

**MMHA - 2022 - HB 521 - shielding records - JPR.pdf**

Uploaded by: Aaron Greenfield

Position: FAV



**Bill Title:** House Bill 521, Landlord and Tenant – Repossession for Failure to Pay Rent – Shielding of Court Records

**Committee:** Judicial Proceedings Committee

**Date:** March 31, 2022

**Position:** Favorable

This testimony is offered on behalf of the Maryland Multi-Housing Association (MMHA). MMHA is a professional trade association established in 1996, whose members consist of owners and managers of more than 210,000 rental housing homes in over 958 apartment communities. Our members house over 538,000 residents of the State of Maryland. MMHA also represents over 250 associate member companies who supply goods and services to the multi-housing industry.

This bill authorizes a tenant to petition the court to shield records related to any action for repossession for failure to pay rent if the failure was due to a loss of income arising out of the COVID-19 pandemic for actions filed on or after March 5, 2020 but before January 1, 2022. This can only occur after the judgment has been satisfied and the appeal period has lapsed. The tenant must serve a copy of the petition to the landlord and a landlord may file an objection no later than 15 days after receipt of service. If the landlord does object, the court must hold a hearing. The court may grant the shielding if the tenant demonstrates at the hearing that the tenant’s failure to pay was due to a loss of income stemming from the pandemic. If the landlord does not file an objection to the petition, the court may grant the petition.

MMHA has no objection to shielding a landlord/tenant action for failure to pay rent under the narrow circumstances called for in this bill, if the judgment has since been satisfied and the appeal period has lapsed. To ensure the court receives all relevant facts, MMHA fully supports the provision that the tenant serve the landlord with the petition and allow the landlord an opportunity to be heard.

For these reasons, we respectfully request a favorable report on House Bill 521.

**Aaron J. Greenfield, MMHA Director of Government Affairs, 410.446.1992**

**HB0521\_Shielding\_of\_Records\_MLC\_FAV.pdf**

Uploaded by: Cecilia Plante

Position: FAV



## TESTIMONY FOR HB0521

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

**Bill Sponsor:** Delegate Peña-Melnyk

**Committee:** Judicial Proceedings

**Organization Submitting:** Maryland Legislative Coalition

**Person Submitting:** Cecilia Plante, co-chair

**Position:** FAVORABLE

I am submitting this testimony in favor of HB0521 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of individuals and grassroots groups with members in every district in the state. We have over 30,000 members across the state.

Our members applaud the goal of this legislation. Having a court record of non-payment of rent is very detrimental. Having that court record, especially when the landlord did not get the judgement in their favor, is especially onerous. Further, for individuals who couldn't pay rent due to loss of employment during the pandemic, this is especially problematic.

This bill would shield the records of any judgements that were made in favor of the tenant. It would also shield the records of any judgements that were made in favor of the landlord after March 5, 2020.

We think this legislation will only help those who are trying, in good faith, to pay their rent from having a court record that hurts their chances of finding lodgings.

We support the bill and we recommend a **FAVORABLE** report in Committee.

**2022-03-31 HB 521 (Cross-over Support).pdf**

Uploaded by: Hannibal Kemerer

Position: FAV

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**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.  
443-463-0751

March 31, 2022

**TO:** The Honorable William C. Smith, Jr.  
Chair, Senate Judicial Proceedings Committee

**FROM:** Hannibal G. Williams II Kemerer  
Chief Counsel, Legislative Affairs, Office of the Attorney General

**RE:** HB 521 – Landlord and Tenant – Repossession for Failure to Pay Rent – Shielding of Court Records – **Support**

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Chairman Smith, Vice Chair Waldstreicher, and distinguished Members of the Judicial Proceedings Committee, thank you for the opportunity to testify in support of HB 521. If enacted, Delegate Peña-Melnyk's bill would permit tenants to petition courts to shield from public access court actions against them for failure to pay rent. The bill is limited in scope to eviction actions filed on or after March 5, 2020 (the date Governor Hogan declared the COVID-19 state of emergency), and before January 1, 2022. It further limits the pool of potential petitioners to individuals who suffered a loss of income arising out of the pandemic. House Bill 521 has an effective date of October 1, 2022.

The importance of shielding legislation like HB 521 was noted in a recent law journal article:

Tenants thrown into sudden unemployment by COVID-19 are already facing nonpayment eviction in some states. When eviction moratoria are lifted, many more will join them. If records of these cases remain unsealed, a present COVID-19 eviction will haunt a tenant until 2025, 2030—even beyond. Eviction is a civil offense. It can result from a single, isolated instance of nonpayment. There is no reason that courts and legislatures should allow a single eviction, legitimate or not, to dictate a tenant's housing prospects for a decade.<sup>1</sup>

For the foregoing reasons, the Office of Attorney General urges the Committee to favorably report House Bill 521 with sponsor amendments.

cc: The Honorable Joseline Peña-Melnyk & Members of the Judicial Proceedings Committee

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<sup>1</sup> Shannon Price, Stay at Home: Rethinking Rental Housing Law in an Era of Pandemic, 28 Geo. J. on Poverty L. & Pol'y 1, 31 (2020).

