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Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Hicks-Hudson

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SUMMARY

- Establishes a procedure for a tenant of a residential property, a resident of a manufactured home park, or the court itself to initiate a procedure to seal an eviction record.
- Provides the court full discretion as to whether or not to grant the motion to seal the eviction record.
- Provides the plaintiff (landlord) of the underlying eviction lawsuit an opportunity to respond to the motion by the defendant (tenant or the resident) to seal the record.
- Limits the number of eviction records that can be sealed to a total of five per individual.
- Requires the clerk, if the court grants a motion to seal, to redact the tenant's or resident's name from all public records the clerk maintains, including the electronic case index system.

DETAILED ANALYSIS

The bill establishes a procedure in which eviction records can be sealed. Under the bill, a tenant of a residential property, a resident of a manufactured home park, or the court itself, can file a motion in the court in which an eviction action (lawsuit) was commenced to order the court file related to the eviction lawsuit to be sealed. A motion to seal the eviction record is possible under the bill if one of the six scenarios occurs:

- If the eviction lawsuit was dismissed;
- If judgment was granted for the defendant (i.e., the tenant or the resident of the manufactured home park was the winning party in the lawsuit);
- The plaintiff (landlord) consents to sealing the court file;
- The judgment was granted improperly;

- The court decides that restricting public access to the court file is appropriate under Rule 45 of the Rules of Superintendence for the Courts of Ohio. Under that rule, the court may restrict access if the court finds by clear and convincing evidence that the rule's presumption of allowing public access is outweighed by a higher interest after considering (a) whether public policy is served by restricting public access, (b) whether any law exempts the information from public access, and (c) whether factors that support restriction of public access exist.
- The plaintiff (landlord) prevailed on the merits in the eviction lawsuit and at least five years have passed since the judgment was entered and there have been no other judgments against the defendant (tenant or resident) in that court for the last five years. In this circumstance, if the plaintiff (landlord) prevailed in the eviction lawsuit for past due rent or other damages under a rental agreement, the defendant (tenant or resident) must have satisfied the judgment.¹ For example, if a tenant owed the landlord money for back rent as part of the judgment, this money would have to be paid in full before qualifying under the bill to have the record sealed.

If one of the six scenarios described above applies and the defendant (tenant or resident) files a motion with the court to seal the eviction record, the defendant (tenant or resident) must serve the plaintiff (landlord) with a copy of the motion. The plaintiff (landlord) may file a response to the motion to seal within 17 days of the filing. But a response is not required to continue with this procedure. Either party may request an oral hearing on a motion to seal. The court may use the answer provided by the plaintiff (landlord) or whether the plaintiff (landlord) has filed a memorandum opposing to the motion to seal when determining whether or not to grant the motion.

The bill gives the court full discretion when considering whether to seal the record. In addition to considering any response from the plaintiff (landlord), the court may consider whether any unusual or exceptional circumstances apply, the disposition of the eviction lawsuit, including which party prevailed or whether the matter was voluntarily dismissed, the legitimate need of the government to maintain a public record of the case, or any other information. The court, however, cannot seal more than five cases per individual.²

If the court grants a motion to seal, the clerk is then required to redact the tenant's or manufactured home park resident's name from all public records the clerk maintains, including the electronic case index system, to the same extent the clerk would for the sealing of the record of a criminal conviction.³

¹ R.C. 1923.111(A).

² R.C. 1923.111(B), (C), and (E).

³ R.C. 1923.111(D).

HISTORY

Action	Date
Introduced	05-02-22
