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HB 34 - Landlord and Tenant - Residential Leases - Failure to Pay Rent Proceedings-Prohibition on Rent Increases and Sealing of Court Records

**Hearing before the House Environment and Transportation Committee,
Jan. 26, 2023**

Position: FAVORABLE

The Public Justice Center (PJC) is a nonprofit public interest law firm that stands with tenants to protect and expand their rights to safe, habitable, affordable, and non-discriminatory housing and their rights to fair and equal treatment by Maryland's landlord-tenant laws, courts, and agencies. We advocate to change the law regarding evictions and to demand the development of equitable and sustainable affordable housing. PJC believes the original HB 34 language is a critical measure to protect renters' privacy, allowing easier access to safe and stable housing, and promoting racial justice. We believe the eviction records sealing achieves that goal. **However, we do have extreme reservations to the proposed amendments to HB 34 which would severely limit the purpose of the original bill and would keep tenants from maximizing the protections offered.**

HB 34 allows the sealing of eviction records in failure to pay rent cases ("FTPR"). There were nearly 670,000 of these cases filed across Maryland in FY 2019, and around 1 in 4 of them were dismissed, presumably because payment preceded the trial date of the action. For many tenants, FTPR actions are routinely filed and typically result *not* in actual eviction, but late payment made under the threat of eviction. Fewer than half of FTPR cases even result in warrant of restitution.

The routine filings nonetheless show up on tenants' consumer and rental history. Vendors such as CoreLogic and AppFolio access physical and electronic court records to produce data points that they then sell as risk assessments. A tenant who successfully redeemed possession by payment is ultimately harmed by the record of the FTPR action when they are seeking new housing. HB 34 proposes to reduce the loss of housing opportunities based on failure to pay rent records. For cases that are dismissed or where judgment is entered in favor of the tenant, the bill proposes to seal the eviction record 60 days after final disposition.

For tenants whose landlord prevails in a failure to pay rent action, the original HB 34 bill provides for the sealing of the record if the tenant demonstrates that either: 1) the tenant exercised the right of redemption ("pay to stay") and one year has passed since the judgment was entered; or 2) the interest of

justice is served by sealing the record of the adverse judgment. **Having the opportunity to seal these records after one year will open the door to opportunities that were once closed to many tenants.**

The effort to legislate the sealing of eviction records is a growing movement nationwide. Since 2019, Massachusetts, Colorado, Nevada, and the District of Columbia have all proposed legislation to seal eviction records. These jurisdictions have recognized that sealing (as well as shielding) 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 are 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.

Public Justice Center supports HB 34 as originally drafted. We are not in agreement with a proposed amendment that a judgment can be sealed only if no more than 3 judgments have occurred within a 12-month period. This amendment brings with it a number of concern and questions. Who is responsible for proving eligibility: tenant, court, landlord, other? Would there be a notice to be heard if there is some discrepancy on how many judgments have been entered within a 12-month period? Ultimately, we are against this amendment because the original bill already provided that a judgment could not be shielded until after a 12-month period passed, which satisfies the right of redemption laws. Adding this new caveat would exclude thousands of judgments from being shielded due to an unclear purpose.

As originally constructed HB 34 would take essential steps to protect renters' privacy, allow easier access to safe and stable housing, and promote racial justice.

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

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

Public Justice Center is a member of the Renters United Maryland coalition and asks that the Committee **issue a FAVORABLE report on the original HB34 bill.** If you have any questions, please contact Albert Turner, Esq., turnera@publicjustice.org (410) 625-9409 Ext. 250.

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