

**MMHA - 2023 - HB 34 - shielding records - JPR.pdf**

Uploaded by: Aaron Greenfield

Position: FAV



**Bill Title:** House Bill 34, Landlord and Tenant – Repossession for Failure to Pay Rent – Shielding of Court Records

**Committee:** Judicial Proceedings Committee

**Date:** March 28, 2023

**Position:** Favorable

This testimony is offered on behalf of the Maryland Multi-Housing Association (MMHA). MMHA is a professional trade association established in 1996, whose membership consists of owners and managers of more than 207,246 rental housing homes in more than 937 apartment communities. Our members house over 667,000 residents of the State of Maryland throughout the entire State of Maryland. MMHA membership also includes more than 216 associate members that supply goods and services to the multi-housing industry. More information is available at <https://www.mmhaonline.org/>

Under House Bill 34, a landlord may not increase a tenant's rent solely because a judgment was entered against the tenant in a failure to pay rent action. Further, within 60 days after the final resolution of a failure to pay rent proceeding, the District Court must shield all court records relating to the proceeding if the proceeding did not result in a judgment of possession. On motion by a tenant, the District Court may shield all court records relating to a failure to pay rent proceeding that results in a judgment of possession if the tenant demonstrates by a preponderance of the evidence that the tenant exercised the right of redemption and at least 12 months have passed since the final resolution of the proceeding that the tenant seeks to seal or the district court determines that it is in the interest of justice that the court records relating to the failure to pay rent proceedings be sealed. The District Court is required to shield the court records within 30 days after granting the tenant's motion. As amended, House Bill 34 includes provisions relating to rent escrow, requested by MMHA.

MMHA has no objection to shielding a landlord/tenant action if the final resolution resulted in a dismissal or order for the tenant in a judgment of repossession. MMHA appreciates the Sponsor's engagement and willingness to work with us on this bill.

For these reasons, we respectfully request a favorable report on House Bill 34.

**Aaron J. Greenfield, MMHA Director of Government Affairs, 410.446.1992**

# **HB34 senate crossfile favorable.pdf**

Uploaded by: Albert Turner

Position: FAV



Albert Turner  
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**HB 34 - Landlord and Tenant - Residential Leases - Failure to Pay Rent Proceedings-Prohibition on Rent Increases and Shielding of Court Records**

**Hearing before the Senate Judiciary Committee,  
March 28, 2023**

**Position: FAVORABLE**

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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 HB 34 as amended and passed by the House 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 shielding achieves that goal.

HB 34 is an amended bill where tenant advocates, landlord lobbyist and delegates amicably coordinated to adjust bill language, allowing for passage of the bill. **We urge the Committee to pass amended HB 34 with no new amendments.** The bill allows the shielding of eviction records in failure to pay rent cases ("FTPR") beginning in October 2023 and onward. 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 will 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 shield the eviction record 60 days after final disposition.

For tenants whose landlord prevails in a failure to pay rent action, the HB 34 bill provides for the shielding 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 shielding the record of the adverse judgment. **Having the opportunity to shield these records after one year will open the door to opportunities that were once closed to many tenants.**

The effort to legislate the shielding of eviction records is a growing movement nationwide. Since 2019, Massachusetts, Colorado, Nevada, and the District of Columbia have all proposed legislation to shield eviction records. These jurisdictions have recognized that shielding (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.<sup>1</sup>

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.<sup>2</sup> 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.<sup>3</sup> 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.”<sup>4</sup>

Shielding 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.

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

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

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<sup>1</sup> 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](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](https://www.macfound.org/media/files/hhm_-_poor_black_women_are_evicted_at_alarming_rates.pdf); ACLU, “Clearing the Record: How Eviction Shielding 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/>.

<sup>2</sup> 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>

<sup>3</sup> 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](https://bmorerentersunited.org/wp-content/uploads/2020/05/Baltimore-RTC-Report_FINAL_5.8.2020.pdf) <sup>4</sup> 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](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.*

# **HB 34 - Written Testimony - SENATE.pdf**

Uploaded by: Katherine Davis

Position: FAV



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**HB 34: Failure to Pay Rent Proceedings - Prohibition on Rent Increases and Sealing of Court Records**  
**HEARING BEFORE THE JUDICIAL PROCEEDINGS COMMITTEE, MARCH 28, 2023**  
**POSITION: SUPPORT (FAV)**

The Pro Bono Resource Center of Maryland (“PBRC”), an independent 501(c)(3) non-profit organization, is the statewide coordinator, thought leader and clearinghouse for volunteer civil legal services in Maryland. As the designated pro bono arm of the Maryland State Bar Association, PBRC provides training, mentorship, and pro bono service opportunities to members of the private bar. We respond to acute legal needs identified in areas across the state by piloting and operating innovative pro bono service projects targeting specific legal problems or populations.

