
OLR Bill Analysis

sHB 6528

AN ACT CONCERNING THE SEALING OF EVICTION RECORDS.

SUMMARY

This bill seals certain eviction case records, including the online docket, with some exceptions, and generally restricts landlords' use of sealed records when screening tenants. Specifically, the bill:

1. prohibits a landlord from refusing to rent to a prospective tenant, and consumer reporting agencies from recommending against renting to that person, based on a prospective tenant's past or pending sealed summary process action;
2. makes a violation of the above provision a discriminatory housing practice;
3. authorizes aggrieved individuals to file a complaint with the Commission on Human Rights and Opportunities (CHRO); and
4. allows CHRO to grant relief in the same manner it would for any other discriminatory housing practice under current law.

The bill permits certain individuals to access these sealed records under specified circumstances, including: the court and judicial branch employees; individuals who are parties to, or subjects of, an eviction action; attorneys that certify compliance with certain conditions; and third-parties that successfully make a request for access.

Under the bill, records are automatically unsealed five days after the court enters a judgment of possession for the plaintiff on the grounds of (1) nonpayment of rent, (2) breach of lease, or (3) nuisance or serious nuisance.

The bill does not prohibit the judicial branch from releasing

anonymous and aggregated data or information related to summary process cases so long as it is presented in a manner that protects the identity of defendants whose records are sealed. However, the bill bars the judicial branch from selling or providing information related to sealed case records to consumer reporting agencies. The bill requires the branch to modify its online case records system to meet the new requirements the bill establishes.

Additionally, the bill requires that a landlord, after denying a rental application, provide a written explanation to the prospective tenant describing the reasons for the denial; a landlord that knowingly provides false reasons is considered to have engaged in an unfair trade practice (see BACKGROUND).

The bill also makes a conforming change.

EFFECTIVE DATE: Upon passage

§ 1 — SEALING AND UNSEALING OF EVICTION RECORDS

The bill generally seals certain summary process (i.e., eviction) case and appeals records, including online docket access, except for use by the court in housing matters. The bill permits any third-party to request access to a sealed eviction record by filing a motion with the Superior Court and showing good cause; the court can grant an order to unseal an eviction record *ex parte*. Under the bill, good cause includes scholarly, educational, governmental, or journalistic purposes like gathering newsworthy facts or information. The bill expressly provides that good cause does not include (1) consumer reporting agencies collecting, providing, or using the records and (2) landlords using the records to screen tenants or determine lease terms.

Under the bill, after granting an order to unseal an eviction record, the Superior Court must redact or alter defendants' names and personally identifiable information unless doing so is necessary to fulfill the purpose of the request for access. The Superior Court's decision to deny a request for access is a final order for appeal purposes.

Under the bill, “consumer reporting agency” means any person that regularly assembles or evaluates consumer information and furnishes reports to third parties using any means or facility of interstate commerce (15 U.S.C. § 1681a); the bill specifies that tenant or background screening providers are to be considered consumer reporting agencies.

By law, “landlord” means the owner, lessor, or sublessor of a dwelling unit, the building of which it is a part, or the premises (CGS § 47a-1).

Access to Sealed Records Without a Court Order

After a summary process case is filed in Superior Court, the bill requires the clerk to mail defendants a notice, written simply and understandably in both English and Spanish, explaining how to access the online docket. In addition to defendants, the bill makes sealed eviction records available without a court order to certain individuals in specified circumstances, as follows:

1. any party to the action, including a party’s attorney or a defendant’s designee acting on his or her behalf to help the defendant (parties can request access to the docket by contacting the clerk);
2. an occupant of the premises who is the subject of the eviction action and provides the clerk with (a) the name of one of the parties or the case number and (b) proof of occupancy, including a piece of mail, utility bill or similar document, government-provided I.D., or other means that allows the clerk to reasonably identify the individual as an occupant;
3. a state-licensed attorney with an active E-Services account who, if not representing a party, certifies to certain information before accessing the online docket, as explained below; and
4. judicial branch employees that require access to perform their duties.

