

DISCRETIONARY AND MANDATORY EVICTION EXPUNGEMENTS

H.F. 1511, Rep. Hassan

S.F. 1721, Sen. Dziezic

The Minnesota Multi Housing Association respectfully opposes this bill for the following reasons:

1. Destabilizing Impact on Multifamily Properties. Eviction records are not the only piece of information on which property managers rely in screening applicants and making a determination, but they offer legitimate insight into whether the building is a match for a prospective resident.

Failing to properly screen prospective residents not only sets them up for potential failure, it may harm other residents of the building. For instance, if a person was evicted for:

- violating their lease by refusing to stop habitually playing loud music all night long, it may result in dissatisfaction and nonrenewal by other residents.
- harassing and threatening behavior toward other residents, they may need specialized services not available at certain properties.
- repeated failure to pay rent, they may not be a fit for a building with residents on fixed incomes who are unable to absorb increases necessary to offset chronic nonpayment by another tenant.

2. Protects Bad Actor Landlords. This bill is likely to significantly increase expungements. Restricting access to most eviction records may make it impossible to identify landlords who are abusing the eviction process and may impede the ability of local governments to respond to troubled properties.

3. Rental History Context. Concealing an eviction record does not necessarily prevent a landlord from learning about an eviction action during the screening process, and it may conceal critical context that favors a tenant. Information from previous landlords or residual court records, such as a judgment for unpaid rent or property damage, may also reveal that an eviction occurred but lack mitigating details.

Unlike other court records, prospective residents have a legal right to provide explanation for a past eviction in a tenant screening report. Additionally, there are many free, public resources available to help applicants explain their rental history to future property managers.

4. Ripe for Vague and Arbitrary Enforcement. Evictions are the only civil court record for which there is a possibility of expungement. Existing law provides a fairly straightforward standard for discretionary and mandatory record expungement. At a time when the state is struggling to find more consistency in other legal outcomes, this bill introduces vague standards for these types of expungements.

The condition that an eviction record “is no longer a reasonable predictor of future tenant behavior” could mean something different in every court. Similarly, a tenant “prevail[ing] on the merits” could include a range of outcomes well short of dismissal in the tenant’s favor. For instance, it could include a court ordering a nominal decrease in rent owed but still issuing a writ of recovery to the landlord.

Finally, allowing expungement by agreement of parties to the action without considering whether concealment is in the public interest is an extraordinary step that allows - potentially for financial compensation - two interested parties to control the fate of a public record to the detriment of others.