



OHIO REAL ESTATE INVESTORS ASSOCIATION

Dan Acton
Senate Bill 158 Opponent Testimony
Senate Judiciary Committee
December 6, 2022

Chairman Manning, Vice Chairman McColley, Ranking Member Thomas and members of the committee, my name is Dan Acton and I am the Government Affairs Director of the Ohio Real Estate Investors Association (OREIA). OREIA represents 13 local associations with over 3,000 members across Ohio. My background includes more than 30 years in the property management and ownership industry. I am providing a brief statement of opposition to Senate Bill 158.

Senate Bill 158 would require records to be sealed after seven years, with a rebuttable presumption in favor of sealing after three. The bill would also allow discretionary sealing if the case “is no longer a reasonable predictor of future tenant behavior,” or if sealing “is clearly in the interests of justice.”

The bill gives the court the ability to order a discretionary expungement if the court makes the following findings:

- The eviction case occurred over three years ago,
- The grounds for the eviction is no longer a justifiable predictor of future tenant behavior. OREIA questions, “*How do we know what future tenant behavior may or may not be?*”
- The expungement is clearly in the interests of justice, and those interests are not outweighed by the public’s interest in knowing about the record. Further we ask, “*What does “clearly in the interests of justice” mean?*” and “*Is failure to pay rent not in the public’s interest? Housing providers are part of the public as well.*”

If the bill were to pass, Senate Bill 158 would place residents at risk and limit the information available to housing providers that would allow them to make informed decisions on potential renters.

The COVID-19 pandemic has been particularly hard on real estate investors. From property owners shouldering rent on behalf of tenants that were unable to make payments through no fault of their own, to a federally imposed eviction moratorium, there are numerous examples of policies enacted under the pandemic that hampered the ability of investors to continue their role in providing services to Ohio residents.

Evictions are dramatic for all parties involved, and housing providers do not engage in them lightly. However, the ability to conduct an eviction is done for more reasons than simply the non-payment of rent; there are also matters of safety. There are circumstances when an eviction is warranted, especially in situations of the presence of violence in the household.

Preventing housing providers from conducting evictions is dangerous and puts providers at risk of defaulting on their own mortgage loan(s) and could put apartments, housing units, or entire housing portfolios at risk of being foreclosed upon because financial resources from some tenant rents are not sufficient to cover their costs. This could create a domino effect of a large number of Ohio citizens without access to stable housing.

The number of eviction filings (Franklin County) is below pre-pandemic levels, while set outs — the process by which a landlord's crew places an evicted tenant's belongings at the curb — are down significantly. <https://www.dispatch.com/story/news/courts/2021/10/22/franklin-county-flood-evictions-after-end-moratorium/5889787001/>

One month after the federal moratorium was lifted, *The Washington Post* reported that, "in major metropolitan areas, the number of eviction filings has dropped or remained flat." <https://www.washingtonpost.com/business/2021/09/28/eviction-cliff-moratorium-rental-assistance/>

According to experts and data collected by the [Eviction Lab at Princeton University](#) in cities around the country, including Cleveland, Memphis, Charleston, and Indianapolis, eviction filings are well below their pre-pandemic levels. Although the eviction moratorium is gone, rental assistance continues to be available for those in need.

If Senate Bill 158 were to advance further, we believe a series of changes must be made to the bill for our organization to remove its opposition.

- There must be an amendment that would require FULL restitution from the tenant in order to be granted expungement.
- Requiring that a “financial literacy” type course be included in order to grant full expungement (i.e. how to budget, how to be prepared for unexpected circumstances “life happens” etc.)
 - This would be similar to having the court require “traffic school” or “defensive driving” courses for speeding tickets and DUIs in lieu of points on their license.
 - We envision the class to be online as we know that people work or attend school and we understand that these types of classes would take time.
 - Senator Craig previously alluded to the Columbus Urban League having a similar program in place already.
- Allowing the property owner to participate in the discretionary expungement process.
 - Often property owners will allow the tenants opportunities to repay their rent after filing for eviction but not actually following through on the process. They can speak to the character/trustworthiness of tenants who make good on their

promises to repay their rents. Judges who ultimately have the discretion on whether or not to grant the expungement may find this helpful.

- Alternatively, the property owners should be afforded the opportunity to speak about someone not being granted expungement. They are the closest to the tenants and can speak most accurately as to that person's willingness (or unwillingness) to cooperate.
- Tightening up the bill to prevent abuse from unscrupulous tenants who would take advantage of the expungement process.

Mr. Chairman, thank you and members of this committee for the opportunity to provide comments on Senate Bill 158. Without these changes to the bill we cannot support the bill as it is currently drafted. We urge you to oppose Senate Bill 158 and encourage further dialogue with the interested parties to forge a bill in the next session to which all parties might agree.