In May 2017, with a grant from the Maryland Judiciary’s Access to Justice Department, PBRC launched the **Tenant Volunteer Lawyer of the Day (TVLD) Program** in Baltimore City Rent Court to provide day-of-court legal representation to tenants who appear unrepresented for their proceedings. Since then, this continually expanding Program has allowed PBRC staff and volunteer attorneys to represent thousands of tenants in both Baltimore City and Baltimore County in multiple types of legal actions that could result in eviction. The overwhelming majority of our clients are tenants facing Failure to Pay Rent (FTPR) actions filed by their landlords for possession of the property.

Like most court proceedings, FTPR actions are a matter of public record. This means that prospective landlords, credit-reporting agencies, and other third parties can determine when a tenant has been the subject of a FTPR proceeding. Under current Maryland law, this is true even if the tenant ultimately prevailed in the FTPR case or if the case was dismissed, meaning that no judgment was entered against the tenant. Even if there was no negative action taken against the tenant in court, the mere fact that an FTPR was filed can create a barrier to future housing opportunities in Maryland’s competitive rental market. **HB 34 would allow tenants the opportunity to shield FTPR proceedings where no judgment was entered against them, preserving their future ability to remain housed.**

At our Tenant Volunteer Lawyer of the Day courthouse clinics, PBRC staff frequently encounter tenants who have FTPR cases pending against them even though they have paid rent, no longer reside in the property, are not the tenant named in the lease, or any number of other issues that can cause a FTPR complaint to be dismissed or adjudicated in favor of the tenant. This is more commonly seen with larger landlords who file FTPR complaints in bulk. While our attorneys can and often do get these cases resolved favorably for our clients, they may still find that their future housing opportunities limited because prospective landlords are able to see that a FTPR complaint was filed. This knowledge alone can cause a prospective landlord to draw a negative inference about the tenant and their ability to pay rent. In Maryland’s tight rental market, this can mean the difference between a family being housed or shut out of housing opportunities. **PBRC urges a favorable report on HB 34 to preserve the ability of these tenants to remain housed.**

**Additionally, PBRC supports HB 34 because it provides a pathway for tenants to rehabilitate their housing records after a temporary financial difficulty.** The General Assembly has long recognized the interest the State has in allowing its citizens a fresh start after negative situations even when a public record is impacted. For example, in 2014 the General Assembly passed HB 397 which allowed for the shielding of certain Peace and Protective Order records, including some cases where a Peace or Protective Order was granted. In 2016 the General Assembly passed the Justice Reinvestment Act (SB 1005) which broadly expanded eligibility for expungement of criminal records, including some convictions. Most recently in 2022, the General Assembly passed HB 521, which allowed for tenants to request shielding

of FTPR judgments that occurred from March 5, 2020 to January 1, 2022. HB 34 continues in this lineage of allowing Marylanders the opportunity to shield FTPR judgments after they have exercised their “right of redemption” by paying the judgment amount owed and stopping the eviction. **In this way, HB 34 allows tenants to plan for their futures without being held back by their pasts.**

For the above reasons,

**PBRC urges a FAVORABLE report on HB 34.**

Please contact Katie Davis, Director of PBRC’s Courtroom Advocacy Project, with any questions.

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# **HB 34 Crossover\_Consumer Protection Division\_Favor**

Uploaded by: Kira Wilpone-Welborn

Position: FAV

**ANTHONY G. BROWN**  
*Attorney General*

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**CAROLYN QUATTROCKI**  
*Deputy Attorney General*



**WILLIAM D. GRUHN**  
*Chief*  
Consumer Protection Division

Writer's Fax No.

