



HOMELESS PERSONS REPRESENTATION PROJECT, INC.

Favorable With Amendments – HB 134 – Failure to Pay Rent Proceedings – Prohibition on Rent Increases and Sealing of Court Records

Hearing of the Environment & Transportation Committee, January 18, 2022

The Homeless Persons Representation Project, Inc. (HPRP) is a non-profit civil legal aid organization that provides free legal representation to people who are homeless or at risk of homelessness on legal issues that will lead to an end to homelessness. HPRP regularly represents tenants in failure to pay rent cases and other landlord-tenant matters in Baltimore City.

The effort to legislate the sealing of eviction records is a growing movement nationwide. Since 2019, Massachusetts, Colorado, Nevada, the District of Columbia, Illinois, and Florida have all proposed legislation to seal eviction records. These jurisdictions have recognized that sealing records is not only a matter of protecting tenants' rights, but also an issue of racial justice – particularly for Black women, who face disproportionate levels of eviction both locally and nationwide.¹

In a 2015 survey conducted by the Public Justice Center, ninety four percent (94%) of participant tenants who appeared for rent court in Baltimore City identified as African-American or Black, and eighty percent (80%) identified as women.² These numbers play out similarly with evictions in Baltimore City – a Black female-headed household is 296% more likely to be evicted there than a white male-headed household.³ As stated by Matthew Desmond in a 2014 report on the state of evictions in Milwaukee, “[p]oor black men are locked up while poor black women are locked out.”⁴ Sealing records is a powerful solution that work together to mitigate the harm of evictions and ensure that tenants are able to secure alternate housing and avoid homelessness.

Eviction records sealing benefits tenants by providing them the freedom to move to opportunity areas with safe and stable housing, where they have critical access to needs such as transportation, employment, healthcare, childcare, and more. When tenants cannot seal eviction

¹ STOUT RISIUS ROSS, LLC, THE ECONOMIC IMPACT OF AN EVICTION RIGHT TO COUNSEL IN BALTIMORE CITY (2020), https://bmorerentersunited.org/wp-content/uploads/2020/05/Baltimore-RTC-Report_FINAL_5.8.2020.pdf; Matthew Desmond, “Poor Black Women Are Evicted at Alarming Rates, Setting Off a Chain of Hardship” (2014), https://www.macfound.org/media/files/hhm_-_poor_black_women_are_evicted_at_alarming_rates.pdf; ACLU, “Clearing the Record: How Eviction Sealing Laws Can Advance Housing Access for Women of Color,” <https://www.aclu.org/news/racial-justice/clearing-the-record-how-eviction-sealing-laws-can-advance-housing-access-for-women-of-color/>.

² PUBLIC JUSTICE CENTER, JUSTICE DIVERTED: HOW RENTERS ARE PROCESSED IN THE BALTIMORE CITY RENT COURT (2015); <https://abell.org/sites/default/files/files/cd-justicediverted216.pdf>

³ STOUT RISIUS ROSS, LLC, THE ECONOMIC IMPACT OF AN EVICTION RIGHT TO COUNSEL IN BALTIMORE CITY (2020), https://bmorerentersunited.org/wp-content/uploads/2020/05/Baltimore-RTC-Report_FINAL_5.8.2020.pdf

⁴ Matthew Desmond, “Poor Black Women Are Evicted at Alarming Rates, Setting Off a Chain of Hardship” (2014), https://www.macfound.org/media/files/hhm_-_poor_black_women_are_evicted_at_alarming_rates.pdf

records, even when the courts ultimately ruled in their favor or they successfully redeemed the property, they are often forced to move into any housing that will accept them, which may be substandard or unsafe.

HB 134 would seal eviction records in failure to pay rent cases where either the courts ruled in their favor, dismissed the matter, or the tenant exercised their right to redeem their property. It is an important first step to ensure that Maryland renters have opportunities that are not currently available to them.

