



RHODE ISLAND SUPREME COURT

Office of General Counsel

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Via Electronic Mail (HouseJudiciary@rilegislature.gov)

Chairman Robert E. Craven, Sr.
House Committee on the Judiciary
Rhode Island State House
House Lounge
Providence, Rhode Island 02903

Re: House Bill # 6378: An Act Relating to Property – Residential Landlord and Tenant Act.

Dear Chairman Craven:

I write on behalf of the Rhode Island Judiciary to respectfully express the District Court's concerns regarding House Bill # 6378, scheduled to be heard and considered this evening before the House Judiciary Committee. This proposed legislation would amend G.L. 1956 § 34-18-60 to provide for the sealing of eviction records in certain circumstances.

The District Court has multiple concerns about this legislation. As an initial matter, the proposed legislation indicates that actions arising under G.L. 1956 §§ 34-18-35, 34-18-36, and 34-18-38 would now be eligible for sealing upon the "conclusion of the underlying civil action and in actions where the tenant prevails." This language is ambiguous. Can the action be sealed only if the "tenant prevails" during the conclusion of the underlying civil action, or are these separate categories of eligibility? Further, the phrase "where the tenant prevails" is, itself, undefined, creating unnecessary confusion for judicial officers, attorneys, and tenants alike. Taken together, the lack of any discernable standards in these provisions would seriously hamper the District Court's ability to implement, let alone operate, the proposed sealing scheme.

Additionally, the legislation leaves intact language in G.L. 1956 § 34-18-60(b) stating that "[t]he court shall also make a finding that the moving party notify all parties to the underlying civil action of their motion to seal." This language is cumbersome in that it provides no process by which the District Court can verify that "the moving party" has "notified all parties to the underlying action." It also fails to explain how the moving party shall notify all parties. By way of example, is notice to be sent via certified mail with return receipt required, or by some other method? Furthermore, how can the Court be certain that notice was sent to the proper party at the proper address, given the length of time between the filing of an action under G.L. 1956 §§ 34-18-

35, 34-18-36, and 34-18-38 and the conclusion of the appeal period? Again, the dearth of explanatory language would render the contemplated sealing scheme unwieldy at best for all parties.

Finally, the statute currently limits parties to filing one motion to seal every five (5) years, thereby establishing a regulated, predictable filing system benefitting both litigants and the District Court. House Bill # 6378 would eliminate this helpful arrangement in two ways. First, it seeks to strike the following language from G.L. 1956 § 34-18-60(b): “that the motion is the only request made under this section by the moving party within the previous five (5) years.” Second, it explicitly carves out of G.L. 1956 § 34-18-60(c) motions to seal records “due to a case being dismissed due to a defective complaint and/or a lack of jurisdiction of the court,” records relating to “a named minor,” and records “wherever a tenant prevails in the action” from the once-every-5-years limitation as well. These proposed changes—particularly, the inclusion of the ambiguous category “prevail in the action”—would undoubtedly spur tenants to file motions to seal after every eviction case and flood the District Court with a torrent of new filings it has neither the resources nor personnel to handle. Coupled with the ambiguous and confusing provisions outlined above, these changes would make G.L. 1956 § 34-18-60 totally unworkable in practice.

I ask the House Judiciary Committee to carefully consider the multilayered negative impacts passage of House Bill # 6378 would have on judicial proceedings and court operations in the District Court. Should the bill pass, this Committee must ensure that appropriate resources are allocated to the Judiciary to carry out the requirements of this law.

Thank you for the opportunity to express the District Court’s concerns regarding this bill.

Sincerely,



Chrisanne Wyrzykowski
Deputy General Counsel
Rhode Island Supreme Court