

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
House Environment and Transportation Committee

FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523

RE: House Bill 34
Failure to Pay Rent Proceedings – Prohibition on Rent Increases
and Sealing of Court Records

DATE: January 11, 2023
(1/26)

POSITION: Oppose

The Maryland Judiciary opposes House Bill 34. This prohibits a landlord from increasing a tenant's rent because a judgment was entered against the tenant in a failure to pay rent action; requiring, authorizing, or prohibiting, depending on the circumstances, the sealing by the District Court of court records relating to a failure to pay rent proceeding; requiring the Maryland Judiciary to develop and publish on its website a certain form; and generally relating to failure to pay rent proceedings.

This legislation presents serious operational issues and would require extensive manpower to implement compliance. Specifically, the process would be excessively burdensome. While the Judiciary recently launched an MDEC Landlord Tenant Pilot for failure to pay rent cases in Baltimore County District Court, electronic filing is still voluntary in Baltimore County and has not been implemented in any other jurisdiction. Consequently, the current process in all other jurisdictions is a paper filing system. As such, in order to seal these records, a clerk would have to manually comb through stacks of carbon-copy, paper filings in order to locate the respective filing. There are tens of thousands per month of rent filings so this process would require extensive additional manpower hours.

It is also not clear if this bill applies retroactively. If so, it would be impossible to implement as there are millions of cases that would fit the criteria set out in the legislation and these cases would manually need to be sealed. Additionally, the assigned case number of a case that would be subject to sealing maybe listed in other filings (ex. escrow proceedings) and it would be impossible to locate the reference to the sealed cases in these other cases without individually reviewing each matter.

Moreover, if a case also involved a money judgment, which is active for 12 years, and a landlord brought that money judgment to a circuit court where it went on the judgment index, having the District Court seal a valid circuit court record may be problematic.

It is also unclear under what circumstances a court should grant a Motion to Seal for a “compelling need” or in the “interests of justice” when the tenant has not redeemed the outstanding rent. Is the landlord then foreclosed from collecting on a money judgment awarded if a judgment is sealed under this section? Further complicating this are those cases that are appealed to the circuit court. In those cases, the District Court loses jurisdiction and is unable to seal any records other than its own. Finally, this bill prevents the court from considering the necessary information where a landlord seeks to foreclose a tenant’s right of redemption and prior cases for which possession has been granted is sealed under the “interest of justice” provision.

cc. Hon. Terri L. Hill
Judicial Council
Legislative Committee
Kelley O’Connor