

July 16, 2024

Senator Lydia Edwards
Senator William Brownsberger
Senator Peter Durant

Representative Aaron Michlewitz
Representative James Arciero
Representative David DeCoste

RE: Supplemental Letter on The Affordable Homes Act and Eviction Record Sealing

Dear Members of The Affordable Homes Act Conference Committee,

In addition to the letter submitted on July 11, 2024 urging the Conference Committee to support **S.2850, Section 66** and provide courts with the authority to seal eviction records in certain types of cases (see attached), I would like to provide you with supplemental information about one particular provision: **S.2850, Section 66, (e1/2)**.

S.2850, Section 66, (e1/2) provides that a person having a court record in an eviction action that results in a dismissal or final judgment in favor of the tenant may petition the court to seal the court record at any time after the conclusion of the action.

The Housing Committee, at its hearing on The Affordable Homes Act, received a significant amount of testimony urging the committee to pass an eviction record sealing bill with provisions to enable tenants to seal dismissals and cases they win. Most of the testimony urged that the sealing happen automatically, not by petition.

The Judiciary Committee, which held a hearing on the stand-alone bill and reported it out favorably with this provision ([H.4356](#)) also heard testimony on this issue, including from Attorney General Andrea Campbell who testified in-person that:

“An eviction record – even one that has been dismissed or was brought in retaliation for a tenant exercising her rights – is a barrier to safe and stable housing that can have a long-term and devastating impact on a family. As soon as an eviction case is filed, a tenant has an eviction record even if they later win their case in court.” (Emphasis added see [testimony](#).)

If a judgment enters in favor of the tenant, that means they prevailed on the merits. It would be unjust that a party who prevails on the merits, after being taken to court, has no clear path to seal an eviction record.

If a case is dismissed, the case is closed with no finding. There is no decision on the merits, no decision that a tenant did anything wrong. Often landlords voluntarily dismiss cases because tenants pay the rent before the court date. A case can also be dismissed by the court or by agreement, meaning the case ends with no finding against either side. A dismissed case does not provide any reliable or meaningful information to future landlords, but does unfairly prejudice tenants.

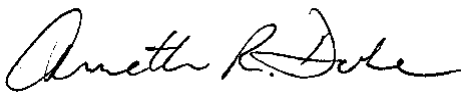
Here are just a few actual dismissed cases have unfairly hurt tenants:

- A woman with a Section 8 voucher left her home of 16 years so her landlord could sell the building. Her landlord filed an eviction and the case was dismissed. Despite a steady work history and a dismissed eviction case, she was rejected from almost 100 apartments and found herself homeless for over a year.
- A landlord illegally overcharged a disabled tenant \$2,250 then filed an eviction case for non-payment of \$35. The tenant transferred her case to Housing Court, where it was dismissed with an agreement that the landlord pay back the illegal overcharge. Because the tenant transferred the case it appears on MassCourts twice. When she applied for a new place to live an owner told her, “We cannot consider you because you have two eviction cases on your record.” This was one case that had been dismissed.
- A landlord brought an eviction, the court dismissed the case, but 6 months later the tenant needed to move to get away from an abusive ex-boyfriend. She found another apartment. But the management company denied her application based on the dismissed case. It took 6 months of legal services appealing the denial and explaining that the case had been dismissed before she was finally approved and able to move in.

Eviction sealing laws adopted throughout the country provide that where the tenant prevails and where cases are dismissed, the eviction record can be sealed. Some statutes further provide that sealing happens automatically, with no petition necessary. On the next page are excerpts from a sampling of laws that provide procedures for tenants to seal dismissed cases and cases in which they prevail.

We hope that this will help the Conference Committee adopt **S.2850, Section 66** in its entirety with the provisions that enable tenants who win their case and where the case is dismissed to seal their eviction record.

Sincerely,



Annette Duke, Housing Attorney
On Behalf HOMES Act Advisory Committee and Supporters

Excerpts from a sampling of laws providing eviction record sealing protections for dismissed eviction cases and cases where tenants prevail

[Arizona, ARS 33-1379](#): Eviction action; dismissal; sealed records

A. In any action for eviction pursuant to section 33-1368 or 33-1377 or pursuant to a forcible entry and detainer action, on the court entering an order that dismisses the action for eviction prior to entry of a judgment or that enters judgment in favor of the tenant, the court shall issue an order sealing all records related to the case.