HPRP supports HB 134 with two critical amendments: 1) to remove language excluding subsidized tenants from the essential protections that HB 134 provides; and 2) to include within the bill a definition of sealing.

Amend HB 134 to Remove Language Excluding Subsidized Tenants

The bill, as currently written, would exclude tenants who reside in federally assisted housing from the opportunities presented by HB 134. This exclusion does not have a basis in federal law governing mandatory admission denials, which typically are based in a tenant's criminal background rather than a tenant's history of rental payments.⁵ While a federally assisted housing project *may* consider a tenant's prior rental payment history⁶, it has no obligation to do so. This makes the process of reviewing eviction records for prospective tenants in federally assisted housing unnecessary to proceed with approval. Indeed, such reviews of records place even more significant barriers on families attempting to enter or remain in federally-subsidized programs, who are already qualified for these programs based on their status as families with extremely low income.

Tenants in federally assisted housing have certain requirements around recertification of their income on an annual basis or as their household income changes, which informs the amount of their monthly rental portion. HPRP has encountered many tenants in federally assisted housing have struggled to complete these annual recertifications during the COVID-19 pandemic due to closures of state agencies and inaccessibility of on-site property management offices to complete recertification processes. As a result, tenants who may have lost employment or other income during the pandemic may face delays of weeks or even months before their monthly rental portion is adjusted to reflect their current household income. This leaves those renters struggling to catch up on back rent for months where they were unemployed or otherwise faced income loss. HB 134 should support federally subsidized tenants just as it does unsubsidized tenants in sealing their records.

⁵ See 24 CFR §982.553, 24 CFR §960.204.

⁶ 24 CFR §960.203.

Amend HB 134 to Provide a Definition of Sealing

HB 134, as currently written, does not provide a definition of records sealing. This change is simple to implement by incorporating and modifying a similar definition provided in HB 697 from the 2021 session.⁷ which is as follows:

With these amendments, HB 134 would take essential steps to protect renters' privacy, allow easier access to safe and stable housing, and promote racial justice.

HPRP urges a favorable with amendments report on HB 134.

⁷ See proposed language in Attachment A.

ATTACHMENT A—DEFINITION OF SEALING

“COURT RECORD” MEANS AN OFFICIAL RECORD OF A COURT ABOUT A PROCEEDING THAT THE CLERK OF A COURT OR OTHER COURT PERSONNEL KEEPS.

“COURT RECORD” INCLUDES:

1. AN INDEX, A DOCKET ENTRY, A PETITION, A MEMORANDUM, A TRANSCRIPTION OF PROCEEDINGS, AN ELECTRONIC RECORDING, AN ORDER, AND A JUDGMENT; AND

2. ANY ELECTRONIC INFORMATION ABOUT A PROCEEDING ON THE WEBSITE MAINTAINED BY THE MARYLAND JUDICIARY.

“SEALING” MEANS TO REMOVE INFORMATION FROM PUBLIC INSPECTION IN ACCORDANCE WITH THIS SECTION. ‘SEAL’ INCLUDES:

1. WITH RESPECT TO A RECORD KEPT IN A COURTHOUSE, TO REMOVE THE RECORD TO A SEPARATE SECURE AREA TO WHICH PERSONS WHO DO NOT HAVE A LEGITIMATE REASON FOR ACCESS ARE DENIED ACCESS; AND

2. WITH RESPECT TO ELECTRONIC INFORMATION ABOUT A PROCEEDING ON THE WEBSITE MAINTAINED BY THE MARYLAND JUDICIARY, TO COMPLETELY REMOVE ALL INFORMATION CONCERNING THE PROCEEDING FROM THE PUBLIC WEBSITE, INCLUDING THE NAMES OF THE PARTIES, CASE NUMBERS, AND ANY REFERENCE TO THE PROCEEDING OR ANY REFERENCE TO THE REMOVAL OF THE PROCEEDING FROM THE PUBLIC WEBSITE.