

SB 873 A STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 5/16, 5/20

WHAT THE MEASURE DOES:

Allows person who was defendant in eviction proceeding to apply for order setting aside judgment and sealing official record. Specifies qualifications for seeking set-aside, including at least five years have passed and all money awards in judgment were satisfied. Requires service of motion upon person who was the plaintiff in the eviction proceeding. Requires court hearing when motion is opposed by person who was plaintiff within 30 days of service. Prohibits court from charging a filing fee for motion.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

An action for forcible entry and wrongful detainer (FED) is the process for evicting a tenant from a property. Upon providing appropriate notice within the time period required, if the person or persons still remain on the property, the owner or landlord may go to court to seek an order to regain possession of the property. If the landlord or owner prevails, the person has a set amount of time in which to leave the property or face removal by the sheriff. The record of the eviction can remain in the public record and may prohibit the person from securing another place to live or obtaining credit for several years.

Senate Bill 873 A creates a no-filing-fee process for setting aside an order of eviction if the court finds that one of three situations is present: 1) at least five years have passed since the eviction and the applicant has satisfied all money awards; 2) the judgment was stipulated by the parties and terms have been complied with and all money awards satisfied; or 3) the judgment was in favor of the applicant. The measure requires service of a copy of the motion on the person who was a plaintiff in the eviction proceeding and an opportunity to object. If the person who was a plaintiff objects within 30 days of service, then the court must hold a hearing on the issue. If no objection is made, or upon findings of the court after the hearing, the court is directed to enter an order setting aside the judgment and sealing the official record.