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DEPUTY MAJORITY WHIP

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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony for Senate Bill 19
Failure to Pay Rent Proceedings – Prohibition on
Rent Increases and Shielding of Court Records
January 30, 2024

Good afternoon, Chair Smith, and members of the Judicial Proceedings Committee,

Senate Bill 19 (“SB 19”) introduces a bill similar to 2023’s House Bill 34 which passed the House but was unable to receive a vote from our committee. Senate Bill 19 requires District Courts to shield court records relating to specified outcomes in failure to pay rent (“FTPR”) actions, and prohibits landlords from increasing a tenant’s rent following certain outcomes in FTPR actions. These modifications are discussed below in more detail.

FTPR actions are routine filings that typically do not result in eviction; however, these filings appear on tenants’ consumer and rental histories—accessible by prospective landlords, credit-reporting agencies, and other third parties. Under current law, regardless of the outcome of the case and without context of the situation, FTPR records are available for public inspection and reporting. This creates a barrier to future housing opportunities as tenant’s records are tainted with a “modern day scarlet letter” that scares off prospective landlords as credit scores plummet.¹ The availability of this information in public record, appears in a tenant’s credit history, and “can prohibit a tenant from securing safe, stable, accessible, and affordable housing” in the future.²

This is especially true for renters belonging to marginalized groups—the effects can extend beyond housing instability, impacting access to reliable transportation, quality school districts, quality of life, and work opportunities.³ Black renters represent 18.8% of all renters, yet, over half of all eviction filings are against black renters (51.1%).⁴ These racial disparities, while varying by

¹ The stimulus relieved short-term pain, but eviction’s impact is a long haul. Kyle Swenson. The Washington Post. February 8, 2021. <https://www.washingtonpost.com/dc-md-va/2021/02/05/eviction-covid-credit-score/>

² National Low Income Housing Coalition, *Eviction Record Sealing and Expungement Toolkit*, <https://nlihc.org/sites/default/files/2023-04/eviction-record-sealing-and-expungement-toolkit.pdf> page 2.

³ *Id.*

⁴ *Id.*

state, persist across income levels; however, low-income households are at the greatest risk of eviction.

Of the almost 402,000 FTPR actions filed throughout Maryland in FY 23, around 157,000 of them were dismissed, and approximately 18,500 evictions occurred, presumably the rest of the actions ended in default judgments—presumably possessory redemption by payment.⁵ Over 400,000 Marylanders, the majority of which likely redeemed possession by payment, have FTPR actions looming in their records, potentially interfering with their ability to find housing later in life. This is not the precedent we want to maintain. To help address these collateral consequences, I am introducing SB 19.

First, SB 19 prohibits a landlord from increasing a tenant’s rent solely because a judgment is entered against a tenant following FTPR actions.⁶ Under current Maryland law, within six months of a tenant participating in a lawsuit involving the landlord, a residential property landlord may not arbitrarily increase rent.⁷

Second, SB 19 requires that our District Courts shield all FTPR records within 60 days of the final resolution of actions that do not result in a judgment of possession, thus ensuring easier access to safe and stable housing, safeguarding a tenant’s ability to secure future housing and ultimately avoid homelessness, and promoting racial justice.⁸

Third, if the FTPR action results in a judgment of possession, the court may shield all court records relating to the proceeding on motion by the tenant if the tenant demonstrates by a preponderance of the evidence that either: (1) the tenant exercised the right of redemption and one year has passed since the judgment was entered, or (2) the Court determines there is good cause to shield the record.⁹ Thereafter, the Court would be required to seal the record within 30 days after granting the motion to shield the record.

Furthermore, under SB 19 shielded records may only be opened if the tenant requests or if the District Court orders it because good cause has been shown. SB 19 also requires the Judiciary to develop and publish on its website a form to help educate people regarding §8-503 of this bill. Finally, this bill is to be applied prospectively.¹⁰

While there is currently no federal legislation mandating sealing eviction records, several states have passed legislation to shield these records.¹¹ Indiana and Minnesota allow tenants to formally apply for the court to seal records following the court decision.¹² Arizona,¹³ Indiana,¹⁴

⁵ https://mdcourts.gov/sites/default/files/import/district/statistics/Fiscal_2023.pdf

⁶ Proposed §8-119(B).

⁷ Md. Code Ann., Real Property §8-208.1(a)(1)-(2), (e).

⁸ Proposed §8-503(B)(1).

⁹ Proposed §8-503(B)(2).

¹⁰ See Section 3 of the bill.

¹¹ National Low Income Housing Coalition, *Eviction Record Sealing and Expungement Toolkit*, <https://nlihc.org/sites/default/files/2023-04/eviction-record-sealing-and-expungement-toolkit.pdf> page 5.

¹² *Id.*

¹³ 2022 Arizona HB 2485. *Id.* at 4.

¹⁴ Indiana Code § 32-31-11.

and Washington D.C.¹⁵ seal records when the Court rules in favor of the tenant. California and Colorado automatically seal records when eviction lawsuits are filed.¹⁶ It is time for Maryland to follow suit.

In shielding records of FTPR actions, SB 19 aims to preserve the ability of tenants to remain housed by reducing the loss of housing opportunities resulting from records that do not tell the whole story. As such, I implore you to vote favorably in support of SB 19.

¹⁵ See Code of the District of Columbia § 42-5303.09.

¹⁶ National Low Income Housing Coalition, *Eviction Record Sealing and Expungement Toolkit*, <https://nlihc.org/sites/default/files/2023-04/eviction-record-sealing-and-expungement-toolkit.pdf> page 5.