia Edwards	*Third Suffolk*	*1/28/2023*
Angelo J. Puppolo, Jr.	*12th Hampden*	*1/28/2023*
Sal N. DiDomenico	*Middlesex and Suffolk*	*2/2/2023*
David Henry Argosky LeBoeuf	*17th Worcester*	*2/2/2023*
Lindsay N. Sabadosa	*1st Hampshire*	*2/2/2023*
Vanna Howard	*17th Middlesex*	*2/2/2023*
Kay Khan	*11th Middlesex*	*2/2/2023*
Steven Ultrino	*33rd Middlesex*	*2/2/2023*
Patricia A. Duffy	*5th Hampden*	*2/2/2023*
Jacob R. Oliveira	*Hampden, Hampshire and Worcester*	*2/2/2023*
Christine P. Barber	*34th Middlesex*	*2/3/2023*
Adrian C. Madaro	*1st Suffolk*	*2/6/2023*
Carmine Lawrence Gentile	*13th Middlesex*	*2/6/2023*
Rebecca L. Rausch	*Norfolk, Worcester and Middlesex*	*2/6/2023*
Michelle M. DuBois	*10th Plymouth*	*2/13/2023*

Samantha Montaño	*15th Suffolk*	*2/13/2023*
Jason M. Lewis	*Fifth Middlesex*	*2/13/2023*
Tricia Farley-Bouvier	*2nd Berkshire*	*2/13/2023*
Patrick M. O'Connor	*First Plymouth and Norfolk*	*2/13/2023*
Jack Patrick Lewis	*7th Middlesex*	*2/16/2023*
Christopher Hendricks	*11th Bristol*	*2/16/2023*
Mike Connolly	*26th Middlesex*	*2/16/2023*
James B. Eldridge	*Middlesex and Worcester*	*2/24/2023*
Natalie M. Blais	*1st Franklin*	*2/24/2023*
Erika Uyterhoeven	*27th Middlesex*	*2/24/2023*
Margaret R. Scarsdale	*1st Middlesex*	*2/24/2023*
Ruth B. Balser	*12th Middlesex*	*2/24/2023*
Daniel R. Carey	*2nd Hampshire*	*3/1/2023*
Carlos González	*10th Hampden*	*3/1/2023*
Paul R. Feeney	*Bristol and Norfolk*	*3/9/2023*
Brandy Fluker Oakley	*12th Suffolk*	*3/15/2023*
Judith A. Garcia	*11th Suffolk*	*3/15/2023*
Natalie M. Higgins	*4th Worcester*	*3/15/2023*
Tommy Vitolo	*15th Norfolk*	*3/15/2023*
Patricia D. Jehlen	*Second Middlesex*	*3/22/2023*
Thomas M. Stanley	*9th Middlesex*	*3/22/2023*
Alice Hanlon Peisch	*14th Norfolk*	*3/22/2023*
Marjorie C. Decker	*25th Middlesex*	*5/19/2023*
Frank A. Moran	*17th Essex*	*5/19/2023*
Shirley B. Arriaga	*8th Hampden*	*5/19/2023*
Russell E. Holmes	*6th Suffolk*	*6/21/2023*
William F. MacGregor	*10th Suffolk*	*7/12/2023*

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HOUSE . . . . . No. 1690

By Representative Moran of Boston, a petition (accompanied by bill, House, No. 1690) of Michael J. Moran and others relative to evictions. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

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:

"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", a summary process action under this chapter to recover possession of 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 shall 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. If no objection is filed by a party within seven (7) days of filing the petition, such court may, in its discretion, process such petitions administratively without a hearing .

(c) Any person having a court record in an eviction action for non-payment of rent 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 shall 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 4 years before the request and no eviction action for nonpayment or lessor action has been brought against the petitioner within the Commonwealth in the 4 years preceding the request; and (b) the petitioner certifies on the petition that the non-payment of rent was due to an economic hardship and such economic hardship has rendered them unable to satisfy the judgment. If no objection is filed by a party, the court may, in its discretion, process such petitions administratively without a hearing. If an objection is filed by a party, within seven (7) days of filing the petition, the Court shall conduct a hearing to determine the petitioner's compliance with the foregoing conditions and may require the petitioner to complete a Financial Statement on a form furnished by the Trial Court.

(d) Any person having a court record of a fault eviction 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 shall 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 7 years before the request and no eviction action for fault or lessor action has been brought against the petitioner within the Commonwealth in the 7 years preceding the request. If no objection is filed by a party, within seven (7) days of filing the petition, the court may, in its discretion, process such petitions administratively without a hearing .

(e) Any person having a court judgment against them in a civil action commenced pursuant to General Laws c. 139 Section 19 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 shall be given to parties to the original action. The court shall schedule a hearing to determine: (a) whether such action which the petitioner seeks to seal concluded, including exhaustion of all rights of appeal, not less than 7 years before the request and no eviction action for fault, or action pursuant to General Laws c. 139 Section 19, has been brought against the petitioner within the Commonwealth in the 7 years preceding the request, and such petitioner has not been convicted of any criminal offense reference in Chapter 139, Section 19 during such 7 year period; and (b) whether the sealing of such record is the interest of justice and public safety.

Notwithstanding any provision to the contrary, where the plaintiff did not obtain a judgment in its favor, the defendant may petition to seal the court record at any time after the conclusion of the action, including exhaustion of all rights of appeal .

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) 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. No party shall be liable for any violation of the foregoing provision unless such party has first been issued a written warning from the Attorney General's office and has failed to address the violation within ninety (90) days of such notice. The petition provided by the Court for the sealing of records as provided herein and any order granting such petition shall contain the following notice: "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 .”

(j) A party who obtains a judgment or enters into an agreement in an eviction action 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 such a judgment or agreement may, upon noncompliance with this subsection by the other party, file a petition for the judgment or agreement to be deemed satisfied, with notice to the parties to such action. The court shall comply with the petitioner’s request provided that the record only pertains to an action for nonpayment of rent and the judgment or agreement has been satisfied. If no objection is filed by a party within seven (7) days of filing the petition, such court may, in its discretion, process such petitions administratively without a hearing. 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 shall 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 with no objection filed by a party within seven (7) days of filing the petition. 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 (h) of section 15 of Chapter 239 shall take effect May 1, 2023.