

HOUSE No. 4356

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, February 12, 2024.

The committee on the Judiciary, to whom were referred the petition (accompanied by bill, Senate, No. 956) of Lydia Edwards, Angelo J. Puppolo, Jr., Sal N. DiDomenico, Jacob R. Oliveira and other members of the General Court for legislation to promote housing opportunity and mobility through eviction sealing (HOMES), and the petition (accompanied by bill, House, No. 1690) of Michael J. Moran and others relative to evictions, reports recommending that the accompanying bill (House, No. 4356) ought to pass.

For the committee,

MICHAEL S. DAY.

HOUSE No. 4356

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:

1 SECTION 1. Chapter 239 of the General Laws, as amended by chapter 28 of the acts of
2 2023, is hereby amended by inserting, in subsection (c), after the words “each court having
3 jurisdiction over an action for summary process” the following words:- , including the number of
4 no-fault evictions, evictions for non-payment of rent, and fault evictions as defined in section 16.

5 SECTION 2. Said chapter 239, as so appearing, is hereby further amended by inserting
6 after section 15 the following section:-

7 Section 16. (a) As used in this section, the following words, unless the context clearly
8 requires otherwise, shall have the following meanings:-

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

14 “Consumer reporting agency”, any individual, partnership, corporation, trust, estate,
15 cooperative, association, government or governmental subdivision or agency, or other entity that,
16 for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in
17 part in the practice of assembling or evaluating consumer credit information or other information
18 on consumers for the purpose of furnishing consumer reports to third parties.

19 “Court”, the trial court of the commonwealth established pursuant to section 1 of chapter
20 211B and any departments or offices established within the trial court.

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

24 “Eviction action”, a summary process action under this chapter to recover possession of
25 residential premises, civil action under section 19 of chapter 139 to obtain an order requiring a
26 tenant or occupant to vacate residential premises, or any other civil action brought against a
27 tenant or occupant to obtain possession of or exclusive access to the residential premises.

28 “Fault eviction”, an eviction action in which the notice to quit, notice of termination or
29 complaint alleges a material violation of the terms of a residential tenancy or occupancy;
30 provided, however, that an eviction action solely for nonpayment of rent shall not be considered
31 a fault eviction; provided further, however, that an action brought after termination of a tenancy
32 for economic, business or other reasons not constituting a violation of the terms of the tenancy or
33 occupancy shall not be considered a fault eviction.

34 “Lessor action” any civil action brought against the owner, manager or lessor of
35 residential premises by the tenant or occupant of such premises relating to or arising out of such

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

38 “No-fault eviction” any eviction action in which the notice to quit, notice of termination
39 or complaint does not include an allegation of nonpayment of rent or of violation of any material
40 term of the tenancy or occupancy; provided, however that a no-fault eviction shall include an
41 action brought after termination of a tenancy for economic, business or other reasons not
42 constituting a violation of the terms of the tenancy or occupancy.

43 (b) Any person having a court record of a no-fault eviction on file in a court may petition
44 the court to seal the court record at any time after the conclusion of the action, including
45 exhaustion of all rights of appeal. The petition shall be on a form furnished by the trial court of
46 the commonwealth, signed under the penalties of perjury, and filed in the same court as the
47 action sought to be sealed. If an action was active in more than 1 court during its pendency, then
48 a petition may be filed in each such court. Notice need not be given to parties to the original
49 action. The court shall comply with the petitioner’s request provided that the court record only
50 pertains to a no-fault eviction and the action has concluded with all rights of appeal exhausted.
51 The court may, in its discretion, process the petition administratively without a hearing.

52 (c) Any person having a court record in an eviction action for non-payment of rent on file
53 in a court may, on a form furnished by the Trial Court and signed under the penalties of perjury,
54 petition the court to seal the court record. The petition shall be filed in the same court as the
55 action sought to be sealed. If an action was active in more than 1 court during its pendency, then
56 a petition may be filed in each such court. Notice shall be given to parties to the original action.
57 The court shall comply with the petitioner’s request provided that: (i) the record of the action

58 which the petitioner seeks to seal concluded, including exhaustion of all rights of appeal, not less
59 than 3 years before the request; (ii) no eviction action for nonpayment has been brought against
60 the petitioner within the Commonwealth in the 3 years preceding the request; and (iii) the
61 petitioner certifies on the petition that non-payment was due to an economic hardship and such
62 economic hardship has rendered them unable to satisfy the judgment. If no objection is filed by a
63 party within 7 days of filing the petition, the court may, in its discretion, process the petition
64 administratively without a hearing. If an objection is filed within that time, the court shall
65 conduct a hearing to determine the petitioner's compliance with the foregoing conditions and
66 may require the petitioner complete a financial statement on a form furnished by the Trial Court.

67 (d) Any person having a court record of a fault eviction on file in a court may, on a form
68 furnished by the Trial Court and signed under the penalties of perjury, petition the court to seal
69 the court record. The petition shall be filed in the same court as the action sought to be sealed. If
70 an action was active in more than 1 court during its pendency, then a petition may be filed in
71 each such court. Notice shall be given to parties to the original action. The court shall comply
72 with the petitioner's request provided that the record of the action which the petitioner seeks to
73 seal concluded, including exhaustion of all rights of appeal, not less than 5 years before the
74 request and no eviction action for fault or lessor action has been brought against the petitioner
75 within the Commonwealth in the 5 years preceding the request; provided, however, that, if the
76 court record is for a civil action under section 19 of chapter 139, the court shall only comply with
77 the petitioner's request if, in addition to the preceding requirements, the petitioner has not been
78 convicted of any criminal offense referenced in section 19 of chapter 139 in the 5 years
79 preceding the request and the court finds that sealing the court record is in the interest of justice
80 and public safety. If no objection is filed by a party within 7 days of filing the petition, the court

81 may, in its discretion, process the petition administratively without a hearing. If an objection is
82 filed within that time, the court shall conduct a hearing to determine the petitioner's compliance
83 with the foregoing conditions.

