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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 (410) 625-9409 Ext. 237.

