

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 34

(Delegate Hill, *et al.*)

Environment and Transportation and
 Judiciary

Judicial Proceedings

Failure to Pay Rent Proceedings - Prohibition on Rent Increases and Shielding 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, to shield all related court records. The bill also *authorizes* a court to shield all court records relating to a failure to pay rent proceeding that results in a judgment of possession, on motion of a tenant and if specified requirements are met. In addition, the bill prohibits, with limited exceptions, a landlord from increasing rent solely because a judgment was entered against a tenant in a failure to pay rent action. The bill’s shielding provisions apply prospectively only and may not be applied or interpreted to have any effect on or application to any action initiated under § 8-401 of the Real Property Article (failure to pay rent actions) before October 1, 2023. **The bill’s provisions related to the development/publication of a specified form take effect August 1, 2023.**

Fiscal Summary

State Effect: General fund expenditures increase by \$17,700 in FY 2024 only 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 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	17,700	0	0	0	0
Net Effect	(\$17,700)	\$0	\$0	\$0	\$0

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

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: Upon motion by a tenant, the court *may* shield 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, as specified, and at least 12 months have passed since the final resolution of the proceeding that the tenant seeks to shield or (2) the District Court determines that there is good cause to shield the court records. The District Court must shield the court records within 30 days after granting the tenant’s motion to shield. However, if a judgment for possession has been entered in a proceeding in which the tenant asserted a rent escrow defense, the District Court may shield only the court records related to the judgement for possession.

A shielded record may only be opened on (1) a written request by the tenant or (2) an order of the District Court for good cause shown. 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. An order to shield court records under the bill has no effect on a pending appeal.

By October 1, 2023, the Judiciary must develop and publish a form titled “Petition to Shield a Failure to Pay Rent Action Record” to facilitate the implementation of the bill’s provisions.

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.

In limited circumstances (pursuant to Chapter 722 of 2022), a tenant may 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. A petition may not be filed until the appeal period for the action has lapsed. However, the provisions of Chapter 722 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 provisions are also not applicable 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.

State Expenditures: General fund expenditures increase by \$17,700 in fiscal 2024 only for programming changes. Although these programming changes will generally facilitate the shielding of records (by coding for the specific shielding timelines), the Judiciary notes that the District Court is also impacted by the potential of additional filings if tenants submit motions to shield 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 2022, 309,959 failure to pay rent cases were filed in the State. In fiscal 2019, the last fiscal year not impacted by COVID-19, there were over 550,000 filings. The Judiciary advises that workloads associated with the clerks' offices are particularly affected in Baltimore City since the jurisdiction has 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: Similar legislation has been introduced within the last three years. See HB 134 of 2022 and HB 1008 of 2021.

Designated Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division);
Judiciary (Administrative Office of the Courts); Department of Legislative Services

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