**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**  
**CONSUMER PROTECTION DIVISION**

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410-576-6986  
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March 27, 2023

To: The Honorable William C. Smith, Jr.  
Chair, Judicial Proceedings Committee

From: Kira Wilpone-Welborn, Assistant Attorney General  
Consumer Protection Division

Re: House Bill 34 – Failure to Pay Rent Proceedings - Prohibition on Rent Increases and  
Shielding of Court Records (SUPPORT)

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The Consumer Protection Division of the Office of the Attorney General supports House Bill 34 sponsored by Delegates Hill, Boyce, Foley, Holmes, Ruth, Stewart, and Terrasa. House Bill 34 requires the District Court to shield any court record from a failure to pay rent proceeding within sixty days if judgment for possession is not awarded to the landlord. Moreover, House Bill 34 allows a tenant to petition for the shielding of a prior failure to pay rent action when a tenant redeems possession of the property, or as justice requires.

Presently, failure to pay rent actions are available for public inspection and reporting regardless of the disposition of the case. As a result, failure to pay rent actions often immediately appear on tenants' credit and other rental history records without the ultimate disposition and the circumstances surrounding such filing, which can have a catastrophic impact on consumers' access to housing and less expensive credit. As the Washington Post has reported, even when a tenant is successful in defending a failure to pay rent filing or has paid off any alleged debt and avoided a physical eviction, a tenant can still be denied subsequent rental housing due to the reporting of a prior eviction filing on credit reports and other background records, creating a constant cycle of housing insecurity.<sup>1</sup>

House Bill 34 seeks to break this cycle of housing insecurity by shielding court records from a failure to pay rent proceeding when a judgment of possession is not awarded to a landlord, thus limiting the dissemination of inaccurate or incomplete information to landlords that would create barriers to tenants seeking housing.

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<sup>1</sup> "The stimulus relieved short-term pain, but eviction's impact is a long haul" Washington Post, February 8, 2021.

The Consumer Protection Division supports House Bill 34 and requests the Judicial Proceedings Committee provide a favorable report.

cc: Members, Judicial Proceedings Committee

**Economic Action Maryland\_HB34\_FAV\_Senate JPR.pdf**

Uploaded by: Michael Donnelly

Position: FAV



## Testimony to the Judicial Proceedings Committee

### HB0034: Failure to Pay Rent Proceedings - Prohibition on Rent Increases and Sealing of Court Records

Position: Favorable

March 28, 2023

The Honorable William C. Smith, Jr., Chair  
Senate Judicial Proceedings Committee  
2 East, Miller Senate Office Building  
Annapolis, Maryland 21401  
cc: Members, Senate Judicial Proceedings Committee

Honorable Chair Smith and Members of the Committee:

Economic Action Maryland (formerly the Maryland Consumer Rights Coalition) is a statewide non-profit movement of individuals and organizations that advances economic inclusion and financial justice through research, advocacy, consumer education, and direct service. *Our 8,500 supporters include consumer advocates, practitioners, and low-income and working families throughout Maryland.*

We are writing today in support of HB0034.

HB0034 would allow for the sealing of eviction records in failure to pay rent cases. Eviction records can adversely affect a tenant's ability to secure safe and affordable housing in the future even if the court ruled in the tenant's favor or the case was ultimately dismissed. Further, eviction filings are also used as a common tool in Maryland to collect debts other than rent, making the likelihood that much higher of tenants losing out on subsequent housing options due to failure to pay rent filings.

*Moreover, House Bill 34 provides an essential relief for Marylanders still impacted by the ongoing COVID-19 Pandemic. While the CDC's COVID-19 eviction moratorium provided some relief for Maryland families, more protections are needed to ensure that Marylanders experiencing the continual waves of the pandemic are able to maintain and access new housing.*

Economic Action Maryland's Tenant Advocacy program empowers tenants to advocate for themselves by providing information about housing rights and responsibilities, legal information, mediation, and referrals to other nonprofits and legal services. *The requests we have received for assistance with eviction have increased by 36% over 2020. COVID-19 has exponentially increased the housing insecurity impacting Maryland tenants.*

In 2022, our Tenant Advocacy program received 1396 complaints from Maryland residents statewide.