# **TESTIMONY H521 Senate 3.31.2022 final 1.pdf**

Uploaded by: Jessica Quincosa

Position: FAV



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The Honorable William C. Smith, Jr.  
Chair, Judicial Proceedings Committee  
2 East, Miller Senate Office Building  
Annapolis, Maryland 21401

**House Bill 521 - Landlord and Tenant - Shielding of Court Records  
Hearing before the Senate Judicial Proceedings Committee**

**March 31, 2022**

**Position: FAVORABLE**

Dear Chair Smith and Committee Members:

Thank you for the opportunity to testify in support of HB 521, a bill that would allow tenants the opportunity to petition to remove pandemic-related failure to pay rent cases from public inspection.

Community Legal Services of Prince George's County ("CLS") is a private, non-profit organization providing free legal services to low-income Prince George's County residents since 1985. In response to the pandemic, CLS expanded our services to assist Anne Arundel County residents in landlord-tenant matters, as the need for legal representation increased. In FY22, CLS has assisted on over 8,500 cases and clinics, and we expect a significant increase in requests for our services in the upcoming months.

Since piloting our Tenant Representation program in 2018, CLS has assisted thousands of tenants throughout Prince George's County and Anne Arundel County. Since March of 2020, CLS has represented over 1100 tenants and advised over 3,700 tenants on landlord and tenant matters. Throughout the pandemic, CLS has experienced a marked increase in requests for representation in actions involving Nonpayment of Rent and Tenant Holding Over. Struggling families have faced financial challenges from businesses closures, fear of COVID-19 infection, and loss of income, which has ultimately resulted in housing instability and uncertainty. Maryland Courts continued to accept and process landlord-tenant filings throughout the moratoria, leaving families with multiple judgments and lengthy records, while applications for emergency rental assistance were pending. A waiting list for these funds continues. Since the Courts have returned to Phase V on March 7, 2022, CLS has represented tenants in almost 100 cases and provided advice to 250 clients. We expect this increased pattern to continue as the Courts return to their normal operations. Although many of these cases will be dismissed as they were paid prior to their hearings, the filings will remain on tenants' online records.

House Bill 521 adds a much-needed provision to the landlord-tenant statute in which a tenant may petition the court to remove from public inspection the records of pandemic-related failure to pay rent cases.



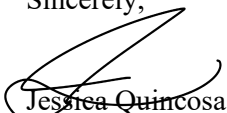
**Residents of Maryland experienced unprecedented unemployment rates in 2020; low-income tenants need assistance and protection, not punishment.** While [unemployment rates in Prince George’s County were at 3.7% in 2019, they grew to a staggering 8.1% in 2020. Anne Arundel County’s unemployment rates increased from 3% in 2019 to 5% in 2020.](#) Some tenants are still recovering from the aftermath of losing their jobs and, after depleting their savings, are living paycheck-to-paycheck. The challenges of financial recovery for many families were not instantly resolved when businesses reopened, nor when vaccines became available. Many tenants are striving to overcome massive financial setbacks caused by the pandemic. Some landlords filed new actions for nonpayment of rent for each month a tenant failed to submit a full payment of rent by the beginning of each month, which resulted in “serial” filings listed in Maryland Judiciary Case Search for some tenants, even while there was a moratorium on evictions. In November and December of 2021, over 20,000 failure to pay rent cases were filed each month in the State of Maryland. <sup>1</sup> While tenants are now slowly gaining stability, these filings should not continue to haunt them.

**Nonpayment of Rent cases filed during the pandemic are not a true representation of the behavior or habits of many of the individuals, who will be negatively affected, if the records are not shielded.** Many tenants did not have trouble paying their monthly rent until the global crisis caused loss of income, loss of childcare options, and loss of loved ones who contributed to household living expenses. Furthermore, many of the cases may ultimately be dismissed, but details of the dispositions are sometimes unavailable online, which may cause prospective landlords to make assumptions and deny new housing to the subject of the records. With leases ending or rent costs rising, many tenants will need to move. Tenants should be able to petition a court to shield a Nonpayment of Rent record that is not representative of their usual payment practices to protect them from unfair denial of future housing or employment. This bill would protect tenants from unfair prejudice that may further compound their financial challenges. While failure to pay rent cases affect low-income families of diverse backgrounds, they disproportionately affect women of color. Shielding of these records will assist those families who need it the most to overcome the effects of the pandemic.

**Efforts to keep families housed during the past two years could end in vain.** There have been concerted and collective efforts put forth during the past two years to avoid a homelessness crisis. Emergency Rental Assistance, provided by the federal government and administered to tenants through organizations such as Arundel Community Development Services (ACDS) and the Prince George’s County DHCD, are distributed to prevent evictions. CLS attorneys diligently advocate in court for low-income tenants and help connect tenants to emergency rental assistance programs. Due to inaccurate conclusions prospective landlords would inevitably reach as to the ability of a tenant to make timely rent payments, the financial tragedy faced by many Maryland residents will be exacerbated. Allowing judgment history to negatively affect the ability to secure future housing frustrates the purpose of the federal funds, which were intended to promote housing stability.