84 (e) Any person having a court record of an eviction action that resulted in dismissal or
85 final judgment in favor of the defendant may petition the court to seal the court record at any
86 time after the conclusion of the action, including exhaustion of all rights of appeal. The petition
87 shall be on a form furnished by the Trial Court, signed under the penalties of perjury, and filed in
88 the same court as the action sought to be sealed. If an action was active in more than 1 court
89 during its pendency, then a petition may be filed in each such court. Notice need not be given to
90 parties to the original action. The court may, in its discretion, process the petition
91 administratively without a hearing.

92 (f)(i) A party who obtains a judgment or enters into an agreement in an eviction action
93 solely for nonpayment of rent, shall, not more than 14 days after satisfaction of the judgment or
94 agreement, file with the court in which the judgment or agreement was entered a notice of
95 satisfaction of the judgment or agreement. A party that has satisfied the judgment or agreement
96 may, upon noncompliance with this subsection by the opposing party, file a petition for the
97 judgment or agreement to be deemed satisfied. Notice shall be given to all parties. The court
98 shall comply with the petitioner's request to deem the judgment or agreement satisfied if the
99 court record only pertains to an action for nonpayment of rent and the judgment or agreement has
100 been satisfied. If no objection is filed by a party within 7 days of filing the petition, the court
101 may, in its discretion, process the petition administratively without a hearing. If an objection is
102 filed within that time, the court shall conduct a hearing to determine the petitioner's compliance
103 with the foregoing conditions.

104 (ii) Upon the filing of a notice of satisfaction of judgment or agreement, or court order
105 deeming the judgment or agreement satisfied, a party may petition the court to seal the court
106 record pertaining to that action. The petition shall be on a form furnished by the Trial Court of
107 the Commonwealth, signed under the penalties of perjury, and filed in the same court as the
108 action sought to be sealed. If an action was active in more than 1 court during its pendency, a
109 petition may be filed in each such court. Notice shall be given to parties to the original action.
110 The court shall comply with the petitioner's request and seal the court record if the judgment or
111 agreement has been satisfied and the action has concluded with all rights of appeal exhausted. If
112 no objection is filed by a party within 7 days of filing the petition, the court may, in its
113 discretion, process the petition administratively without a hearing. If an objection is filed within
114 that time, the court shall conduct a hearing to determine the petitioner's compliance.

115 (g) Notwithstanding the foregoing, the court may, in its discretion, process a petition
116 under this section administratively without a hearing or waive any requirement under this section
117 upon a determination by the court that such waiver is in the interest of justice and public safety.

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

127 (i) Nothing in this section shall prohibit the dissemination of information contained in a
128 court record sealed pursuant to this section as the court deems necessary or appropriate or the
129 collection of a money judgment.

130 (j) Nothing in this section shall prohibit a person or their representative from obtaining
131 access to sealed eviction records in which the person is a party.

132 (k) A consumer reporting agency shall not disclose the existence of, or information
133 regarding, a court record sealed under this section or use information contained in a sealed court
134 record as a factor to determine any score or recommendation to be included in a consumer report
135 unless the court record was available for inspection with the court not more than 45 days of the
136 report date. A consumer reporting agency may include in a consumer report, information found
137 in publicly available court records; provided, however, that the consumer report shall include a
138 person's full name, whether an eviction action was a fault eviction, no-fault eviction, action for
139 non-payment of rent, or lessor action, and the outcome of any eviction action if such information
140 is contained in the publicly available court record. Information contained in a sealed court record
141 shall be removed from the consumer report or from the calculation of any score or
142 recommendation to be included in a consumer report not more than 45 days from the entry of the
143 sealing on the court's public docket. Any consumer reporting agency that violates this subsection
144 shall be liable to the person who is the subject of the consumer report for damages sustained by
145 the consumer as a result of the failure and the costs of the action, including reasonable attorney's
146 fees. The attorney general shall enforce the provisions of this paragraph; provided, however, that
147 nothing in this subsection shall be deemed to waive the rights of any person to proceed on a
148 private right of action under this subsection or pursue any other right or remedy under any other
149 law or regulation.

150 (l) An application used to screen applicants for housing or credit that seeks information
151 concerning prior eviction actions or lessor actions of the applicant shall include the following
152 statement: “An applicant for housing or credit with a sealed record on file with the court pursuant
153 to section 16 of chapter 239 of the General Laws may answer ‘no record’ to an inquiry relative to
154 that sealed court record.” Any order granting a petition to seal an eviction record under this
155 section shall contain the following notice: “An applicant for housing or credit with a sealed
156 record on file with the court pursuant to section 16 of chapter 239 of the General Laws may
157 answer ‘no record’ to an inquiry relative to that sealed court record.”

158 SECTION 3. Section 52 of chapter 93 of the General Laws, as appearing in the 2022
159 Official Edition, is hereby amended by inserting, at the end of subsection (a), the following
160 clause:- (7) court records sealed pursuant to section 16 of chapter 239.

161 SECTION 4. Subsection (k) of section 16 of chapter 239 shall take effect November 1,
162 2024.

163 SECTION 5. Section 3 shall take effect November 1, 2024.