

HOUSE No. 1808

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:
<i>Michael J. Moran</i>	<i>18th Suffolk</i>	<i>2/9/2021</i>
<i>City Councilor Lydia Edwards</i>	<i>1 CITY HALL SQUARE, SUITE 550 BOSTON, MA 02201-2043</i>	<i>2/12/2021</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>2/23/2021</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>2/23/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/23/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/23/2021</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>2/24/2021</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>2/24/2021</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/24/2021</i>
<i>Steven C. Owens</i>	<i>29th Middlesex</i>	<i>2/25/2021</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>2/25/2021</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>2/25/2021</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>2/25/2021</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>2/25/2021</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>2/26/2021</i>
<i>Kate Lipper-Garabedian</i>	<i>32nd Middlesex</i>	<i>2/26/2021</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	<i>2/26/2021</i>

<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/26/2021</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>	<i>2/26/2021</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>2/26/2021</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>	<i>2/26/2021</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/26/2021</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>2/26/2021</i>
<i>Kip A. Diggs</i>	<i>2nd Barnstable</i>	<i>2/26/2021</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>2/26/2021</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>2/26/2021</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>2/26/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>2/26/2021</i>
<i>Andres X. Vargas</i>	<i>3rd Essex</i>	<i>2/26/2021</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>2/26/2021</i>
<i>Chynah Tyler</i>	<i>7th Suffolk</i>	<i>2/26/2021</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>2/26/2021</i>
<i>Daniel R. Carey</i>	<i>2nd Hampshire</i>	<i>2/26/2021</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/26/2021</i>
<i>Jon Santiago</i>	<i>9th Suffolk</i>	<i>2/26/2021</i>
<i>William J. Driscoll, Jr.</i>	<i>7th Norfolk</i>	<i>2/26/2021</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>2/26/2021</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>3/2/2021</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>3/3/2021</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>3/2/2021</i>
<i>Daniel Cahill</i>	<i>10th Essex</i>	<i>3/5/2021</i>
<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>	<i>3/1/2021</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>3/3/2021</i>
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>3/7/2021</i>
<i>Paul F. Tucker</i>	<i>7th Essex</i>	<i>2/28/2021</i>
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>3/8/2021</i>
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>3/8/2021</i>
<i>Michael P. Kushmerek</i>	<i>3rd Worcester</i>	<i>3/10/2021</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>3/18/2021</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>3/22/2021</i>
<i>Rob Consalvo</i>	<i>14th Suffolk</i>	<i>3/23/2021</i>
<i>Edward F. Coppinger</i>	<i>10th Suffolk</i>	<i>3/24/2021</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>3/25/2021</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>3/26/2021</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>3/28/2021</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>	<i>3/29/2021</i>

Orlando Ramos
Patricia A. Duffy

9th Hampden
5th Hampden

4/10/2021
4/11/2021

HOUSE No. 1808

By Mr. Moran of Boston, a petition (accompanied by bill, House, No. 1808) of Michael J. Moran and others relative to certain court records in eviction actions. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

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 is hereby amended by adding after
2 Section 14 the following 2 sections:-

3 Section 15. The following words, as used in section 16, shall, unless the context clearly
4 requires otherwise, have the following meanings:-

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

10 “Consumer reporting agency”, means any individual, partnership, corporation, trust,
11 estate, cooperative, association, government or governmental subdivision or agency, or other
12 entity, which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in

13 whole or in part in the practice of assembling or evaluating consumer credit information or other
14 information on consumers for the purpose of furnishing consumer reports to third parties.

15 "Court", means the trial court of the commonwealth established pursuant to section 1 of
16 chapter 211B and any departments or offices established within the trial court.

17 "Court record", means paper or electronic records or data in any communicable form
18 compiled by, on file with or in the care custody or control of, the court, which concern a person
19 and relate to the nature or disposition of an eviction action or a lessor action.

20 "Eviction action", means a summary process action under chapter 239 to recover
21 possession of residential premises, a civil action under section 19 of chapter 139 to obtain an
22 order requiring a tenant or occupant to vacate residential premises, a civil action brought
23 pursuant to section 11, 12 or 13 of chapter 186 or section 4(a) of chapter 186A or any other civil
24 action brought against a tenant or occupant of residential premises to obtain possession of or
25 exclusive access to the residential premises.

26 "Fault eviction", means an eviction action brought pursuant to section 4(a)(ii) of chapter
27 186A, pursuant to section 19 of chapter 139 or in which the notice to quit, notice of termination
28 or complaint alleges a material violation of the terms of a residential tenancy or occupancy,
29 including nonpayment of rent and failure to vacate following the termination or conclusion of a
30 tenancy by the tenant or occupant. An action brought after termination of a tenancy for
31 economic, business, or other reasons not constituting a violation of the terms of the tenancy shall
32 not be deemed a fault eviction for purposes of this section.

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

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

37 "No-fault eviction" means any eviction action in which the notice to quit, notice of
38 termination or complaint does not include an allegation of nonpayment of rent or of violation of
39 any material term of the tenancy by the tenant or occupant. An action brought after termination
40 of a tenancy for economic, business, or other reasons not constituting a violation of the terms of
41 the tenancy shall be deemed a no-fault eviction for purposes of this section.

42 Section 16. (a) Any person having a court record of a fault eviction or lessor action on
43 file in a court may, on a form furnished by the Trial Court and signed under the penalties of
44 perjury, petition the court to seal the court record. The petition shall be filed in the same court as
45 the action sought to be sealed. If an action was active in more than one court during its pendency,
46 then a petition may be filed in each such court. Notice need not be given to parties to the original
47 action. The court shall comply with the petitioner's request provided that the record of the action
48 which the petitioner seeks to seal concluded, including exhaustion of all rights of appeal, not less
49 than 3 years before the request and no eviction action or lessor action has been brought against
50 the petitioner within the Commonwealth in the 3 years preceding the request. The court may, in
51 its discretion, process such petitions administratively without a hearing.

