

EVICTION RECORD EXPUNGEMENT

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House Bill 5238 as introduced
Sponsor: Rep. Jimmie Wilson, Jr.
Committee: Economic Development and Small Business
Housing Subcommittee
Complete to 12-4-24

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5238 would amend the Revised Judicature Act to allow the expungement of eviction records under certain circumstances.

Under the bill, a district court or municipal court, as applicable, could order the expungement of records for an eviction proceeding under Chapter 57 or 57A of the Revised Judicature Act if any of the following apply:¹

- The court determines that the plaintiff's action is insufficiently without a basis in fact or law, including a lack of jurisdiction.
- A judgment for possession (eviction order) was entered at least three years before the motion to expunge the records, the court determines that the expungement is clearly in the interests of justice, and the interests of justice are not outweighed by the public's interest in knowing about the records. (In making this determination, the court would have to consider circumstances beyond the tenant's control that led to the eviction and any other extenuating circumstances under which the eviction order was granted.)
- The proceeding was brought when a person remained on the premises after being served an eviction notice to quit the premises for nonpayment of rent, or after the termination of their lease agreement, and a judgment of possession was not entered.
- The judgment was a judgment by stipulation of the parties and the moving party has complied with the terms of the stipulated agreement.
- The judgment, including a judgment of dismissal, was entered in the moving party's favor.

A court could order the expungement of eviction records under Chapter 57 or Chapter 57A upon the motion of a tenant, manufactured home park resident, or landlord, or upon the court's own motion, if at least one of the following applies:

- The premises were sold under the foreclosure of a mortgage or land contract, the tenancy was terminated because the defendant remained on the premises after the time limited by law for the redemption of the premises, and the defendant either vacated the premises before the eviction proceedings were filed or did not receive an eviction notice at least 90 days before the proceedings were filed.
- The eviction proceedings were filed during the state of emergency declared under Executive Order No. 2020-4,² or any extension of that order.

¹ Chapter 57 of the Revised Judicature Act pertains to summary proceedings to recover possession of premises (eviction proceedings), while Chapter 57A pertains to the termination of tenancy in a mobile home park.

² Governor Whitmer issued Executive Order No. 2020-4 in response to the COVID-19 pandemic:
<https://www.legislature.mi.gov/documents/2019-2020/executiveorder/pdf/2020-EO-04.pdf>.

If the court determines that a record should be expunged, it would have to order to set aside the judgment and expunge the *official records* of the action pertaining to the party that made the motion for expungement. Upon the entry of the order, the judgment would be deemed not to have been entered, and the moving party could answer accordingly any questions relating to its occurrence.

Official records would mean all records, documents, and evidence relating to the eviction proceedings that are maintained by the court, such as the complaint, other pleadings, a proof of service, and court findings.

A motion for an expungement would not be subject to the \$20 motion fee for civil actions.

MCL 600.8371 and proposed MCL 600.5755

FISCAL IMPACT:

House Bill 5238 would have an indeterminate fiscal impact on local court funding units. Costs would be incurred depending on how provisions of the bill affected court caseloads and related administrative costs. Increased costs could be offset, to some degree, depending on whether additional court-imposed fee revenue is generated.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.