**For these reasons, we urge a FAVORABLE REPORT ON House Bill 521.**

Sincerely,



Jessica Quincosa  
Executive Director  
Community Legal Services of Prince George’s County, Inc.  
quincosa@clspgc.org

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<sup>1</sup> <https://mdcourts.gov/district/about#stats>

**HB521\_MCRC\_FAV (2022) to Senate JPR (2).pdf**

Uploaded by: Marceline White

Position: FAV



Maryland Consumer Rights Coalition

**Testimony to the Senate Judicial Proceedings Committee**  
**HB 521: Landlord and Tenant - Repossession for Failure to Pay Rent - Shielding of Court Records**  
**Position: Favorable**

March 31, 2022

The Honorable Will Smith, Chair  
Senate Judicial Proceedings Committee  
2 East, Miller Senate Office Building  
Annapolis, Maryland 21401  
cc: Members, Senate Judicial Proceedings Committee

Honorable Chair Smith and Members of the Committee:

The Maryland Consumer Rights Coalition (MCRC) is a statewide coalition of individuals and organizations that advances economic rights and financial inclusion for Maryland consumers through research, education, direct service, and advocacy. Our 8,500 supporters include consumer advocates, practitioners, and low-income and working families throughout Maryland.

We are writing today in support of HB 521.

As amended, the bill creates a process that would allow for the shielding of eviction records in failure to pay rent cases that stem from a loss of income related to the Covid-19 pandemic. For many tenants, having an eviction on their record – even if the case was ultimately dismissed or the court ruled in the tenant’s favor - will adversely affect their ability to rent another property or access affordable housing opportunities in the future. The prevalence of nonpayment of rent filings in Maryland, which are often used as a debt collection tool in Maryland, makes the threat of losing out on housing opportunities based on failure to pay rent filings very real for many tenants.

Moreover, House Bill 521 provides an important protection for Marylanders impacted by the COVID-19 pandemic. The bill is narrowly tailored so that this protection is only available to tenants who had a failure to pay rent case between March 5, 2020 and January 1, 2022. Moreover, it will not apply to records in which a landlord received a money judgment unless the tenant can show the judgment has been satisfied. As amended, the bill establishes a process by which the court may grant the right for a tenants record to be shielded. If the court denies the request to shield a record, the court must provide reasons for the denial.

Our tenant advocacy program demonstrates the need for this kind of potential protection. Kim Fuller, a client of our Tenant Advocacy program needed to find a new apartment for herself and her mother. Fuller had never been evicted and had a good credit score and adequate income for the rentals that she applied to move into-yet a tenant screening company, RentGrow rejected her application on several places in Baltimore City that use them to screen tenants. Fuller never learned the reason for her



rejection because tenant screening companies are not required to share that information. You can read more of Fuller's story in the attached ProPublica article.

For tenants who've suffered a loss of income due to the COVID-19 pandemic, this bill is a critical piece of COVID-19 pandemic response. The requests we have received for assistance with eviction have increased by 36% over 2020. In 2021, our Tenant Advocacy program received 1271 complaints from Maryland residents statewide. Of those 1271, 800 were related to eviction.

Tenant screening companies are less regulated with fewer consumer protections than credit reporting agencies. There is lax supervisory oversight of tenant screening and consumer protection rules have not been updated to reflect new technologies.

This change to the eviction process is long overdue, and carries racial justice implications as most families affected by eviction and the lack of affordable housing are non-white households. Only 17% of our 512 tenants who needed assistance with eviction in 2020 were white. In a 2020 Baltimore City eviction study it was found that the number of Black eviction removals is 3 times higher (195% more) than white evictions and 46% more female headed households were removed from their homes as compared to male headed households.<sup>1</sup> Shielding records is a powerful solution that mitigates the harm of evictions and ensures that tenants are able to secure alternate housing and avoid homelessness.

Maryland should join the nationwide movement pushing for the shielding and sealing of eviction records. Since 2021 Nevada, Oregon, and Minnesota allow courts to expunge eviction records on a case-by-case basis. California automatically seals records and The District of Columbia passed a sealing law as a pandemic-era measure and is now considering making it permanent.<sup>2</sup> Maryland should join these jurisdictions in recognizing that shielding records is not only a matter of protecting tenants' rights, but also an issue of racial justice.

For all these reasons, we support HB 521 and ask for a favorable report.

Best,

Marceline White  
Executive Director

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<sup>1</sup> <https://evictions.study/maryland/report/baltimore.html>

<sup>2</sup> <https://theappeal.org/the-lab/report/erasing-the-scarlet-e-of-eviction-records/>

