HB 1008

Department of Legislative Services

Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1008 (Delegate Hill)
Judiciary Judicial Proceedings

Failure to Pay Rent Proceedings – Sealing of Court Records

This bill generally *requires* the District Court, within 60 days after the final resolution of a failure to pay rent proceeding that did not result in a judgment of possession and for which no appeal is pending, to seal all related court records. Upon motion by a tenant, the court *may* seal all court records relating to a failure to pay rent proceeding that results in a judgment of possession if (1) 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 (2) the District Court determines that it is in the interest of justice that the court records relating to the failure to pay rent proceeding be sealed. The District Court must seal the court records within 30 days after granting the tenant's motion to seal. In addition, the bill prohibits a landlord from increasing rent solely because a judgment was entered against a tenant in a failure to pay rent action. **The bill's provisions related to the development and publication of a specified form take effect July 1, 2021; otherwise, the bill takes effect October 1, 2021.**

Fiscal Summary

State Effect: General fund expenditures increase by about $4,400 in FY 2022 only for one-time programming costs by the Judiciary and *may* also increase minimally to reflect an increased workload for the District Court, as discussed below. Revenues are not affected.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: The District Court may not seal a court record if the tenant receives federal funds to subsidize rent required under the lease agreement and fails to pay the nonfederal portion of any rent due.

In regards to sealed records relating to proceedings that resulted in a judgment of possession, a record may only be opened on (1) a written request by the tenant or (2) an order of the District Court on a showing of compelling need. However, a tenant may receive a copy of an order issued under the bill's provisions at any time, with proper identification, without a showing of need.

By October 1, 2021, the Judiciary must develop and publish a form titled "Petition to Seal an Eviction Record" to facilitate the implementation of the bill's provisions. The form must also include a question on whether the tenant used federal funds to subsidize the tenant's payment of rent owed under the lease.

Current Law: In general, a landlord seeking to evict a tenant initiates the process by filing the appropriate action (*e.g.,* failure to pay rent, breach of lease, etc.*)* in the District Court. If awarded a judgment by the court, the landlord files a warrant of restitution, which, once reviewed and signed by the court, authorizes an eviction. The warrants of restitution are forwarded to the local sheriff's office who is then authorized to carry out the evictions. Statute sets forth numerous specific requirements for such actions, including those related to written notice prior to filing certain actions.

In failure to pay rent actions, if judgment is in favor of the landlord and the tenant does not return the premises to the landlord or otherwise satisfy the judgment by paying the applicable rent and late fees within 4 days, as specified, the court must, at any time after 4 days have elapsed, issue a warrant of restitution. The court may, upon presentation of a certificate signed by a physician certifying that surrendering the property within the 4-day period would endanger the health or life of the tenant or other occupant, extend the time for surrender of the premises as justice may require up to 15 days. Statutory provisions also authorize stays of execution in other specified circumstances, such as in the event of extreme weather conditions.

If the landlord does not order a warrant of restitution within 60 days from either the date of judgment or the expiration date of any stay of execution (whichever is later), then (1) the judgment for possession must be stricken and (2) the judgment must generally count toward the threshold for the number of judgments at which a tenant no longer has the right to redemption of the leased premises, as specified.

A tenant has the right to redemption of the leased premises by tendering in cash, certified check, or money order to the landlord or the landlord's agent all past due amounts, as determined by the court, plus all court awarded costs and fees, *at any time before actual execution of the eviction order*. This right of redemption does not apply to any tenant against whom three judgments of possession have been entered for rent due and unpaid in the 12 months prior to the initiation of the action, as specified.

State Expenditures: General fund expenditures increase minimally (by at least $4,400) in fiscal 2022 only for programming changes. Although these programming changes will generally facilitate the sealing of records, the Judiciary notes that the District Court is also impacted by the potential of additional filings if tenants submit motions to seal records in proceedings that did result in a judgment of possession. The Judiciary also notes that landlord-tenant matters routinely represent a high volume of the cases filed in the District Court each year. For example, in fiscal 2019, 669,427 failure to pay rent cases were filed in the State; that same year, 230,968 landlord-tenant cases resulted in a warrant of restitution. Workloads associated with the clerks' offices are likely particularly affected in the larger jurisdictions (Baltimore City and Montgomery and Prince George's counties) that have not yet completed integration of the Maryland Electronic Court System. Accordingly, general fund expenditures *may* also increase minimally (in addition to the programming costs noted above) to reflect the increased workload for the District Court.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Legislative Services

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