

House Study Bill 257 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOLT)

A BILL FOR

1 An Act relating to court records for residential forcible entry
2 and detainer actions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 648.22, Code 2021, is amended to read as
2 follows:

3 **648.22 Judgment — execution — costs — sealing of court**
4 **records.**

5 1. If the defendant is found guilty, judgment shall be
6 entered that the defendant be removed from the premises, and
7 that the plaintiff be put in possession of the premises, and
8 an execution for the defendant's removal within three days
9 from the judgment shall issue accordingly, to which shall be
10 added a clause commanding the officer to collect the costs as
11 in ordinary cases.

12 2. In a residential forcible entry and detainer action the
13 court shall enter an order sealing the court records of the
14 action not later than three days from the date of the hearing,
15 or from the date the hearing would have been held as provided
16 by law, if any of the following occurs:

17 a. The defendant is found not guilty.

18 b. By motion or upon the court's own determination, the
19 court finds there is no genuine issue of material fact between
20 the parties.

21 c. The court dismisses the plaintiff's claim.

22 d. The plaintiff withdraws the claim.

23 e. The plaintiff does not appear for the hearing.

24 f. Both parties consent to the order.

25 3. Upon application of a defendant found guilty in a
26 residential forcible entry and detainer action for nonpayment
27 of rent, the court shall enter an order sealing the record of
28 the action, the existence of the petition, all filings and
29 documentation within the case file, and any associated writs of
30 execution, if all of the following conditions are met:

31 a. More than three years have passed since the date of the
32 finding of guilt.

33 b. The applicant has not been found guilty in a subsequent
34 forcible entry and detainer action in the three-year period
35 directly preceding the application.

1 c. The applicant has not previously been granted a sealing
2 of a finding of guilt under this chapter within ten years prior
3 to the application.

4 4. The application to seal the record of the action shall be
5 included in the record the defendant wishes to seal, using a
6 form prescribed by the supreme court.

7 5. Upon sealing, the existence of the petition, all filings
8 and documentation within the case file, and any associated
9 writs of execution shall be removed from any publicly
10 accessible location under the direction of the judicial branch
11 or county, as applicable. Notwithstanding chapter 22, records
12 sealed upon satisfaction of the requirements specified in this
13 section shall not be available for public inspection except in
14 one of the following manners:

15 a. Upon request by the defendant or the attorney for the
16 defendant by filing a motion in the sealed case.

17 b. Upon application to the judicial branch using a form
18 prescribed by the supreme court for scholarly, educational,
19 journalistic, or governmental purposes only, provided that in
20 all cases, the names of minor children shall remain sealed
21 at all times, and that the names and personally identifiable
22 information of all persons named as defendants or included in
23 the plaintiff's petition shall be redacted and remain sealed
24 unless the court determines that release of such information is
25 necessary to fulfill the scholarly, educational, journalistic,
26 or governmental purpose of the request.

27 c. The clerk of court in the county in which an action is
28 originated shall maintain a record in the aggregate of all
29 filings and the final disposition of any such actions, to
30 include dismissal, default judgment, and the grounds for any
31 judgment in any action, writs associated with disposition, and
32 other information the clerk of court determines necessary. The
33 clerk of court shall make available to the public and report
34 annually such aggregate information in such a manner prescribed
35 by the supreme court as to protect the identity of the parties

1 while still providing the public with information regarding
2 eviction proceedings in the county.

3 6. Upon sealing, a consumer reporting agency shall
4 not disclose the existence of, or information regarding,
5 an eviction action or other civil action sealed or made
6 confidential under this section or use such action as a factor
7 to determine any score or recommendation to be included in a
8 consumer report regarding any person named in such case.

9 EXPLANATION

10 The inclusion of this explanation does not constitute agreement with
11 the explanation's substance by the members of the general assembly.

12 This bill relates to sealing court records of residential
13 forcible entry and detainer actions.

14 The bill provides that a court shall seal the court records
15 of an eviction action not later than three days from the date
16 of the hearing if any of the following have occurred: the
17 defendant is found not guilty, the court finds there is no
18 genuine issue of material fact between the parties or dismisses
19 the plaintiff's claim, the plaintiff withdraws the claim, the
20 plaintiff does not appear for the hearing, or if by consent of
21 both parties.

22 The bill provides that upon application of a defendant found
23 guilty in an eviction action for nonpayment of rent, the court
24 shall seal the court records if more than three years have
25 passed since disposition, the applicant has not been found
26 guilty in subsequent eviction action in the three-year period
27 preceding the application, and the applicant within the last 10
28 years has not been granted a sealing of eviction court records.
29 The application to seal shall be included in the sealed court
30 records.

31 The bill provides that upon sealing of court records, all
32 filings, documentation, and writs of association shall be
33 removed from any publicly accessible location. Court records
34 sealed shall not be available for public inspection except upon
35 request by the defendant or the attorney for the defendant

1 by filing a motion in the sealed case or application to the
2 judicial branch using a form to be prescribed by the supreme
3 court for scholarly, educational, journalistic, or governmental
4 purposes. The bill requires the clerk of court in the county
5 in which an action is originated to maintain a record in the
6 aggregate of all filings and to make such information available
7 to the public in such a manner prescribed by the supreme court
8 as to protect the identity of the parties and to promote the
9 goals of the bill by providing the public with information
10 relating to eviction actions while protecting the parties
11 involved.

12 The bill provides that upon sealing a consumer reporting
13 agency shall not disclose the existence of, or information
14 regarding, an eviction action or other civil action sealed or
15 made confidential under the bill or use such action as a factor
16 to determine any score or recommendation to be included in a
17 consumer report regarding any person named in such case.