# How Your Shadow Credit Score Could Decide Whether

Uploaded by: Marceline White

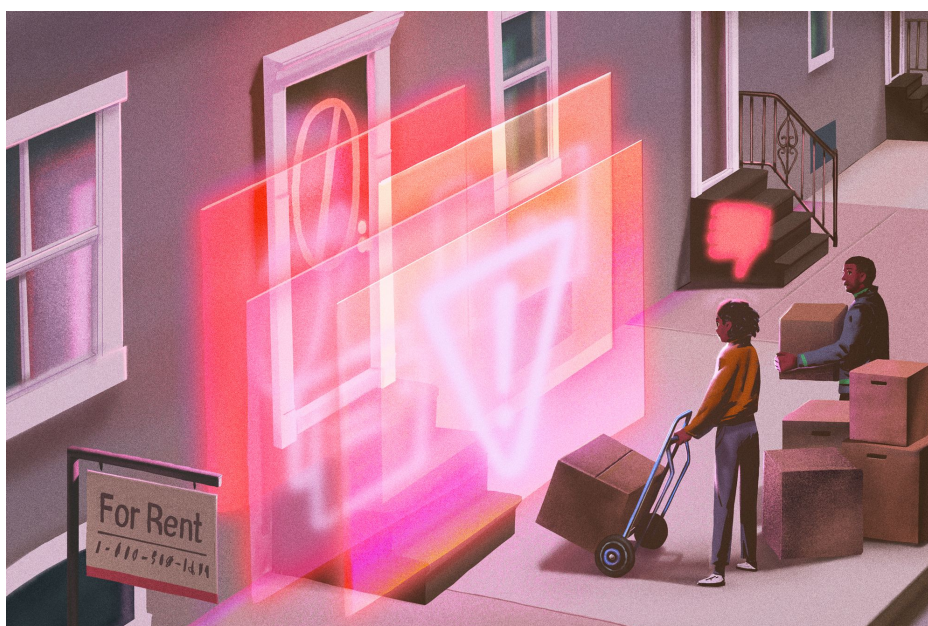
Position: FAV

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## Technology

# How Your Shadow Credit Score Could Decide Whether You Get an Apartment

The vast tenant screening industry is subject to less regulation than credit scoring agencies, even though experts warn that algorithms could introduce racial or other illegal biases that can prevent people from getting housing.



Matthew Kam for ProPublica

by **Erin Smith**, and **Heather Vogell**, ProPublica

March 29, 6 a.m. EDT

*ProPublica is a nonprofit newsroom that investigates abuses of power. Sign up to receive our [biggest stories](#) as soon as they're published.*

Kim Fuller needed to move. Her 83-year-old mom was struggling to get around the narrow, three-story row house they shared in Baltimore. Heart problems made climbing the stairs too arduous, cutting the older woman off from the kitchen where she'd loved to cook.

Fuller, 57, found an apartment complex 3 miles away that billed itself as "luxury living" for people 55 and older, and she applied for a unit in early 2021. She figured she'd be approved: Her salary as a mental health services coordinator for the state of Maryland met the income requirements. She'd

never been evicted and had brought her credit score up to 632 — which is considered fair — after a health crisis had forced her to file for bankruptcy eight years earlier.

Still, a few months later, when she logged into her online account with the property manager, she learned her application had been denied. No reason was given. She raised her credit score to 663 and applied to another complex owned by the same company, Habitat America, in August. Six days later her status again turned to “Declined.”

Fuller learned her rental application had been screened by RentGrow, one of more than a dozen companies that mine consumer databases to perform background checks on tenants. A form emailed to her said RentGrow determined she didn’t meet applicant screening requirements, highlighting in yellow the box labeled “credit history” as the reason.

The letter provided no further explanation. A RentGrow representative, through an executive at its parent company, declined to comment. Habitat America declined to respond to questions about Fuller’s application from ProPublica, citing privacy concerns.

“You don’t know why you got denied or if you were ever considered,” Fuller said. “It’s really murky out there.”

Fuller’s experience has become more common as landlords have increased their reliance on tenant screening to help them select renters. The industry has expanded dramatically as the number of renters has grown and new technology has made it easier to access vast troves of data, such as court records.

Tenant screening companies compile information beyond what’s in renters’ credit reports, including criminal and eviction filings. They say this data helps give landlords a better idea of who will pay on time and who will be a good tenant. The firms typically assign applicants scores or provide landlords a yes-or-no recommendation.

A ProPublica review found that such ratings have come to serve as shadow credit scores for renters. But compared to credit reporting, tenant screening is less regulated and offers fewer consumer protections — which can have dire consequences for applicants trying to secure housing.

Frequent errors on tenant screening reports, often related to false eviction reports or criminal records, led government watchdogs to admonish the industry last year to improve its accuracy. (The Markup reported a series of stories on the industry and regulators’ reactions to it.)

Yet errors are just one of the problems with tenant screening, ProPublica found. Tenants often can’t get enough information to understand why they were marked as a risk to landlords.

More than 40 renters responded to a ProPublica survey last year about tenant screening. Some were denied housing. Others were asked to pay double or triple deposits because of low tenant scores.

“It’s kind of chaos,” said Ariel Nelson, a staff attorney at the National Consumer Law Center. “It’s really hard to figure out if you were rejected, why was it rejected. If it’s something you can fix or if it’s an error.”

The algorithms some screening companies use aren't scrutinized by regulators and, tenant advocates say, may not accurately predict a tenant's likelihood of paying rent. While screening companies say their algorithms are subject to human judgment, advocates say the companies use data that can introduce racial or other illegal biases.

Fuller, who is Black, worried she might have been a victim of racial discrimination.

Her case baffled Carol Ott at the Fair Housing Action Center of Maryland. "You're fighting against the company that uses secret algorithms," said Ott, the center's tenant advocacy director. "Where do you even go with that?"

Regional Property Manager Karin Scott said in an email that Habitat America's policy is to treat all residents and visitors fairly, and "any concerns that a denial was based upon racial discrimination are unfounded."

To be sure, the credit reporting industry also draws criticism from consumer advocates for failing to keep errors off credit reports and for using algorithms that critics say perpetuate racial biases.

ProPublica found that tenant screening receives even less oversight than credit reporting, which has been litigated intensely and is watched by the courts and federal agencies in an effort to minimize unfair treatment.

Federal agencies have "supervisory authority" to review the internal records of financial institutions such as banks to ensure that their scoring methods are predictive, statistically sound and nondiscriminatory, experts said.

A parallel process does not exist for tenant screening.

"Nobody's supervising. Nobody's checking the data," said Chi Chi Wu, an attorney at the National Consumer Law Center. "Nobody's checking these algorithms."

A spokesperson for the Consumer Data Industry Association, which represents consumer reporting agencies, including screening companies, said in an emailed statement that the competitive tenant screening market pushes companies to continuously improve their tools for helping landlords comply with fair housing and other laws.

