

HOMES Act, Section-by-section analysis
June 29, 2021

SECTION 1. This section amends and adds the following to Chapter 186 of the General Laws:

SECTION 30

- (a) Definitions
- (b) This Act applies to court records for eviction cases and civil cases filed by tenants against owners, managers, or lessors to enforce the law.
- (c) (1) Court records shall be sealed from public inspection immediately or upon filing; sealed records will be available to parties and their attorneys; and parties can authorize a designee to access records on their behalf.
- (2) Clerks must send notice to the parties that the records are sealed and instructions for how to access records; notice must also include a list of resources available to assist the parties.
- (3) A sealed court record shall be unsealed and made available for public inspection for 3 years after the court enters a final judgment in favor the landlord in a fault or nonpayment eviction after summary judgment or a trial on the merits; a final judgment for damages or injunctive relief in favor of the tenant in a civil action; or an officer levies on an execution for possession in a fault or nonpayment eviction following entry of judgment by agreement. The court would have discretion upon showing of good cause to seal a record before 3 years.
- (4) A party who believes that court records have been improperly made available or unavailable for public inspection may petition the court to seal or unseal such records.
- (5) Upon motion and for good cause, sealed court records may be made available for scholarly, educational, journalistic, or governmental purposes only.
- (d) (1) A consumer reporting agency shall not disclose a sealed action or use such action as a factor to determine any score or recommendation in a consumer report.
- (2) A third party authorized to access sealed court records on a party's behalf shall maintain the confidentiality of the records and shall not disclose records to a consumer reporting agency.
- (3) It shall only be permissible to ask whether an applicant for housing, shelter, credit, or employment has, in the previous three years, been subject to a fault or nonpayment eviction where there was a final judgment in favor of the landlord after summary judgment or a trial on the merits or an officer levied on an execution for possession in favor of the landlord in a fault or nonpayment eviction action following entry of judgment by agreement. This inquiry

must be accompanied simultaneously in writing in clear and readable text by the following statement: "An applicant with a sealed record in a housing case may answer 'no record'."

A government agency or not-for-profit providing emergency public or subsidized housing or shelter may request information from an applicant about a sealed court record in order to assess whether the applicant meets eligibility criteria.

(4) Housing, district, and superior courts shall have jurisdiction to enforce this section.

- (e) Consumer reporting agencies shall provide copies of reports to consumers/tenants if the agency provides prospective landlords with copies of reports that contain housing court records.
- (f) A party in a publicly available case whose judgment is satisfied must file a notice of satisfaction with the court within 14 days; upon the filing of a notice of satisfaction or court action deeming the judgment satisfied, the clerk of court shall seal the court records..
- (g) (1) The clerk of the court shall maintain, make public, and report semi-annually information about the numbers and types of eviction actions filed and case procedures and outcomes.
(2) A municipality may require owners and lessors of dwelling units to provide a copy of any notice to quit or notice of lease nonrenewal for purposes of data collection, but may not provide this information to a credit agency or tenant screening entity.

SECTION 2. Amends Section 2 of Chapter 239 to make it unlawful to name a minor or any person living at a premises who has not entered into a tenancy agreement as a defendant in any action covered by the law; names of minors shall be impounded permanently from public inspection except as ordered by the court for good cause.

SECTION 3. This section amends Section 19 of chapter 139 to make it unlawful to name a minor or any person living at a premises who has not entered into a tenancy agreement as a defendant in any action covered by this law; the names of minors shall be impounded permanently from public inspection except as ordered by the court for good cause.