*Of those, 800 were related to eviction.* The bill would ensure that if a case filed against a tenant where the tenant prevailed or a dismissal was entered, or if the tenant exercised the right of redemption ("pay to stay"), then the record will not be held against a tenant in their efforts to find housing in the future. This change to the eviction process is long overdue, as most families affected by eviction and the lack of affordable housing are non-white households. *Only 17% of our 512 tenants who needed assistance with eviction in 2020 were white.*

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ID 52-2266235

A 2020 Baltimore City eviction study found that the number of Black eviction removals were 3 times higher (195% more) than white evictions and 46% more female headed households were removed from their homes as compared to male headed households. HB0034, through the sealing of records, would mitigate the harm of evictions by ensuring that tenants are able to secure alternate housing and avoid homelessness.

Maryland should join the nationwide movement pushing for the shielding and sealing of eviction records. Since 2021, Nevada, Oregon, and Minnesota allow courts to expunge eviction records on a case-by-case basis. By August of 2022, Colorado, Utah, Indiana, New York, New Jersey, and Illinois all have enacted some form of legislation to shield eviction records. California automatically seals records and The District of Columbia recently made permanent a sealing law originally passed as a pandemic-era measure. Maryland should join these jurisdictions in recognizing that sealing and shielding records is not only a matter of protecting tenants' rights, but also an issue of racial justice.

For all these reasons, we support HB0034 and ask for a favorable report.

Best,

Michael Donnelly  
Tenant Advocacy Coordinator  
Economic Action Maryland

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ID 52-2266235

Economic Action Maryland is a 501(c)(3) nonprofit organization and your contributions are tax deductible to the extent allowed by law.

# **HB0034 Senate Sponsor Testimony 2023 final.pdf**

Uploaded by: Terri Hill

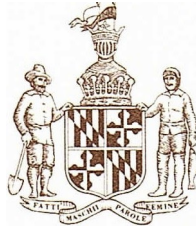
Position: FAV

**TERRI L. HILL, M.D.**  
*Legislative District 12A*  
Howard County

Health and Government  
Operations Committee

*Subcommittees*  
Government Operations and  
Health Facilities

Public Health and Minority  
Health Disparities



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[Terri.Hill@house.state.md](mailto:Terri.Hill@house.state.md)

**THE MARYLAND HOUSE OF DELEGATES**  
**ANNAPOLIS, MARYLAND 21401**

March 28, 2023

**SUPPORT**  
**HB34 - Failure to Pay Rent Proceedings – Prohibition on Rent Increases and  
Shielding of Court Records**

Chair Smith, Vice-chair Waldstreicher and Members of the Judicial Proceedings Committee,

**HB34** would

- prohibit a landlord from increasing a tenant’s rent solely because a judgment was entered against the tenant in a failure to pay rent action, and
- allow for the shielding of certain eviction filing records if there was no judgement for eviction, such as when any debt was resolved before a hearing, or the eviction filing was otherwise settled or dismissed.

The changes would help ensure that having a filing of a failure-to-pay action does not carry the same long-term, potentially detrimental effects of an actual finding of a failure-to-pay or of an eviction itself. To be clear, judgements against the tenant and evictions are not shielded under this legislation.

Similar legislation passed the House in 2021.

**HB34** addresses a long-standing issue which, like many other injustices, was magnified during the pandemic. While failure-to-pay filings for eviction are often legitimate, some are not. Even when payments are made, debts settled, and cases dismissed, these eviction proceedings stay on the tenant’s record. Having an eviction proceeding on one’s record can have unintended consequences that can affect the tenant’s future housing options, job opportunities, and financing abilities. In September of 2022, 12,456 failure-to-pay rent proceedings were dismissed in Maryland courts. In some cases, filings are used to antagonize tenants.

I request a favorable report on **HB34** as amended and passed by the House as a consensus of the Maryland Multi-Housing Association and the Public Justice Center. There is a small amendment to change “SEAL” in the original legislation to “SHIELD” in the one place were that was missed.

A handwritten signature in black ink, appearing to be "Terri Hill", written over a horizontal line.



**HB0034-563329-01.pdf**

Uploaded by: Terri Hill

Position: FAV



**HB0034/563329/1**

AMENDMENTS  
PREPARED  
BY THE  
DEPT. OF LEGISLATIVE  
SERVICES

27 MAR 23  
11:14:33

BY: Delegate Hill  
(To be offered in the Judicial Proceedings Committee)

AMENDMENT TO HOUSE BILL 34  
(Third Reading File Bill)

On page 4, in line 6, strike “SEAL” and substitute “SHIELD”.