"Consumers expect and demand safe places to live, and our tenant screening members help protect residential communities, especially their most vulnerable populations," the statement said.

The National Apartment Association, a trade group representing apartment owners and managers, said it supports new technology for rental operations and encourages members to research vendors to make sure they comply with regulations, according to a statement from Senior Vice President Greg Brown.

"Rental housing providers are committed to equal housing opportunity and utilize resident screening tools through this lens to balance risks that could impact the entire community," Brown said.



# “High-Risk Renters”

The rapid rise of tenant screening is one of the seismic changes to hit the rental market since the Great Recession. As ProPublica has reported, private equity firms have poured into the multifamily apartment market, often driving up rents in search of greater profits than those typically sought by mom-and-pop landlords. Algorithms now often replace human judgment in deciding who qualifies for housing and how much rent costs.

Bob Withers, a retired executive for corporate landlords and regional property managers, said when he left the industry temporarily in 2006, credit checks were still landlords’ main tool for assessing applicants.

“When I came back in 2010 or 2011, things had changed so much that everyone I knew was using tenant screening companies,” he said.

Nearly 2,000 companies offered background screening in 2019, most for either employment or tenant purposes, an industry survey found. It estimated that tenant screening brought in roughly \$1 billion in annual revenue.

RealPage, a leading Texas-based property management tech firm, boasts that its algorithm uses artificial intelligence to “identify high-risk renters with greater accuracy.” The company says it uses a massive, proprietary database of 30 million lease outcomes, paired with consumer financial data, to evaluate rental applicants.

“This model is materially more effective than traditional screening solutions, with an average proven savings of \$31 per apartment per year without negative impact to occupancy or revenue,” a company media release said.

RealPage did not respond to questions about the release.

Tenant score algorithms try to predict how risky it is to rent to a potential tenant based on characteristics they share with other tenants, according to Jean Noonan, an attorney and former Federal Trade Commission official whose law firm represents tenant screening companies.

### Notice of Application **Rejection**

Date: 5/10/2021 (screening processed 2/19/21)

Property Name:	[REDACTED]	Telephone:	[REDACTED]
Address:	[REDACTED]	Fax:	
Address 2:	[REDACTED]	TTD/TTY:	711 National Voice Relay
Email:	[REDACTED]		

**TO:**

Name:	[REDACTED]
Address:	[REDACTED]
City, State, Zip:	[REDACTED]

Response required by: 5/23/2021 (14 calendar days from today's date)

We would like to take this opportunity to thank you for your interest in our community. However, we regret to inform you that your application has been denied for the reason(s) marked below:

- Failure to meet the applicant screening requirements
  - Criminal History
  - Credit History

*This action was the result of information contained in a consumer credit report. You have a right to obtain a free copy of a report by making a request to the credit provider indicated below within 60 days of your receipt of this letter. You also have a right to dispute the accuracy or completeness of any consumer report furnished by them.*

### Rental Report for [REDACTED]

**Overall Recommendation**

**DECLINE** This application does not meet one or more of your requirements that is set to "Pass/Fail". This recommendation has been automatically set to Decline. The Overall Recommendation was derived solely from your community's leasing criteria. On-Site makes no independent assessment of an applicant's qualifications.

Score for [REDACTED]: **538**

	Importance	Result
AI Score	Pass/Conditional	🟡
Monthly income to rent ratio exceeds 1.0	Pass/Fail	🔴
May have been through a bankruptcy	Pass/Fail	🟢
No unpaid property collections in the last 7 years	Pass/Fail	🟢
No Landlord Tenant Court records in the last 7 years	Pass/Fail	🔴
Criminal History: Felony Convictions	Pass/Fail	🟢
Total Considered Felony Convictions	-	Not Considered N/A
Alcohol	None ever	🟢
Bad Check	None ever	Pass/Fail
Criminal Other	None ever	Pass/Fail
Drug Manufacture Distribution	None ever	Pass/Fail
Drug Marijuana Use	None ever	Pass/Fail
Drug Meth Manufacture	None ever	Pass/Fail
Drug Use	None ever	Pass/Fail
Fraud	None ever	Pass/Fail

Property managers are supposed to provide an “adverse action notice” (left) to applicants who are rejected because of their tenant screening score, but the notices typically provide little information. Renters often don’t see detailed screening reports like this one (right), from On-Site, which shows their score and the reasons for rejection. Even this detailed report does not show how the algorithm weighted each factor. Obtained with permission by ProPublica. Red circles added by ProPublica.

“A scoring model may find that certain characteristics help predict risk,” said Noonan. “They don’t predict it perfectly for every individual. Overall, they do a satisfactory job of predicting risk.”

Yet Withers, the retired regional property manager, said it was typical that several times a month he would need to override denial recommendations from the screening service his firm used. Often, it was because people had medical debt, foreclosures or student loans but otherwise looked like good candidates.

“If everything else looked clean to me, I would do an override,” said Withers, who oversaw thousands of apartments in Maryland and Virginia. Busy property managers may not realize that the screening service’s algorithm was set up in a way that would reject people who might be viable candidates, he added.

Tenant advocates say the consumer data used by screening companies too often results in negative recommendations for reasons that are not proven indicators of how good a tenant someone would be. One tenant in Washington state who contacted ProPublica received a screening letter that listed “too many different phone numbers reported” as a risk factor that contributed to lowering her tenant score.

