

Renters United Maryland_HB 1008 (JPR)_FAV.pdf.pdf

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Position: FAV



HB 1008 – Failure to Pay Rent Proceedings – Prohibition on Rent Increases and Sealing of Court Records

Before the Senate Judicial Proceedings Committee
March 30, 2021

Position: SUPPORT

Renters United Maryland (RUM) is a coalition of independent non-profit, legal services, and community-based organizations. We stand on the principle that housing is a human right that is critical to an individual's quality of life, the health of families, and the prosperity of communities. RUM strongly supports HB 1008 as a critical measure to protect renters' privacy, allow easier access to safe and stable housing, and promote racial justice. We believe the eviction records sealing achieves that goal.

HB 1008 allows the sealing of eviction records in failure to pay rent cases ("FTPR"). 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 1008 proposes to 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 seal the eviction record 60 days after final disposition.

For tenants whose landlord prevails in a failure to pay rent action, HB 1008 provides for the sealing 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 sealing the record of the adverse judgment. **Having the opportunity to seal these records after one year will open the door to opportunities that were once closed to many tenants.**

<https://rentersunitedmaryland.org>

Contact: Carisa A. Hatfield, 443-402-5395 or chatfield@hprlaw.org

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

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.² 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.³ 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.”⁴

Sealing 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.

Renters United Maryland urges a favorable report on HB 1008.

¹ 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; 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; ACLU, “Clearing the Record: How Eviction Sealing 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-housingaccess-for-women-of-color/>.

² 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>

³ 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 ⁴ 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

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HB 1008 Support Letter_Crossover(2021)(FINAL).pdf

Uploaded by: Wilpone-Welborn, Kira

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March 29, 2021

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

From: Kira Wilpone-Welborn
Consumer Protection Division

Re: House Bill 1008 – Failure to Pay Rent Proceedings – Sealing of Court Records
(SUPPORT)

The Consumer Protection Division of the Office of the Attorney General supports House Bill 1008 sponsored by Delegate Terri L. Hill. House Bill 1008 requires the District Court to seal any record from a failure to pay rent proceeding within sixty days if judgment for possession is not awarded to the landlord. Moreover, House Bill 1008 allows a tenant to petition for the sealing of a prior failure to pay rent action after twelve months when a tenant redeems possession of the property, or as justice requires.

Presently, failure to pay rent actions no matter their disposition are available for public inspection and reporting, allowing the mere filing of a failure to pay rent action to immediately appear on a tenant's credit and other background records. The ultimate disposition and the circumstances surrounding the filing, however, are not included in such records. This can have a catastrophic impact on a consumer's access to housing and less expensive credit. As a result, as the Washington Post recently reported, even when successful in defending a failure to pay rent filing or paying off any alleged debt and avoiding a physical eviction, tenants can still be denied subsequent rental housing due to the reporting of a prior eviction filing on credit reports and other background records.¹ This can cause tenants to enter a constant cycle of housing insecurity due to prior failure to pay rent actions that do not accurately reflect what happened in the proceeding or their present suitability to rent.

House Bill 1008 seeks to resolve this persistent cycle of historic failure to pay rent filings that cause subsequent housing insecurity by sealing eviction records when the landlord does not obtain

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

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possession or if the tenant redeems possession or as justice requires. Sealing these records limits the dissemination of inaccurate and incomplete tenant eviction record information to landlords, thus allowing consumers more access to the rental market un-impinged.

Importantly, House Bill 1008 provides essential relief for Marylanders impacted by the COVID-19 Pandemic. While the Governor's and the CDC's Moratorium on eviction actions due to the COVID-19 Pandemic provided brief and sporadic relief for Maryland families from eviction and resultant housing instability, more is needed to ensure that Marylanders experiencing the continual waves of the pandemic are able to maintain and access new housing. Presently those evicted during the pandemic due to income loss, or the unexpected and unfortunate loss of a loved one will face a barrier to securing new housing and stability in the years ahead. House Bill 1008 would minimize the long-term impacts of these unforeseen events and allow Maryland families to rebuild and stabilize.

For the stated reasons, the Consumer Protection Division supports House Bill 1008, and requests the Judicial Proceedings Committee provide a favorable report.

cc: Members, Judicial Proceedings Committee

HB1008 Senate Sponsor Testimony.pdf

Uploaded by: Hill, Terri

Position: FWA

TERRI L. HILL, M.D.
Legislative District 12
Baltimore and Howard Counties

Health and Government Operations
Committee

Subcommittees

Government Operations
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SUPPORT

HB1008 Failure to Pay Rent Proceedings - Sealing of Court Records

March 31, 2021

Dear Chairman Smith, Vice Chair Waldstreicher, and Judicial Proceedings Committee Members,

HB1008 will allow the District Court to seal the court records of eviction proceedings that were settled or where cases are dismissed. Tenants can motion to seal the record one year after the proceeding has occurred and the District Court shall seal the record 30 days after granting the tenant's motion to seal. This would help address one of the more troubling challenges of our inadequate affordable housing stock and high rate of rent-burdened households: differentiating the chronic late-paying tenant from one who is underwater and spiraling to lease default, and the landlord using the civil system to enforce a lease agreement from the landlord using serial eviction as a collection tool. How our eviction system treats each is important to having a system, fair to both landlords and tenants, that does not serve to further impoverish those surviving on the margins, and harming neither tenants nor landlords with tight finances.

Currently, an eviction filing can label one with the "scarlet E" - a bad eviction risk - regardless of whether a resolution is reached pretrial, if there is a finding for the landlord, or a dismissal in favor of the tenant. This label can detrimentally affect one's credit score, make it harder to find future quality housing at an affordable rate, negatively affect job stability and future employment opportunities, and the ability to achieve financial stability for years. Stable shelter is foundational and without it other critical supports quickly fall apart.

Eviction proceedings designed to support landlord interest in enforcing lease agreements against a tenant who is no longer able to pay rent, are misused by landlords or their management agencies to prompt, or even harass, tenants who are only days late or who are reliably late in paying rent. Even when payments including late fees are made, debts are settled, and cases dismissed, these eviction proceedings remain on the tenant's record. The COVID-19 pandemic has exacerbated the underlying problems of affordable rental housing, responsible tenancy, enforcement of lease agreements, and the eviction system. In November of 2020 alone, 2,410 failure to pay rent proceedings were dismissed in Maryland courts.

The underlying reason for the high rate of eviction filings is not bad intentions on either the part of landlords or tenants, it's poverty. While HB1008 won't fix this, it can prevent tenants for whom one-time or temporary circumstances cause them to fall behind from being drawn onto a downward spiral. By allowing for the sealing of eviction filing records in instances where all the debts owed have been paid, when the eviction filing has been dismissed or settled, and where it is right and just, HB1008 will correct a weakness in the system while simultaneously supporting tenant and landlord interests. This is good policy in the best of circumstances, but is even more so during current times; allowing some who've experienced temporary delay or loss of income due to the COVID-19 pandemic to re-establish an eviction credit history that better reflects their reliability under normal circumstances.

The Maryland Multi-Housing Association worked with us to strike the right balance and is in support of the bill. The Maryland Judiciary is offering the two amendments - one changing the mandated form's name and the other postponing for a month the development of the form.

I respectfully request a favorable report, with both Maryland Judiciary amendments.

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