

# HB0359S01 compared with HB0359

~~text~~ shows text that was in HB0359 but was deleted in HB0359S01.

text shows text that was not in HB0359 but was inserted into HB0359S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Marsha Judkins proposes the following substitute bill:

## EVICTION RECORDS AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Marsha Judkins**

Senate Sponsor: \_\_\_\_\_

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### LONG TITLE

#### General Description:

This bill addresses the expungement of eviction records.

#### Highlighted Provisions:

This bill:

- ▶ addresses a stipulation by the parties of an eviction to expungement;
- ▶ defines terms relating to the expungement of eviction records;
- ▶ addresses the automatic expungement of certain evictions;
- ▶ addresses the expungement of ~~an eviction~~ certain evictions by petition;
- ▶ addresses the distribution and effect of an order for expungement of an eviction; and
- ▶ prohibits fees for ~~the~~ expungement of an eviction.

#### Money Appropriated in this Bill:

None

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### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

ENACTS:

**78B-6-850**, Utah Code Annotated 1953

**78B-6-851**, Utah Code Annotated 1953

**78B-6-852**, Utah Code Annotated 1953

**78B-6-853**, Utah Code Annotated 1953

**78B-6-854**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **78B-6-850** is enacted to read:

### **Part 8. Expungement of Eviction Records**

#### **78B-6-850. Definitions.**

As used in this part:

(1) "Agency" means a state, county, or local government entity that generates or maintains records relating to an unlawful detainer action.

(2) "Eviction" means a cause of action for unlawful detainer under Part 8, Forcible Entry and Detainer.

(3) "Expunge" means to seal or otherwise restrict access to records held by a court or an agency.

(4) "Petitioner" means any person petitioning for expungement of an eviction under this section.

(5) (a) "Tenant screening agency" means a person that, for a fee, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating information for the purpose of furnishing a tenant screening report.

(b) "Tenant screening agency" does not include an owner as defined in Section 78B-6-801.

(6) "Tenant screening report" means any written, oral, or other communication prepared by a tenant screening agency that includes information about an individual's rental

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history for the purpose of serving as a factor in establishing the individual's eligibility for housing.

(7) "Unlawful detainer" means the same as that term is defined in Section 78B-6-801.

Section 2. Section 78B-6-851 is enacted to read:

~~78B-6-851. Automatic expungement of eviction.~~

~~(1) A court shall expunge, without a petition, records of an eviction if:~~

~~(a) (i) the entire case was dismissed;~~

~~(ii) at least 10 days have passed from the day on which the case was dismissed;~~

~~and~~

~~(iii) no appeal has been filed within the 10-day period described in Subsection (1)(a)(ii); or~~

~~(b) the eviction resulted in a judgment and a satisfaction of judgment has been filed for the judgment.~~

~~(2) When a court determines that an eviction qualifies for automatic expungement under Subsection (1), the court shall issue an order of expungement.~~

~~(3) This section applies to:~~

~~(a) an eviction that was dismissed on or after July 1, 2022; or~~

~~(b) an eviction for which a judgment was entered on or after July 1,~~

~~2022; Stipulation to expungement by parties.~~

~~All parties to an eviction may stipulate in a settlement agreement to the expungement of an eviction.~~

Section 3. Section 78B-6-852 is enacted to read:

~~78B-6-852. Expungement by petition for Automatic expungement of eviction.~~

~~(1) Any party to an eviction may petition the court to expunge records of the eviction.~~

~~(2) A petitioner shall file a petition to expunge an eviction in accordance with the Utah Rules of Civil Procedure.~~

~~(3) If no written objection is received within 60 days} (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 petition for~~

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~~expungement is filed under Subsection (1), the court shall make a determination, without a hearing, about whether to grant a petition for expungement.~~

~~(4) The court shall grant a petition for expungement if:~~

~~(a) the eviction resulted in a judgment and a satisfaction of judgment has been filed for the judgment}eviction was filed; or~~

~~(b) the parties to the eviction {consent to the expungement}stipulated to expungement and have filed a stipulation with the court.~~

~~(2) The court shall issue an order of expungement when the court determines that an eviction qualifies for automatic expungement under Subsection (1).~~

~~(3) This section applies to evictions filed on or after July 1, 2022.~~

Section 4. Section **78B-6-853** is enacted to read:

### **78B-6-853. Expungement by petition for eviction.**

(1) Any party to an eviction may petition the court to expunge all records of the eviction if the eviction was for:

(a) remaining after the end of the lease as described in Subsection 78B-6-802(1)(a); or

(b) the nonpayment of rent as described in Subsection 78B-6-802(1)(c).

(2) A petitioner shall file a petition and provide notice to any other party to the eviction in accordance with the Utah Rules of Civil Procedure.

(3) (a) Any party to the eviction may file a written objection to the petition with the court.

(b) If the court receives a written objection to the petition, the court may not expunge the eviction.

(4) If the court does not receive a written objection within 60 days from the day on which the petition is filed, the court shall order expungement of all records of the eviction.

Section 5. Section **78B-6-854** is enacted to read:

~~78B-6-853~~**78B-6-854. Notice of expunged eviction -- Tenant screening agency -- Effect of expungement.**

(1) (a) The Administrative Office of the Courts shall publish a list on the Utah Courts' website that provides notice of any eviction expunged under this section.

(b) Within 30 days from the day on which an expunged eviction is listed on the Utah Courts' website as described in Subsection (1)(a):

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(i) an agency shall expunge any record of the expunged eviction in the custody of the agency; and

(ii) a tenant screening agency shall remove the expunged eviction from any database used by the tenant screening agency.

(2) If an eviction is expunged under this part, a tenant screening agency may not:

(a) disclose the eviction in a tenant screening report pertaining to an individual for whom the eviction has been expunged; or

(b) use the eviction as a factor in determining any score or recommendation in a tenant screening report pertaining to the individual for whom the eviction has been expunged.

(3) Upon entry of an expungement order by a court under this part:

(a) the eviction is considered to never have occurred; and

(b) the individual for whom the eviction is expunged may reply to an inquiry on the matter as though there was never an eviction.

(4) (a) Except as provided in Subsection (1)(b), ~~a court, an agency, a tenant screening agency, or an employee of a court, agency, or tenant screening agency, may not disclose any eviction to, or share any~~ information in a record of an eviction ~~with, a person if the eviction has been~~ expunged under this part ~~{ may not be disclosed to, or shared with, any person }.~~

(b) An expunged record under this part may be released to, or viewed by, a party to the eviction.

Section ~~{5}~~6. Section ~~{78B-6-854}~~78B-6-855 is enacted to read:

~~{78B-6-854}~~78B-6-855. **Fees for expungement.**

An individual may not be charged a fee for:

(1) the filing of a petition for expungement of an eviction;

~~{1}~~2 an issuance of an expungement order under this part; or

~~{2}~~3 the expungement of ~~{a}~~any record of an eviction under this part.

Section ~~{6}~~7. **Effective date.**

This bill takes effect on July 1, 2022.