Some of the personal details that screening companies are plugging into algorithms to rate potential tenants may reflect racial biases, tenant advocates said.

“We don’t know whether they’re predictive,” Nelson said. “Based on what little information we have about what factors go into them, we are concerned about racial disparities.”

A negative screening can not only result in a denial, it can also prompt a landlord to demand a higher deposit, potentially deterring the renter from taking the apartment at all.

Chloe Crawford is an artist who found an apartment to live in while she worked on her masters degree at Rutgers University. But when she arrived at her new building near campus in September 2018, possessions in tow, her new landlord asked for an extra month’s rent as a deposit because of her low tenant screening score, she said. The total deposit added up to more than \$1,000. It was more than she planned to spend on a month’s worth of groceries, and her car needed repairs.

Though Crawford expected to devote a high percentage of her income to rent because she was attending classes, she had money in the bank, had lined up an on-campus job and had been careful to pay her bills on time to keep her credit score high.

Her credit score of 788 out of 850 was considered very good, high enough that she could qualify for a mortgage with good terms. But her tenant score was 685 out of 1,000 — too low for her to rent an apartment without paying an elevated deposit. The screening company, LeasingDesk, said in an email that another month’s rent was required because her credit history and rent-to-income ratio were “unsatisfactory.”

Crawford, who uses a wheelchair, pleaded with a property manager to let her move in without the extra fee, showing paystubs proving she had

made additional money by working overtime during the summer. The manager relented, allowing her to pay the base-rate deposit of \$300.

She finished her two-year program and graduated with a Master of Fine Arts degree in 2020, never missing a rent payment before moving out early due to the pandemic. After she'd vacated, the apartment owners claimed she owed rent money for leaving before her lease was up.

"If they had just denied housing, I don't know what I would have done," she said. "Maybe I would have dropped out of the program."

LeasingDesk's parent company, RealPage, said it could not comment on individual cases, but that each LeasingDesk score is based on a property manager's leasing criteria. RealPage applies those criteria "in an objective, consistent and non-discriminatory manner," the company said in an emailed statement.

"In making leasing decisions, a property manager's interest is not to turn away qualified applicants, but to quickly fill vacancies with people who will be responsible tenants and help maintain a safe community," the statement said.

## **"What Is the Science Behind This?"**

Credit reporting has faced more scrutiny over the years than tenant screening.

For instance, the big three credit bureaus — Equifax, Experian and TransUnion — stopped reporting evictions in 2017 after reaching multistate settlements in response to lawsuits that accused the firms of persistent mistakes in their reports. The companies denied wrongdoing. Tenant screening companies continue to report evictions.

Large numbers of consumer complaints can also help spur federal financial regulators to examine a credit scoring model, but no federal agency has the same power over tenant screening.

The Consumer Financial Protection Bureau collects complaints about tenant screening services, but it doesn't examine the firms' algorithms. The agency could not provide a breakdown of how many complaints have been filed regarding tenant screening agencies.

A spokesperson for the consumer bureau declined to respond to a list of questions from ProPublica, but said, "The Bureau is committed to using its tools and authority to ensure that consumers are not harmed by improper screening and consumer reporting practices."

The Federal Trade Commission can't examine a screening company's algorithm unless it is doing a formal investigation. The agency, which has obtained multimillion-dollar settlements from such firms over errors in their reports, has not to date announced any enforcement actions stemming from bias in screening algorithms.

Asked about the agency's oversight, Assistant Director Robert Schoshinski said: "We are always looking to see if there are violations of the laws that we enforce."

The federal Fair Credit Reporting Act, which covers credit scores and background checks, has received few updates since it passed in 1970, said Eric Dunn, director of litigation for the National Housing Law Project. The problems tenants are encountering with screening, he said, are the result of an antiquated regulatory system that is full of gaps.

Dunn said some of the scoring models he's seen while litigating cases on behalf of tenants are crude, giving so much weight to factors like eviction, criminal history or debt that a person whose record includes even one of those things would get a negative recommendation.

"For a lot of these companies, it's a way of putting a veneer of legitimacy or a veneer of mathematical expertise on what's really a blanket policy against people with certain types of records," Dunn said.

Wu, of the National Consumer Law Center, echoed his concerns. "What is the science behind this?" Wu said. "With credit scoring, we know how well it works."

In a letter to the CFPB in March 2021, [Sen. Elizabeth Warren](#) and five other senators wrote that screening companies need to be watched more closely. "Effective oversight of these companies requires proactively investigating and auditing their effects on protected classes," the letter said.

The Consumer Data Industry Association, in a letter to the Senate Committee on Banking, Housing and Urban Affairs the following month, said screening is based on "race-neutral data" and removes subjectivity that could be a source of discriminatory behavior.

TransUnion, a credit agency that also offers tenant screening, said the system already receives scrutiny. "The rental screening process is well-regulated and governed by the Fair Housing Act and Fair Credit Reporting Act, with additional oversight from the Consumer Financial Protection Bureau," a statement emailed by a spokesperson said.

Screening firms are supposed to show tenants what's in their files if they ask. The data industry association told the Senate committee that "tenant screeners facilitate consumer participation by providing copies of reports to consumers." But firms have often interpreted the disclosure requirement narrowly, tenant advocates say, and left out key information — such as the recommendations made to landlords.