**HB0034 - JPR - Maryland Legal Aid - FAV.pdf**

Uploaded by: Zafar Shah

Position: FAV



MARYLAND  
LEGAL AID

Advancing  
Human Rights and  
Justice for All

### House Bill 0034

## Failure to Pay Rent Proceedings - Prohibition on Rent Increases and Sealing of Court Records

Hearing in the Senate Judicial Proceedings Committee on March 28, 2023

**Position: FAVORABLE**

*Maryland Legal Aid (MLA) submits its written testimony on HB0034 at the request of bill sponsor Delegate Terri Hill.*

MLA is a non-profit law firm that provides free legal services to the State's low-income and vulnerable residents. Our 12 offices serve residents in each of Maryland's 24 jurisdictions and handle a range of civil legal matters, including housing, family law, public benefits, bankruptcy and other debt collection matters, and criminal record expungements. Maryland Legal Aid asks that the Committee report **favorably** on HB0034 **without new amendments**.

HB0034 establishes a records-sealing procedure for eviction cases based on non-payment of rent. The bill was amended in the House after substantial negotiation among representatives of landlords and tenants. The current version of the bill reflects a careful balance of interests.

Currently, there is no mechanism in Maryland law specific to this ubiquitous type of litigation. In FY22, nearly 310,000 "Failure to Pay Rent" (FTPR) cases were filed throughout Maryland.<sup>1</sup> While these lawsuits resulted in nearly 9,000 evictions, they often resulted in dismissed litigation.<sup>2</sup> Courts dismissed 54 percent of all FTPR filings—over 70 percent in two of the top three highest-volume jurisdictions.<sup>3</sup> At the same time, tens of thousands of cases resulted in default judgments for which many tenants presumably redeemed possession by payment. Consequently, beyond actual evictions, Maryland's FTPR dockets generate a long-lasting problem for Maryland residents on a massive scale: the harm of eviction records.

The filing of an FTPR itself, whether it leads to dismissal, redemption, or actual eviction, begins an electronic data trail that will follow renters throughout their searches for new rental housing or

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<sup>1</sup> District Court of Maryland, Statistics, Table: "Landlord/Tenant Case Activity Report FY22 (July 2021-June 2022),"

[https://mdcourts.gov/sites/default/files/import/district/statistics/Fiscal\\_2022.pdf](https://mdcourts.gov/sites/default/files/import/district/statistics/Fiscal_2022.pdf).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

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employment. Unlike debts that appear on consumer reports at most for seven years, eviction records live indefinitely on Maryland’s Judiciary Case Search site. HB0034 squarely addresses this problem.

***Automatic sealing***

HB0034 would reduce the harm of FTPR eviction records primarily by requiring the District Court to seal these court records automatically within 60 days after the final disposition of any FTPR that resulted in dismissal. For FY22 alone, HB0034 would have led to the sealing of 167,849 FTPR actions, without any action taken by the tenants in those actions.

***Sealing by petition***

Notably, HB0034 does not provide automatic sealing for cases that resulted in a judgment for possession. Instead, the bill would allow the tenant to petition the court and to make either of two showings:

- Either (1) that the tenant redeemed possession by payment to the landlord and that at least 12 months have passed since the case’s final resolution; or
- (2) that the court should seal the court records in the interest of justice.

***Effect of electronic data***

HB0034 expands the opportunities for low-income Marylanders to become employed and to secure housing. Without the passage of this legislation, employers and landlords may continue to utilize Case Search data to screen out renters, without regard for the context or even the propriety of the FTPR actions themselves. Electronic records of FTPR actions are more available today on Case Search than ever before due to the advancement of Maryland Electronic Courts, including the [new “e-rent” electronic filing system](#) for FTPRs in Baltimore County.<sup>4</sup> Baltimore County is the highest-volume jurisdiction for eviction litigation in the state.<sup>5</sup>

MLA’s clients know too well that employers and landlords evaluate Case Search data without attention to case disposition – meaning, the fact that a case appears in Case Search at all weighs equally to the actual outcome, whether a dismissal or judgment for possession. Clients consistently convey a sense of

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<sup>4</sup> CBS Baltimore, “Baltimore County launches e-rent pilot program for property owners, landlords,” July 18, 2022, <https://www.cbsnews.com/baltimore/news/baltimore-county-launches-e-rent-pilot-program-for-property-owners-landlords>.

