

SB 19/HB 181

Failure to Pay Rent Proceedings - Prohibition on Rent Increases and Shielding of Court Records
HEARING BEFORE THE JUDICIAL PROCEEDINGS COMMITTEE, JANUARY 30, 2024
POSITION: SUPPORT (FAVORABLE)

The Pro Bono Resource Center of Maryland (“PBRC”), an independent 501(c)(3) non-profit organization, is the statewide thought leader and clearinghouse for pro bono civil legal services in Maryland. As the designated pro bono arm of the MSBA, PBRC provides training, mentorship, and pro bono service opportunities to members of the private bar and offers direct legal services through free legal clinics and individual referrals for full representation to over 6,200 clients annually.

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. **SB 19/HB 181 requires the court to shield records of FTPR actions that do not result in a judgment for possession and allows tenants to petition the court for shielding of records related to judgments for which the tenant has subsequently paid the amount due and thus redeemed their right to possession. These actions will help to preserve tenants’ ability to secure affordable housing in the future.**

Maryland has one of the highest FTPR filing rates in the country and an equally high dismissal rate. In the first nine months of 2023, for example, over 313,000 FTPR complaints were filed in Maryland. Of those, approximately 36%, or over 111,644 were dismissed. ([See https://www.courts.state.md.us/sites/default/files/import/district/statistics/Calendar_2023.pdf](https://www.courts.state.md.us/sites/default/files/import/district/statistics/Calendar_2023.pdf).) At our TVLD 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 SB 19/HB 181 to preserve the ability of these tenants to remain housed.**

Additionally, PBRC supports SB 19/HB 181 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. SB 19/HB 181 continues in this lineage by allowing Marylanders the opportunity to ensure that dismissed or redeemed FTPR judgments cannot hurt their future opportunities to secure safe, affordable housing. **In this way, SB 19/HB 181 allows tenants to plan for their futures without being held back by their pasts.**

For the above reasons,

PBRC urges a FAVORABLE report on SB 19/ HB 181.

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

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