Tenants have less protection than job candidates, who are entitled to a copy of their background check if an employer is planning to reject them because of the report. That is supposed to give candidates time to look for errors. While landlords are supposed to provide tenants notice of an adverse screening result, like the one Kim Fuller in Baltimore received, such notices typically provide sparse information.

Dunn said tenants often get the runaround when they complain about screening decisions. The screening companies say landlords decide what criteria to use. Landlords say screening companies make the decision.

Several renters told ProPublica that they couldn't find out why their applications were denied.

“You really have no effective way of lodging a dispute with the screening company, unless it’s the accuracy of the record,” Dunn said. “If it has anything to do with judgment, or anything like that, the screening company says, ‘It’s not our job.’”

## Leaving the City

Fuller kept up her search for a new place for herself and her mother in Baltimore. She worried not only that her denial was a form of illegal redlining, but also that her full tenant screening report, which she never saw, contained errors that had pushed the algorithm toward a denial.

She filed a complaint with the CFPB against RentGrow, a subsidiary of Yardi Systems, one of the largest property management software companies in the United States. She also filed one against Habitat America.

The CFPB rejected both complaints last fall, saying it was “unable to send your complaint to the company for a response.” The agency said either the company was not in its complaint system or the agency does not handle complaints “about this product or issue.”

The CFPB accepts complaints about tenant screening companies, but property managers are beyond its purview. A CFPB spokesperson declined to comment on Fuller’s complaints.

Fuller widened her search for a new home. Her mother had lived for 35 years in the porch-front row house they shared on the edge of the Belair-Edison neighborhood. Though her mother had hoped to stay in Baltimore city, Fuller began looking in the suburbs.

A co-worker told her about an affordable complex near Catonsville, just outside the Baltimore Beltway. A Walmart was within walking distance. Fuller watched for vacancies at the aging brown brick cluster of three-story buildings and applied when she saw one.

She and her mother moved into a ground-floor unit in January.

“We had to go a little further out than we intended,” she said. “This will be an adjustment.”

**Filed under —**  
Technology

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# **HB0521 Testimony.pdf**

Uploaded by: Maryland Legislative Latino Caucus

Position: FAV



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**TO:** Senator William C. Smith, Jr., Chair  
Senator Jeff Waldstreicher, Vice Chair  
Judicial Proceedings Committee Members

**FROM:** Maryland Legislative Latino Caucus (MLLC)

**DATE:** March 30, 2022

**RE:** HB0521 Landlord and Tenant - Repossession for Failure to Pay Rent - Shielding of Court Records

### **The MLLC supports HB0521 Landlord and Tenant - Repossession for Failure to Pay Rent - Shielding of Court Records**

The MLLC is a bipartisan group of Senators and Delegates committed to supporting legislation that improves the lives of Latinos throughout our state. The MLLC is a crucial voice in the development of public policy that uplifts the Latino community and benefits the state of Maryland. Thank you for allowing us the opportunity to express our support of HB0521.

Maryland's Latino communities have been hit hard by the pandemic both from a public health and economic standpoint. From a public health standpoint, at the peak of the pandemic, Latinos made up a disproportionate number of cases and deaths. This is in part due to the high uninsurance rate that impedes access to diagnosis and treatment. Latinos were not better off from an economic standpoint. They are more likely to work in industries that suffered the economic difficulties of public measures. Despite all the challenges they faced, many of these families were excluded from the federal and local economic relief packages that other vulnerable families were able to access. Other families avoided public service programs because of the public charge regulations that could affect their chance of adjusting their immigration status.<sup>1,2</sup>

As the communities begin to recover from the effects of the pandemic, those families that did not receive assistance are behind and unable to emerge economically stable. Leaving them at disproportionate risk of facing eviction or of not being able to find stable housing due to history of late or missed rent payments.<sup>3</sup> The passage of this bill presents an opportunity for communities to emerge with stronger, more resilient, and more equitable economies. Thus, it will authorize individuals to petition a court to remove from public records any history of repossession of residential property for failure to pay rent that stem from a loss of income related to the Covid-19 pandemic. This will allow them to continue to apply for housing in the future without any economic repercussions.

For these reasons, the Maryland Legislative Latino Caucus respectfully requests a favorable report on HB0521.

1. Amid Confusion over the Public Charge Rule, Immigrant Families Continued Avoiding Public Benefits in 2019, (Urban Institute, May 2020), <https://www.urban.org/research/publication/amid-confusion-over-public-charge-rule-immigrant-families-continued-avoiding-public-benefits-2019>.
2. Public Charge Proposed Rule: Potentially Chilled Population Data Dashboard (Manatt Health, 2018), <https://www.manatt.com/insights/articles/2018/public-charge-rule-potentially-chilled-population>. Calculation of the potentially chilled population based on families with at least one noncitizen and earned income under 250 percent of the federal poverty level.
3. Cortina, L. (2020, October 23). *Covid-19's impact on Maryland Latinos*. University of Maryland, Baltimore. Retrieved February 23, 2022, from <https://www.umaryland.edu/news/archived-news/october-2020/covid-19s-impact-on-maryland-latinos.php>



**HB 521--AOBA--FAV.pdf**

Uploaded by: Ryan Washington

Position: FAV



**Bill No:** HB 521-- Landlord and Tenant - Repossession for Failure to Pay Rent - Shielding of Court Records

**Committee:** Judicial Proceedings

**Date:** 3/31/2022

**Position:** Favorable

The Apartment and Office Building Association of Metropolitan Washington (AOBA) represents members that own or manage more than 23 million square feet of commercial office space and 133,000 apartment rental units in Montgomery and Prince George's Counties.

