

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 521
 Judiciary

(Delegate Pena-Melnyk, *et al.*)

Judicial Proceedings

Landlord and Tenant - Repossession for Failure to Pay Rent - Shielding of Court Records

This bill authorizes a tenant to petition the court to shield court records relating to any action for repossession for failure to pay rent if the failure to pay rent was due to a loss of income arising out of the COVID-19 pandemic. However, a petition may not be filed until the appeal period for the action has lapsed. The bill’s provisions only apply to court records in failure to pay rent actions that were filed on or after March 5, 2020, but before January 1, 2022. The bill does not apply to any record relating to an action for repossession for failure to pay rent that resulted in a money judgment in favor of a landlord unless the petitioner provides evidence to the court that the judgment has been satisfied.

Fiscal Summary

State Effect: General fund expenditures for the Judiciary increase by \$15,800 in FY 2023 for one-time programming costs and *may* also increase minimally to reflect an increased workload for the District Court, as discussed below. Revenues are not affected.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	15,800	0	0	0	0
Net Effect	(\$15,800)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

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

Small Business Effect: Minimal.

Analysis

Bill Summary: “Court record” means an official record of a court proceeding that is kept by the clerk of the court or other court personnel. This includes (1) an index, docket entry, petition, memorandum, transcription of proceedings, electronic recording, order, and judgment and (2) any electronic information about the proceeding on the website maintained by the Maryland Judiciary.

“Shield” means to remove information from public inspection, as specified.

The court must grant the petition and shield any court record associated with an action in which there was not a judgment entered in favor of a landlord. However, if judgment was entered in favor of a landlord, the petitioner must serve a copy of the petition for shielding on the landlord. A landlord may file an objection to the petition no later than 15 days after receipt of service.

A hearing must be held if the landlord files a timely objection. At a hearing, if the petitioner demonstrates to the court that the petitioner’s failure to pay rent was due to a loss of income arising out of the COVID-19 pandemic, the court may grant the petition. If the landlord does not file a timely objection, the court (1) may grant the petition to shield the records or (2) if it denies the petition, must provide the specific reasons for that denial in the order denying the petition.

Current Law: In general, a landlord seeking to evict a tenant must file 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. This includes specific requirements for written notice prior to initiating a failure to pay rent action.

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 for the Judiciary increase by \$15,790 in fiscal 2023 only for programming changes. The Judiciary notes that operations may be impacted to the extent that a significant number of petitions for shielding are filed under the circumstances of the bill, particularly in cases where a judgment was entered in favor of the landlord (since that involves additional procedural requirements, including a hearing if a timely objection is filed). The Judiciary advises that between March 1, 2020, and December 31, 2021, there were approximately 530,822 failure to pay rent complaints filed in the District Court. Accordingly, general fund expenditures may also increase minimally (in addition to the programming costs noted above) to reflect an increased workload for the District Court. It is assumed that any potential impact on workloads/expenditures is likely to be primarily limited to the initial years of implementation, considering the bill's limitations regarding when applicable court records must have been filed (although – other than the provisions regarding the lapse of an appeal period – there is no restriction on when an individual may file a petition to seal the records).

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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