[Indiana, IC 32-31-11](#)

Sec. 3. (a) Except as provided in subsection (b), if a landlord files an eviction action and:

(1) the eviction action is dismissed by the court: ...

(2) a judgment in favor of the tenant is entered by the court; or

(3) a judgment is entered by the court against the tenant, and the judgment is subsequently overturned or vacated on appeal;

the court in which the eviction action was filed, upon motion by the tenant, shall order the clerk of the court and the operator of any state, regional, or local case management system not to disclose or permit disclosure of any records in the case, including the petition by the landlord for possession of the rental unit. In an order issued under this subsection, the court shall direct the clerk of the court to redact or permanently seal the court's own records related to the eviction action.

[Minnesota, MN 484.014](#)

Subd. 3. Mandatory expungement.

(a) Except for clause (6), the court shall, without motion by any party, order expungement of an eviction case:...

(2) if the defendant prevailed on the merits;

(3) if the court dismissed the plaintiff's complaint for any reason;

[Nevada, NRS 40.2545](#), Sealing of eviction case court file under certain circumstances; notice to surrender must not be made available for public inspection.

2. In addition to the provisions for the automatic sealing of an eviction case court file pursuant to subsection 1, in any action for summary eviction pursuant to [NRS 40.253](#), [40.254](#) or [40.2542](#), the eviction case court file is sealed automatically and not open to inspection: (a) Upon the entry of a court order which dismisses the action for summary eviction;

[Oregon, ORS 105.163 \(SB873\)](#)

(1) A person who was a defendant in an action under ORS 105.105 (Entry to be lawful and peaceable only) to 105.168 (Minor as party in proceedings pertaining to residential dwellings) may apply by motion to the court where the judgment was entered for an order setting aside the judgment and sealing the official records of the action pertaining to the applicant. The court shall grant the

motion if the court finds that: (c) The judgment was a judgment or judgment of dismissal entered in the applicant's favor.

Utah, 78B-6-852, Automatic expungement of eviction.

(1)(a) Without the filing of a petition, a court shall order expungement of all records of an eviction if: (i) the entire case was dismissed; (ii) there is no appeal pending for the case; and (iii) at least three years have passed from the day on which the eviction was filed; or

Virginia, VA Code § 8.01 - 130.01. Unlawful detainer; expungement.

A. If, in an action for unlawful detainer filed in general district court, (i) such action is dismissed and the 30-day period following such dismissal has passed or (ii) a voluntary nonsuit of such action is taken and the six-month period following such nonsuit has passed, provided that no order of possession has been entered in the case, the court shall, without further petition or hearing, enter an order requiring the expungement of the court records.

July 11, 2024

Senator Lydia Edwards
Senator William Brownsberger
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Representative James Arciero
Representative David DeCoste

RE: The Affordable Homes Act and Eviction Record Sealing

Dear Members of The Affordable Homes Act Conference Committee,

Thank you for all of your work to advance The Affordable Homes Act to the Governor's desk and to put Massachusetts on a path to providing safe and affordable housing for all. Now more than ever your work is vital to the health, safety, and economic growth of our Commonwealth as you consider [S.2850](#) and [H. 4707](#), The Affordable Homes Act (TAHA).

I write on behalf of the HOMES Eviction Record Sealing Act supporters, upwards of 120 organizations from diverse sectors including faith-based, labor, municipal leaders, large landlords, and community groups (see attached). We are deeply concerned about how court eviction records have become a significant barrier to people's ability to obtain housing and are homeless. An eviction record has become the Scarlet E.

We urge you to support **Section 66, S.2850** to provide tenants with the ability to seal an eviction record in certain types of cases at certain times. **Section 66, S.2850** establishes a process where tenants file a petition with the court to have their record sealed; the petition must be on a form provided by the Trial Court. **Section 66, S.2850** provides the court with the discretion to handle petitions administratively, which will reduce the administrative burden on the court. An automatic sealing process in cases that are dismissed and cases that tenants win, rather than a petition process, would further reduce the burden on the court.

While 11 states have successfully adopted eviction record sealing protections, there is nothing Massachusetts tenants can do to seal their eviction records. Tenants have an eviction record for life—even if they did nothing wrong, won the case, or paid off any rent due.¹

Section 66, S.2850 is a critical first step to removing eviction records as a barrier to safe and decent housing. Please support its inclusion in The Affordable Homes Act.