House Bill 521 allows residents to petition the Court to shield court documents related to an action for repossession for Failure to Pay Rent (FTPR) if the action was due to a COVID-19 related loss of income. The Court shall grant the petition for any record relating to an action in which there was no judgment entered in favor of the housing provider. If a judgement was entered in favor of the housing provider, the housing provider will receive a copy of the petition to shield. A housing provider may file an objection to the petition; if the housing provider objects to the petition they must demonstrate at a hearing that the failure to pay rent was not due to COVID-19 loss of income. The bill applies only to actions filed on or after March 5, 2020, but before January 1, 2022.

AOBA supports this bill because it is drafted narrowly and strikes a balance between residents' and housing providers' interests. Importantly, the bill is in line with the Association's and its members' consistent stance on supporting residents through the unprecedented economic challenges posed by the COVID-19 pandemic. Since March 2020, the housing providers AOBA represents have worked tirelessly to assist their residents in several creative ways. The industry has marshalled resources and staff to help residents apply for unemployment and rent payment assistance. In addition to donating to nonprofits, AOBA members have hosted food pantries, coordinated prescription drug deliveries and brought other essential service providers on-site in communities. Housing providers developed comprehensive resource guides to link residents with critical services and developed numerous other programs tailored to the needs of their communities. This bill is the natural extension of AOBA members' commitment to their communities and serving residents hit hard by the pandemic.

For further information, contact Erin Bradley, AOBA's Vice President of Government Affairs, at (301) 904-0814 or [ebradley@aoba-metro.org](mailto:ebradley@aoba-metro.org).

**HB0521 - Senate - FAV - Public Justice Center.pdf**

Uploaded by: Zafar Shah

Position: FAV



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## HB0521 – Landlord and Tenant – Repossession for Failure to Pay Rent – Shielding of Court Records

Hearing before the Senate Judicial Proceedings Committee,  
March 31, 2022

Position: Support (FAV)

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The Public Justice Center (PJC) is a nonprofit public interest law firm that stands with tenants to protect and expand their rights to safe, habitable, affordable, and non-discriminatory housing and their rights to fair and equal treatment by Maryland’s landlord-tenant laws, courts, and agencies. We advocate to change the law regarding evictions and to demand the development of equitable and sustainable affordable housing. **PJC supports HB0521** as a critical measure to protect renters from the long-lasting financial harm of COVID-19 and to increase their access to safe and stable housing during this important time of economic recovery.

HB0521 allows the shielding (defined in the bill as the equivalent of sealing) of eviction records in failure to pay rent cases (“FTPR”) that were filed during the COVID-19 pandemic from March 5, 2021 to January 1, 2022. **Over 530,000 FTPR actions were filed in that period** while renters were without work, waiting interminably for unemployment benefits, and applying for emergency rental assistance.

For many tenants, FTPR actions are routinely filed – each month, regardless of the tenants’ likelihood of paying the rent before the end of the month. Around 97% of FTPR actions typically result in a default judgment. Tenants pay late to avoid enforcement of the judgment as an actual eviction. This cycle of serial filing continued even during the pandemic.

Routine FTPR filings damage 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 post-judgment payment is ultimately harmed by the record of the FTPR action when they are seeking new housing. **HB0521 would help renters avoid the loss of housing opportunities based on pandemic era FTPR records.** For cases that were dismissed (no judgment for landlord), the bill

would allow renters to petition for record shielding based on demonstrating that the late payment or non-payment had been due to income loss arising from the pandemic.

For cases in which judgment was entered for the landlord, the tenant's petition for shielding would be subject to an objection by the landlord or ex-landlord. In a hearing, the landlord or ex-landlord would need to show that the tenant's non-payment of rent had not been due to COVID-19-related income loss.

If a tenant's petition prevails, under HB0521, shielded records would open the door to housing opportunities that would be closed otherwise because of tenant screening and credit reporting.

### **Resist amendments to exclude tenants of subsidized housing**

HB0521 currently applies to all tenants, regardless of whether their tenancies involved federal housing programs. We caution against any amendments that would seek to exclude renter households in public housing or those who utilize a rent subsidy program such as the Housing Choice Voucher Program.

Eviction record shielding under HB0521 would not violate federal regulations. In fact, the U.S. Interagency Council on Homelessness's 2013 guidance, [PHA Guide to Modifying Tenant Screening and Eligibility Policies and Procedures](#), describes that "[m]any [public housing agencies] are taking steps to modify policies and procedures in order to reduce or remove these barriers. **Federal law gives substantial flexibility to [public housing agencies] and housing providers to adopt local policies regarding criminal backgrounds and other screening criteria.**"

There is no federal requirement on public housing agencies to review eviction records in the screening of prospective tenants for federally assisted housing. Indeed, such reviews of records place even more significant barriers on families attempting to enter or remain in federally subsidized programs, who are already qualified for these programs based on their status as families with extremely low income. HB0521 should support federally subsidized tenants just as it does unsubsidized tenants in shielding their records.

Public Justice Center is a member of the Renters United Maryland coalition and asks that the Committee **issue a FAVORABLE report on HB0521**. If you have any questions, please contact Zafar Shah, [shahz@publicjustice.org](mailto:shahz@publicjustice.org) (410) 625-9409 Ext. 237.

