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February 15, 2021

To: The Honorable Luke Clippinger
Chair, Judiciary Committee

From: Kira Wilpone-Welborn
Consumer Protection Division

Re: House Bill 112 – Residential Property – Eviction Proceedings – Sealing of Court Records
(SUPPORT WITH AMENDMENT)

The Consumer Protection Division of the Office of the Attorney General supports with amendments House Bill 112 sponsored by Delegate Shaneka Henson. First, House Bill 112 provides that the District Court shall seal court records related to eviction actions thirty days after judgment is entered in favor of the tenant, or three years after judgement is entered in favor of the landlord. House Bill 112 also provides that on motion by the tenant, the District Court may seal eviction records at any time upon the demonstration that the eviction was retaliatory, the eviction was the result of gender-based violence, when possession was not awarded to the landlord in a mutual settlement agreement, and with other good cause found by the Court.

Presently, eviction actions no matter their disposition, are available for public inspection and reporting. This allows the mere filing of an eviction action to immediately appear on a tenant's credit and background reports, which can impact their ability to obtain other housing and limit their access to credit. The ultimate disposition and the circumstances surrounding the eviction filing, however, are not included on such reports. The Washington Post just reported that tenants, even when successful in defending an eviction filing or paying off any alleged debt and avoiding a physical eviction, can still be barred from subsequent rental housing due to the mere presence of a prior eviction action on their tenant screening report.¹ This can cause tenants to enter a cycle of housing insecurity due to prior eviction actions that do not accurately reflect what happened in that prior action or their present suitability to rent.

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

The Honorable Luke Clippinger
House Bill 112
February 15, 2021
Page Two

House Bill 112 seeks to resolve this persistent cycle of historic eviction filings that cause subsequent housing insecurity by quickly sealing eviction records when the landlord does not obtain possession, and in three years when the landlord does obtain possession, but the tenant's circumstances may have changed. Sealing these records will limit the dissemination of inaccurate and incomplete tenant eviction record information to landlords and should improve consumers' access to the rental market.

Moreover, House Bill 112 would provide essential relief for Marylanders impacted by the COVID-19 Pandemic. While the Governor's and the CDC's moratoriums 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 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 to come. House Bill 112 would minimize the long-term impacts of these unforeseen events and allow Maryland families to rebuild and stabilize.

Although House Bill 112 admirably attempts to correct this harmful reporting loophole, section 8-406(B)(2), as written, extends the sealing deadline of a former eviction action if, within three years, the tenant obtains another unfavorable judgement in an unrelated eviction action. This could cause an eviction action to remain available for review and reporting for up to six years or more. The Consumer Protection Division recommends that section 8-406(B)(2) be removed from the bill in its entirety because it is not clear how the extended sealing deadline promotes the purpose of the bill in removing from the public record old and incomplete information of past eviction filings that are no longer representative of a tenant's ability or suitability to rent.

As tenants encounter evictions for a multitude of circumstances that throughout a tenant's rental history can be unrelated and unconnected, the extended sealing deadline in section 8-406(B)(2) unfairly penalizes tenants by refusing to seal old eviction judgments if a newer judgment exists. For example, a tenant with a judgement against her in failure to pay rent action from 2018 could be barred from sealing that record until 2023, if she also had a tenant holding over judgement against in 2020 after her landlord refused to renew her lease during the pandemic. These judgments alone do not present enough information for anyone to judge the tenant's rental history and suitability to rent. And as the 2020 judgement will remain unsealed for three years under House Bill 112, requiring the unrelated failure to pay rent judgement from 2018 to remain unsealed could unfairly misrepresent a tenant's rental history, and should not hinder her future housing options. As such, the Consumer Protection Division recommends an amendment to remove Section 8-406(B)(2) from the bill.

For the stated reasons, the Consumer Protection Division supports House Bill 112, and requests the Judiciary Committee provide a favorable report with amendment.

cc: The Honorable Shaneka Henson
Members, Judiciary Committee