



**HB 34: Failure to Pay Rent Proceedings - Prohibition on Rent Increases and Sealing of Court Records
HEARING BEFORE THE ENVIRONMENT AND TRANSPORTATION COMMITTEE, JANUARY 26, 2023
POSITION: SUPPORT (FAV)**

The Pro Bono Resource Center of Maryland (“PBRC”), an independent 501(c)(3) non-profit organization, is the statewide coordinator, thought leader and clearinghouse for volunteer civil legal services in Maryland. As the designated pro bono arm of the Maryland State Bar Association, PBRC provides training, mentorship, and pro bono service opportunities to members of the private bar. We respond to acute legal needs identified in areas across the state by piloting and operating innovative pro bono service projects targeting specific legal problems or populations.

In May 2017, with a grant from the Maryland Judiciary’s Access to Justice Department, PBRC launched the **Tenant Volunteer Lawyer of the Day (TVLD) Program** in Baltimore City Rent Court to provide day-of-court legal representation to tenants who appear unrepresented for their proceedings. Since then, this continually-expanding Program has allowed PBRC staff and volunteer attorneys to represent thousands of tenants in both Baltimore City and Baltimore County in multiple types of legal actions that could result in eviction. The overwhelming majority of our clients are tenants facing Failure to Pay Rent (FTPR) actions filed by their landlords for possession of the property.

Like most court proceedings, FTPR actions are a matter of public record. This means that prospective landlords, credit-reporting agencies, and other third parties can determine when a tenant has been the subject of FTPR proceedings. Under current Maryland law, this is true even if the tenant ultimately prevailed in the FTPR case or if the case was dismissed, meaning that no judgment was entered against the tenant. Even if there was no negative action taken against the tenant in court, the mere fact that an FTPR was filed can create a barrier to future housing opportunities in Maryland’s competitive rental market. **HB 34 would allow tenants the opportunity to shield FTPR proceedings where no judgment was entered against them, preserving their ability to remain housed in the future.**

At our Tenant Volunteer Lawyer of the Day courthouse clinics, PBRC staff frequently encounter tenants who have FTPR cases pending against them even though they have paid rent, no longer reside in the property, are not the tenant named in the lease, or any number of other issues that can cause a FTPR complaint to be dismissed or adjudicated in favor of the tenant. This is more commonly seen with larger landlords who file FTPR complaints in bulk. Our attorneys can and do get these cases resolved favorably for our clients, but at present, our clients may still find that their future housing opportunities are limited because prospective landlords are able to see that a FTPR complaint was filed. This knowledge alone can cause a prospective landlord to draw a negative inference about the tenant and their ability to pay rent. In Maryland’s tight rental market, this can mean the difference between a family being housed or shut out of housing opportunities. **PBRC urges a favorable report on HB 34 to preserve the ability of these tenants to remain housed.**

HB 34 additionally provides a pathway for tenants to rehabilitate their housing records when they have fallen behind on rent in the past. In FTPR cases that do result in judgment for the landlord, in most instances the tenant can stop the eviction process by paying the entire amount judgment amount owed to the landlord before the eviction takes place. When tenants exercise their “right of redemption” in this way, the landlord is made whole and the tenancy continues, keeping the tenant housed. However, under current Maryland law, there is no way for a tenant to ever have this judgment stricken from public view (unless it was entered from March 5, 2020 to January 1, 2022, and could be sealed

under HB 521 from the 2022 Session). This can mean that even a tenant who fell behind on rent years ago and who made the landlord whole back then can still be shut out of housing opportunities at present.

PBRC supports HB 34 because it will allow tenants a fresh start after temporary financial difficulty. The General Assembly has long recognized the interest the State has in allowing its citizens a fresh start after negative situations even when a public record is impacted. For example, in 2014 the General Assembly passed HB 397 which allowed for the shielding of certain Peace and Protective Order records, including some cases where a Peace or Protective Order was granted. In 2016 the General Assembly passed the Justice Reinvestment Act (SB 1005) which broadly expanded eligibility for expungement of criminal records, including some convictions. Most recently in 2022, the General Assembly passed HB 521, which allowed for tenants to request shielding of FTPR judgments that occurred from March 5, 2020 to January 1, 2022. HB 34 continues in this lineage of allowing Marylanders to plan for their futures without being held back by their pasts.

For the above reasons,

PBRC urges a FAVORABLE report on HB 34.

Please contact Katie Davis, Director of PBRC's Courtroom Advocacy Project, with any questions.

kdavis@probonomd.org • 443-703-3049