<sup>5</sup> *Supra* n.1.

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hopelessness and discouragement in their ability to obtain gainful employment or stable housing due to the public availability of electronic eviction records.

The data trail, coupled with Maryland's [125,483-unit shortage of available and affordable housing units](#) for extremely low-income families, heavies the burden on poor families throughout the state.<sup>6</sup> Their low incomes increase the likelihood that they cannot pay rent in a given month and will be subjected to a FTPR filings. Eviction filings also disproportionately burden families by race. In a [national sample](#) in which one in every five adult renters was Black, "one in every three eviction filings were served to a Black renter."<sup>7</sup> Without passage of HB0034, FTPR filings, including those that are dismissed, perpetuate economic and racial barriers to finding available, affordable housing.

### *No FCRA preemption*

HB0034 does not raise preemption questions under the federal Fair Credit Reporting Act (FCRA). Arguably, the FCRA already bars screening companies from reporting sealed cases by virtue of the requirement that reports be "complete and up to date." *See* 15 U.S. Code § 1681k(a). HB0034 does not limit property owners' right to report rent delinquency to consumer reporting agencies nor does the bill alter their access to tenant screening and consumer reporting products, which are widely and cheaply available in today's rental market.

### *Definitions of "shield" and "court records"*

Of note, HB0034, by amendment, adopts definitions of "shield" and "court records" that were enacted in 2022 in HB 521 (Real Property art. § 8-502(a)). These definitions clarify that this legislation intends to remove electronic records of FTPR actions from public view.

This bill will directly impact many MLA clients and will help to remove barriers for Marylanders seeking to better themselves and their families. HB0034 can help to ensure that the past does not obscure the chance for a better future.

**Maryland Legal Aid urges the Committee to issue a FAVORABLE report on House Bill 0034.** If you have any questions, please contact Zafar Shah, Assistant Advocacy Director – Access to Counsel in Evictions, (410) 951-7672, [zshah@mdlaborg](mailto:zshah@mdlaborg).

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<sup>6</sup> National Low Income Housing Coalition, Housing Needs by State: Maryland, <https://nlihc.org/housing-needs-by-state/maryland>.

<sup>7</sup> The Eviction Lab, Racial and Gender Disparities among Evicted Americans, Dec. 16, 2020, <https://evictionlab.org/demographics-of-eviction>.

**HB 34-AOBA--INFO (2).pdf**

Uploaded by: Ryan Washington

Position: INFO



**Bill No:** HB 34—Failure to Pay Rent Proceedings- Prohibition on Rent Increases and Sealing of Court Records

**Committee:** Judicial Proceedings

**Date:** 3/28/2023

**Position:** Informational

The Apartment and Office Building Association of Metropolitan Washington (AOBA) represents members that own or manage more than 23 million square feet of commercial office space and 133,000 apartment rental units in Montgomery and Prince George's Counties.

HB 34 prevents housing providers from raising rents solely because a judgment was entered against a tenant in a failure to pay rent action. AOBA members are concerned that it would be overly burdensome to prove that a rent increase was due to a legitimate reason, such as increased operating costs, rather than a failure to pay rent action. This could encourage tenants to miss rent payments to avoid rent increases.

The bill also requires the District Court to seal all court records related to a failure to pay rent proceeding within 60 days after the final resolution of the eviction proceeding if the case does not result in a judgment of possession. Additionally, by a motion of a resident, the District Court may seal records if: (1) the District Court determines that it is in the interest of justice that the court records relating to failure to pay rent be sealed; (2) the resident establishes a preponderance of evidence that the tenant exercised the right of redemption and at least 12 months have passed since the final resolution of the proceeding.

AOBA understands the desire to shield court records when the case is dismissed or the unit was not repossessed. However, members believe that failure to pay rent proceedings plays an important role in determining a prospective tenant's ability to pay rent on time. That is because housing providers depend on timely rent payments as the single source of revenue used to cover all operating costs, and it is costly to evict a resident for failure to pay rent. Housing providers must determine whether a resident has been in court for failure to pay rent without the resident's ability to shield their records.



For further information, contact Ryan Washington, AOBA Government Affairs Manager, at 202-770-7713 or email [rashington@aoba-metro.org](mailto:rashington@aoba-metro.org).