52 (b) Any person having a court record of a no-fault eviction on file in a court may petition
53 the court to seal the court record at any time after the conclusion of the action, including
54 exhaustion of all rights of appeal. The petition shall be on a form furnished by the Trial Court,
55 signed under the penalties of perjury, and filed in the same court as the action sought to be
56 sealed. If an action was active in more than one court during its pendency, then a petition may be

57 filed in each such court. Notice need not be given to parties to the original action. The court shall
58 comply with the petitioner's request provided that the record only pertains to a no-fault eviction
59 and the action has concluded with all rights of appeal exhausted. The court may, in its discretion,
60 process such petitions administratively without a hearing.

61 (c) Upon motion and for good cause shown, or as otherwise authorized by this section,
62 court records sealed under this section may at the discretion of the court upon a balancing of the
63 interests of the litigants and the public in nondisclosure of the information with the interests of
64 the requesting party, be made available for scholarly, educational, journalistic, or governmental
65 purposes only, provided, however, that identifying information of parties shall remain sealed
66 unless the court determines that release of such information is appropriate under this paragraph
67 and necessary to fulfill the purpose of the request. Nothing in this paragraph shall be deemed to
68 permit the release of personal identifying information for commercial purposes.

69 (d) Nothing in this section shall prohibit the dissemination of information regarding a
70 money judgment as necessary for the sole purpose of collection.

71 (e) A consumer reporting agency shall not disclose the existence of, or information
72 regarding, a court record of an eviction action, a lessor action, or any other civil action sealed
73 under this section nor shall the consumer reporting agency use information contained in a sealed
74 court record as a factor to determine any score or recommendation to be included in a consumer
75 report unless such court record was available for inspection with the court within 30 days of the
76 report date. A consumer reporting agency may include in a consumer report information found
77 in publicly available court records, provided, however, that the consumer report shall include a
78 person's full name, whether an eviction action was a fault eviction, a no-fault eviction, or a

79 lessor action and the outcome of any eviction action if such information is contained in the
80 publicly available court record. All information contained in a sealed court record must be
81 removed from the consumer report or from the calculation of any score or recommendation to be
82 included in a consumer report within 30 days of the sealing of the court record from which it is
83 derived. Any credit reporting agency that violates this subsection shall be liable in tort, in a
84 court of competent jurisdiction, to the person who is the subject of the consumer report for
85 damages or for \$100 per day of such violation, whichever is greater, and the costs of the action,
86 including reasonable attorney's fees. Nothing in this subsection shall be deemed to waive the
87 rights or remedies of any person under any other law or regulation.

88 (f) An application used to screen applicants for housing or credit which seeks information
89 concerning prior eviction actions or lessor actions of the applicant shall include the following
90 statement: "An applicant for housing or credit with a sealed record on file with the court in an
91 eviction action or lessor action may answer 'no record' to an inquiry relative to that sealed court
92 record."

93 (g) A party who obtains a judgment in an eviction action or a lessor action shall, within
94 14 days of satisfaction of the judgment, file with the court in which the judgment was entered a
95 notice of satisfaction of the judgment. A party that has satisfied a judgment may, upon
96 noncompliance with this subsection by the other party, seek equitable relief to correct the court
97 record, and shall be entitled to costs and a reasonable attorney's fees. Upon the filing of a notice
98 of satisfaction of judgment or court judgment deeming the judgment satisfied in an eviction
99 action or lessor action, a party may petition the court to seal the court record pertaining to that
100 action. The petition shall be on a form furnished by the Trial Court, signed under the penalties of
101 perjury, and filed in the same court as the action sought to be sealed. If an action was active in

102 more than one court during its pendency, a petition may be filed in each such court. Notice need
103 not be given to parties to the original action. The court shall comply with the petitioner's request
104 and seal the court record provided that the judgment has been satisfied and the action has
105 concluded with all rights of appeal exhausted. The court may, in its discretion, process such
106 petitions administratively without a hearing.

107 (h) The court shall collect and maintain a record in the aggregate of the number of fault
108 and no-fault eviction actions, a count of the final dispositions of such eviction actions, the
109 number of default judgments entered by type of eviction action, and any other information the
110 court deems relevant to the effective execution of this section, to the extent such information is
111 available. The court shall compile a report and file its findings annually with the clerks of the
112 house of representatives and the senate and the house and senate chairs of the joint committee on
113 the judiciary within 120 days of the close of the court's fiscal year in such a manner as to protect
114 the identity of the parties.

115 SECTION 2. Section 2 of chapter 239 of the General Laws, as appearing in the 2018
116 Official Edition, is hereby amended by adding following paragraph:-

117 In any action under this chapter, it shall be unlawful to knowingly name a minor as a
118 defendant in the action. Upon notification, the court shall impound the name of any person
119 named as a party to an action under this chapter when that person was a minor and the name
120 shall remain permanently unavailable for public inspection except as ordered by the court for
121 good cause shown.

122 SECTION 3. Section 19 of chapter 139 of the General Laws, as appearing in the 2018
123 Official Edition, is hereby amended by inserting after the third sentence the following 2
124 sentences:-

125 It shall be unlawful to knowingly name a minor as a defendant in any such action. Upon
126 notification, the court shall impound the name of any person named as a party to an action under
127 this chapter when that person was a minor and the name shall remain permanently unavailable
128 for public inspection except as ordered by the court for good cause shown