Sincerely,



Annette Duke, Housing Attorney
On Behalf HOMES Act Advisory Committee and Supporters

¹ [Evicted for Life: How eviction court records are creating a new barrier to housing](#), MLRI (2019).

Organizations Supporting Eviction Record Sealing Protections

Abundant Housing MA
Action for Equity
Alliance of Cambridge Tenants
American Civil Liberties Union of Massachusetts
American Civil Liberties Union
 Women's Rights Project
Amherst Community Connections
Arise for Social Justice
Beacon Communities, LLC
Boston Area Rape Crisis Center
Boston Housing Authority
Boston Medical Center
Boston Tenant Coalition
Cambridge Economic Opportunity Committee
Cambridge Housing Justice Coalition
Cambridge Residents' Alliance
Cape Cod DSA
Casa Myrna Vazquez
Cathedral Church of St. Paul
Central West Justice Center
Charter Street Tenant Association (Salem)
Children's HealthWatch
Chinese Progressive Association
Citizens' Housing and Planning Association
Citizens for Affordable Housing in Newton
Development Organization
City Life/Vida Urbana
City Mission Boston
Coalition for Occupied Homes in Foreclosure
Coalition for Social Justice
Community Action Agency of Somerville
Community Action Pioneer Valley
Community Health Network
 for North Central Mass
Concilio Latino de Massachusetts
Craig's Doors - A Home Association
De Novo Center for Justice and Healing
Devenscrest Tenant Association
Disability Law Center
Disability Policy Consortium
DOVE (Domestic Violence Ended)
Dudley Street Neighborhood Initiative
Easthampton Affordable & Fair Housing Partnership
Eliot Community Human Services
Family Promise Metrowest
Father Bill's & MainSpring
Food Bank of Western Massachusetts
Greater Boston Building Trades Unions
Greater Boston Labor Council
Greater Boston Legal Services
Greater Springfield Habitat for Humanity
GreenRoots
Grow A Strong Family
Hildebrand Family Self-Help Center
Homes for Families
HomeStart, Inc.
Housing Families
Housing Justice for Survivors
Jane Doe Inc.
Jewish Alliance for Law and Social Action
Jewish Family & Children's Services
Justice Center of Southeast Massachusetts
La Colaborativa
Landlords for Affordable Housing
Law Office of Muska Yousuf
League of Women Voters Massachusetts
Legal Services Center of Harvard Law School
LivableStreets Alliance
Lower Cape Indivisible
Mandela Residents Cooperative Association, Inc.
Mass AFL-CIO
Mass Affordable Housing Alliance
Mass Alliance of HUD Tenants
Mass Association of Community Develop Corp.
Mass Association for Mental Health
Mass Catholic Conference
Mass Coalition for the Homeless
Mass Communities Action Network

Mass Fair Housing Center
Mass Jobs with Justice
Mass Law Reform Institute
Mass Public Health Association
Mass Smart Growth Alliance
Matahari Women Workers' Center/Centro
de Mujeres Trabajadoras de Matahari
Mayor Sumbul Siddiqui, Cambridge
Mayor Jared Nicholson, Lynn
Mayor Josh Garcia, Holyoke
Mayor Gina-Louise Sciarra, Northampton
Metropolitan Mayors Coalition
Metropolitan Area Planning Council
NAACP New Bedford
National Assoc of Social Workers, MA Chapter
Neighbor to Neighbor Massachusetts
One Family
Our Revolution Cambridge
Preservation of Affordable Housing
Progressive Democrats of Massachusetts
Progressive Massachusetts
Project Hope
Public Health Institute of Western Massachusetts

Right To The City Boston
Rosie's Place
SEIU, 888
St. Francis House
St. Mary's Center for Women
ServiceNet
Solidarity Lowell
Somerville YIMBY
Springfield Dementia Friendly Coalition
Springfield Food Policy Council
Springfield Partners for Community Action
The Second Step
Uniting Citizens for Housing Affordability in
Newton
Urban League of Eastern Massachusetts
United Way of Mass Bay and Merrimack Valley
Volunteers of America of Massachusetts
Walk UP Roslindale
Western Mass Network to End Homelessness
WinnCompanies
Womanshelter/Compañeras
YMCA of Western Mass