

## HOMES Section-By-Section

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

[S.956](#) and [H.1690](#) (filed January 2023)

Amends Mass. General Law, Chapter 239 by adding a new Section 15 as follows:	
15(a)	<p>Provides definitions for certain terms including:</p> <p>“Consumer report” - information by a consumer reporting agency on a person’s credit worthiness used to establish a person’s eligibility for rental housing.</p> <p>“Court record”- paper or electronic records or data compiled by or on file with the court that relate to the nature or disposition of an eviction action or a lessor action.</p> <p>“Lessor action” - any civil action brought by a tenant against the owner or manager of residential property relating to a breach of warranty or violation of any other law.</p> <p>“No-fault eviction” - any eviction action that does not include a claim of non-payment or a violation of a material term of the tenancy by the tenant. It includes an action brought for economic, business or other reasons not constituting a violation of the tenancy.</p>
15(b)	<p>A person with a <u>no-fault eviction</u> may petition to seal the court record at any time after the end of the case. The petition shall be on a trial court form. Notice shall be given to the parties in the original case. The court must seal the record if it only pertains to a no-fault eviction. If no objection is filed by a party within 7 days of the petition being filed, the court may process the petition without a hearing.</p>
15(c)	<p>A person with an eviction action for <u>non-payment of rent</u> who has been unable to satisfy (pay) a judgment may petition the court to seal the court record after 4 years if there no eviction action for non-payment in preceding 4 years and the tenant certifies that the non-payment was due to an economic hardship which made them unable to satisfy the judgment. The petition shall be on a trial court form. Notice shall be given to the parties in the original case. If no objection is filed by a party within 7 days, the court may process such petitions administratively without a hearing. If an objection is filed by a party within 7 days of filing the petition, the Court shall conduct a hearing and may require the petitioner to complete a Financial Statement on a form provided by the Trial Court.</p>
15(d)	<p>A person with a <u>fault eviction</u> may petition to seal the court record on a trial court form. Notice shall be given to parties in the original case. The court must seal the record provided that the eviction concluded not less than 7 years before the request and no eviction action for fault has been brought in the 7 years preceding the request. If no objection is filed by a party within 7 days of filing the petition, the court may process the petition administratively without a hearing.</p>
15(e)	<p>A person with a judgment against them under <u>G.L. c. 139, § 19</u> (unlawful activity statute) may file to petition on a trial court form to seal the case. Notice shall be given to all parties in the original case. The court must hold a hearing to determine: whether the case concluded 7 years before the request, whether a different unlawful activity eviction or a fault eviction had been filed in the preceding 7 years, and whether the tenant had been convicted of any criminal acts specified in the unlawful activity statute in the 7 years preceding the request. Sealing the record must be in “the interest of justice and public safety.” If the landlord does not obtain a judgment, the tenant may petition the court to seal the record at any time after the end of the case.</p>

15(e) - (sic)	Allows members of the public to file a motion to make sealed records available for public safety, scholarly, educational, journalistic, or governmental purposes only so long as they have “good cause.” Court has the discretion upon a balancing of the interests of the litigants, the public, and the requestor to make records available. Personal identifying information about the parties must be sealed, unless the court determines that release of this information is necessary.
15(f)	Allows for the dissemination of information contained in a record sealed 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.
15(g)	Allows a party to a case or their representative to petition the court to obtain access to the party’s sealed records.
15(h)	Prohibits a consumer reporting agency from disclosing the existence of a sealed record or using information in it to determine a score or recommendation in a consumer report after 30 days from sealing. If a consumer reporting agency discloses information available in a publicly available court record, it must include the type of eviction and outcome of the eviction action, if that information is in the court record. A consumer reporting agency must remove information from the consumer report or from the calculation of any score or recommendation after 30 days of sealing. For violations, an individual may bring an action for actual damages suffered (and court costs and attorney’s fees) and the attorney general may enforce this provision.
15(i)	Requires housing and credit applications that ask about prior evictions to include specific language informing an applicant that they may answer “no record” if their eviction record is sealed. There are no penalties for violating this unless the attorney general first issues a written warning and the offender does not address the violation within 90 days of the warning.
15(j)	Provides for a two-step process to seal court records involving evictions solely for non-payment of rent where the money in a judgment or agreement is paid (or “satisfied.”). First, the landlord has 14 days from full payment to file in court a “notice of satisfaction.” If this is not done, then the tenant may file a petition to have the judgment or agreement “deemed satisfied” with notice to the other parties. Once the landlord has filed the “satisfaction of judgment” or the court has allowed the tenant’s petition that the debt is “deemed satisfied,” then the tenant may file a petition to seal the court record on a trial court form. Notice shall be given to all parties in the original case. If no objection is filed within 7 days of the filing of the petition to seal, the court must seal the record and may process the petition without hearing.
SECTION 2	Amends G.L. c. 93, § 52 to prohibit sealed eviction records from being included in consumer reports.
SECTION 3	Establishes that the above (h) [relating to consumer reporting agencies] shall take effect upon passage (Senate Bill No. 956) or May 1, 2023 (House Bill 1690), whereas all other provisions are effective in 90 days from passage.