



Councilmember Anita Bonds


Councilmember Mary Cheh

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Rental Housing Act of 1985 to prohibit housing providers from filing claims to recover possession of a rental unit for the non-payment of rent unless providing the tenant 30 days' notice of their intent to do so; to require the Court to seal certain eviction records; to authorize the Court to seal certain evictions records upon motion by a defendant; to prohibit persons from publishing such records or information included within, and prescribing penalties for doing so; to require the Clerk of Courts to seal certain records and provide notice to parties possessing said record of their obligation to destroy the record; to require parties notified by the Clerk of Court to destroy sealed eviction records and to instruct all individuals to whom the notified party provided access to the record to destroy all copies of the record and to not disseminate information in the record; and to require tenant background screening companies to maintain a registered agent in the District for service of process.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Eviction Record Sealing Authority Amendment Act of 2018".

Sec. 2. The Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 *et seq.*), is amended as follows:

(a) Section 501 (D.C. Official Code § 42-3505.01) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Striking the phrase "any reason other than the nonpayment of rent" and inserting the phrase "any reason" in its place.

(B) Striking the phrase "vacate for all reasons other than for nonpayment of rent" and inserting the phrase "vacate" in its place.

(2) A new subsection (a-1) is added to read as follows:

“(a-1) It shall be unlawful for a housing provider to file a claim against a tenant to recover possession of a rental unit for the non-payment of rent, unless the housing provider has provided the tenant with notice of the housing provider’s intent to file such a claim with the Court at least 30 days before filing the claim.”.

(b) A new section 509 is added to read as follows:

“Sec. 509. Sealing of eviction court records.

“(a) The court shall seal all records relating to an eviction proceeding within:

“(1) 30 days after the final resolution of any case not resulting in a judgment for possession in favor of the housing provider; or

“(2) 2 years after a housing provider’s initial filing with the court to recover possession of a rental unit from a tenant, regardless of the final disposition of the case.

“(b) The court is also authorized to seal court records upon motion by a defendant tenant where the tenant demonstrates by a preponderance of the evidence that:

“(1) The judgment in favor of the housing provider is for an amount of \$500 or less;

“(2) The tenant was evicted from a unit under any federal or District site-based housing subsidy program, or any federal or District tenant-based housing subsidy program;

“(3) The housing provider violated Part C of the District of Columbia Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1402.21 *et seq.*) in relation to the defendant tenant;

“(4) The housing provider violated the District of Columbia Housing Code (14 DCMR § 100 *et seq.*; 12G DCMR 100 *et seq.*) in relation to the defendant tenant’s unit;

“(5) The housing provider sued for eviction following an incident that would be a defense to an action for possession under section 501(c-1) of this act or federal law pertaining to domestic violence, dating violence, sexual assault, or stalking.

“(6) The housing provider violated the prohibition on retaliatory evictions under section 502 of this act in the filing of the underlying lawsuit;

“(7) The parties entered into a settlement agreement that did not result in the housing provider recovering possession of the unit;

“(8) The court finds that the housing provider’s claim is without basis in fact or law, including a finding that the court lacks jurisdiction over the case; or

“(9) The court determines that there are other grounds justifying such relief.

“(c) Upon written request, the Clerk of Courts shall provide access to a record sealed under this section to any named defendant.

“(d)(1)(A) If a person or business entity knows or should know that an order to seal a record has been issued under this section, the person or business entity shall not publish the record, or otherwise disseminate the record or any of the information included within, or use the information contained in the record in any manner adverse to the defendant. The person or business entity shall destroy all physical or digital copies of the record within 30 days of learning of the order to seal the record.

“(B) Subparagraph (A) shall not apply to a member of the court, the Clerk of Courts, the defendant to whom the record refers, or the defendant’s representative.

“(2) A person or business entity who knowingly violates subsection (c)(1) shall be liable to an injured party for:

“(A) Actual damages;

“(B) Compensatory damages; and

“(C) Reasonable attorney’s fees and court costs.

“(e) Within 30 days of the court issuing an order to seal a record under this section, the Clerk of Courts shall:

“(1) Search diligently for and seal each record designated by the court;

“(2) Send to the housing provider and any business entity providing background screening services in the District of Columbia a notice of the sealing of the record and their obligation to destroy any copies of the record in their possession or under their control; and

“(3) Certify to the defendant that the above actions were completed.

“(f) Within 30 days of receipt of the notice described in subsection (e)(2), the notified party shall:

“(1) Search diligently for and destroy all copies of the record;

“(2) Direct all individuals to whom the notified party has provided access to the record of their obligation to destroy all copies of the record, and to not publish or otherwise disseminate information included within the record; and

“(3) Certify to the Clerk of Courts that the above actions were completed.”

“(g) The requirement to destroy records under subsection (f) shall not apply to a housing provider’s legal representative where the record may be used for purposes of filing or responding to an appeal to the present claim, for billing purposes, or where local rules require preservation of certain records. However, a legal representative shall not knowingly furnish a copy of a sealed record, or the information contained therein, to any party, including the housing provider who brought the underlying claim.

“(h) Where a record is to be sealed under this section but is included or referenced in a published opinion, the Clerk of Courts shall redact all information in the opinion that could potentially identify the defendant.”.

(c) A new section 510 is added to read as follows:

“Sec. 510. Background screening companies.

“(a) Any business entity providing tenant background screening services in the District of Columbia shall appoint and continuously maintain a registered agent for service of process.

“(b) The business entity shall make record of the appointment of a registered agent by filing a written statement with the Director of the Department of Housing and Community Development (“Director”).

“(c) The registered agent shall be an individual who is a resident of the District of Columbia or an organization incorporated in the District of Columbia.

“(d) If the business entity changes its registered agent, or if the name, address or any other information about the agent changes after the licensee files the statement with the Director, the owner shall, within 7 business days of the change, file a written statement notifying the Director of the change.

“(e) If the business entity fails to appoint or maintain a registered agent in the District, the Mayor shall serve as the agent of the business entity upon whom any process, notice, or demand against the business entity may be served. All matters served upon the Mayor pursuant to this section shall be handled in the same manner as matters served upon the Mayor on behalf of foreign corporations pursuant to D.C. Official Code § 29-101.108(b) and (d).

“(f) Any business entity providing background screening services in the District in violation of this section shall be subject to a penalty of \$600 per violation.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.