Under the bill, an attorney that is not representing a party to a residential summary process matter can only access the online docket after certifying that he or she (1) is accessing the docket to advise or represent a client or prospective client in the case or a materially related case and (2) will not share any information from the online docket about a tenant, without that tenant's permission, with individuals or entities that are (a) outside his or her firm or (b) not a party, or a party's attorney, to the case or a materially related case. An attorney that knowingly makes a false certification may be subject to a complaint of attorney misconduct, which will be subsequently referred to a grievance panel for investigation.

Automatically Unsealed Records

Under the bill, summary process case records, including access to the online docket, are unsealed five days after the court enters a post-trial judgment of possession for the plaintiff (i.e., landlord) on the grounds of (1) nonpayment of rent, (2) breach of lease, or (3) nuisance or serious nuisance. If a defendant (i.e., tenant) appeals the court's judgment, the unsealing is delayed until five days after the judgment becomes final and all appeal rights are exhausted. The bill allows the court to order case records sealed that would normally be unsealed, and vice versa, if a party files a motion and shows good cause. The bill does not prevent parties from making an agreement to keep a record sealed.

Judicial Branch Data Use and Online Case Records System

The bill does not prohibit the judicial branch from releasing anonymous and aggregated data on summary process cases, such as (1) caseload data, (2) disposition statistics, and (3) aggregate demographic characteristics of parties. Any data or information the branch releases on these or similar topics must reasonably prevent the identification of individual defendants whose case records are sealed under the bill. However, the bill expressly prohibits the branch from selling or giving information related to sealed summary process case records to consumer reporting agencies.

Additionally, the bill requires the judicial branch to modify its

online case records system, if necessary, to meet the new requirements the bill establishes.

§ 2 — RESTRICTIONS ON LANDLORDS' USE OF SEALED RECORDS

The bill prohibits residential landlords from refusing to rent to a prospective tenant, and consumer reporting agencies from recommending against renting to the person, based on the prospective tenant's past or pending summary process action that is sealed under the bill. There is a rebuttable presumption that a landlord has violated this provision if he or she refuses to rent to a prospective tenant after having previously (1) requested information regarding a prospective tenant's sealed summary process action from a consumer reporting agency or (2) inspected court records related to a prospective tenant. (It is unclear whether a landlord that inspects unsealed court records related to a prospective tenant is in violation of these provisions.)

The bill does not prohibit landlords from denying a prospective tenant's rental application solely based on the tenant's (1) insufficient income or (2) likelihood of materially damaging the premises or threatening the health or safety of the landlord or other tenants.

§§ 2 & 3 — CHRO COMPLAINTS

The bill makes it a discriminatory housing practice (see BACKGROUND) for landlords to refuse to rent to prospective tenants, and consumer reporting agencies to recommend against renting to that person, based on that person's past or pending summary process action that is sealed under the bill. Thus, it authorizes anyone aggrieved by this practice to file a complaint with CHRO, or CHRO itself to initiate a complaint, pursuant to the existing statutory procedures for doing so. Under the bill, CHRO may grant relief in the same manner as it would for any other discriminatory housing practice; however, the bill does not permit an aggrieved individual to bring an action directly in Superior Court.

As under existing housing discrimination law, the bill does not apply to (1) renting a room or rooms in a single-family home in which

the owner lives or (2) a unit in a two-family home in which the owner lives.

BACKGROUND

Discriminatory Housing Practices Act

Existing law prohibits various types of housing discrimination because of race, religion, sex, national origin, disability, familial or marital status, age, sexual orientation, gender identity or expression, lawful source of income, or veteran status. Individuals who believe they have been discriminated against may file a complaint with CHRO within 180 days of the alleged incident.

Connecticut Unfair Trade Practices Act

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the Department of Consumer Protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$10,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

COMMITTEE ACTION

Housing Committee

Joint Favorable

Yea 10 Nay 5 (03/11/2021)