

SENATE BILL NO. 801

March 19, 2024, Introduced by Senators BAYER, GEISS, SHINK, CHANG, SANTANA, CAVANAGH, IRWIN and MCMORROW and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9947) by adding section 5755.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5755. (1) In summary proceedings under this chapter or
2 chapter 57a, the court may order that the records of the summary
3 proceedings be sealed if the court determines that placing the
4 records under seal is clearly in the interests of justice, and that
5 those interests are not outweighed by the public's interest in
6 knowing about the records.

1 (2) On the commencement of summary proceedings under this
2 chapter or chapter 57a, the court shall order the court records to
3 be sealed until a judgment for possession is entered for the
4 plaintiff.

5 (3) After a judgment for possession is entered for the
6 plaintiff in summary proceedings under this chapter or chapter 57a,
7 on motion of a defendant or on the court's own motion, the court
8 may order that the records of the summary proceeding be sealed if 1
9 or more of the following apply:

10 (a) The premises were sold after the foreclosure of a mortgage
11 or land contract, or if the premises were subject to a land
12 contract forfeiture judgment entered under this chapter, and the
13 tenancy was terminated because the defendant continued in
14 possession of the premises after the time allowed by law for
15 redemption of the premises, and either of the following applies:

16 (i) The defendant vacated the premises before the summary
17 proceedings were filed.

18 (ii) The defendant did not receive a written demand for
19 possession not less than whichever of the following applies:

20 (A) If the premises were sold under the foreclosure of a
21 mortgage or land contract, 90 days before the summary proceedings
22 were filed.

23 (B) If the premises were subject to a land contract forfeiture
24 judgment entered under this chapter, 30 days before the summary
25 proceedings were filed.

26 (b) The plaintiff received money to pay a judgment entered in
27 the summary proceedings from this state, the federal government, or
28 a unit of local government for emergency rental assistance. This
29 subdivision does not apply to money received under a program

1 implemented by or under 42 USC 1437f, including the tenant-based
2 section 8 housing choice voucher and the project-based section 8
3 program.

4 (c) The summary proceedings were filed under section
5 5714(1)(a), (c), or (g) during the state of emergency declared
6 under Executive Order No. 2020-4 or any extension of that order,
7 including an order issued under section 2253 of the public health
8 code, 1978 PA 368, MCL 333.2253.

9 (d) The parties to the summary proceedings have agreed that
10 the records be sealed.

11 (e) The defendant fulfilled the terms of the judgment.

12 (f) The judgment for possession was for nonpayment of rent for
13 a total amount less than \$900.00.

14 (4) The court shall automatically expunge records of summary
15 proceedings under this chapter or chapter 57a 2 years after a
16 judgment for possession entered in the summary proceedings becomes
17 final.

18 (5) The court may release records sealed under this section
19 for scholarly, educational, journalistic, or governmental purposes
20 on a balancing of the interests of the tenant for nondisclosure
21 against the interests of the requesting party. However, the
22 tenant's name may not be disclosed, and other personally
23 identifiable information about the tenant, such as the tenant's
24 address, may not be disclosed unless all of the following apply:

25 (a) The researcher submits a written request to the court.

26 (b) The court approves and the researcher executes a written
27 data use agreement that describes the research project and that
28 complies with subsection (7).

29 (c) The court is provided documented procedures of the

1 researcher to protect the confidentiality and security of the
2 information.

3 (d) The court is provided documented procedures of the
4 researcher for data storage and the data destruction method to be
5 used for the information provided.

6 (6) On receipt of a request and proof of identity, the court
7 shall provide copies of any records sealed under this section to 1
8 or more of the following, at the court or by an electronic means
9 designated by the court, without an order unsealing the records and
10 without a showing of need:

11 (a) A party to the summary proceedings.

12 (b) The attorney of record for a party.

13 (c) An attorney authorized to practice law in this state who
14 is considering commencing representation of a party, if the
15 attorney certifies to the court's satisfaction that the party has
16 requested the consideration of representation and has authorized
17 the attorney's access to the sealed records.

18 (7) An agreement under which personally identifiable
19 information contained in a court record is disclosed must do all of
20 the following:

21 (a) Comply with Michigan court rules.

22 (b) Prohibit the re-release of any personally identifiable
23 information without explicit permission from the court.

24 (c) Require that the information be used solely for research
25 or administrative purposes.

26 (d) Require that the information be used only for the project
27 described in the agreement unless the recipient submits a written
28 request with the description of another research project for which
29 the information will be used and the court approves the request.

1 (e) Prohibit the use of the information as a basis for legal,
2 administrative, or other action that directly affects any
3 individual or institution identifiable from the information.

4 (f) State the payment, if any, to be provided by the
5 researcher to the court for the specified research project.

6 (g) Require that ownership of information provided under the
7 agreement will remain with the court, not the researcher or the
8 research project.

9 (8) If a housing provider intentionally bases an adverse
10 action taken against a prospective tenant on a court record that
11 the housing provider knows to be sealed under this section, the
12 prospective tenant may bring a civil action not later than 1 year
13 after the adverse action. A prospective tenant who prevails in an
14 action under this section is entitled to all of the following
15 relief:

16 (a) Actual damages or \$500.00, whichever is greater.

17 (b) Reasonable attorney fees and costs.

18 (c) Equitable relief as the court determines is appropriate.

19 (9) As used in this section:

20 (a) "Adverse action" means either of the following:

21 (i) Denial of the prospective tenant's rental application.

22 (ii) Approval of the prospective tenant's rental application,
23 subject to terms or conditions different and less favorable to the
24 prospective tenant than under an ordinary approval of a prospective
25 tenant's rental application.

26 (b) "Records" includes, but is not limited to, any information
27 contained in the case history or the case file, including the
28 register of actions, pleadings, orders, and other papers.