Session of 2025

HOUSE BILL No. 2357

By Committee on Judiciary

Requested by Representatives Howerton and Howell

2-7

AN ACT concerning housing; providing that court records in eviction actions where the underlying rental agreement is governed by the residential landlord and tenant act shall be sealed for certain periods; requiring expungement of certain court records of such eviction actions; providing that certain violations of this act constitute unconscionable acts or practices under the provisions of the Kansas consumer protection act; requiring mediation in eviction actions where the underlying rental agreement is governed by the residential landlord and tenant act unless the court finds that mediation would not aid the parties materially; amending K.S.A. 61-3804 and 61-3806 and K.S.A. 2024 Supp. 60-2617 and 61-3807 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) Upon the filing of a petition for eviction pursuant to K.S.A. 61-3801 et seq., and amendments thereto, where the underlying rental agreement is governed by K.S.A. 58-2540 et seq., and amendments thereto, the court shall automatically seal the court file, including the petition commencing the action and any other pleadings, proof of service, any findings and orders of the court and all other papers, records, proceedings and evidence, including exhibits and transcripts of the testimony. Such filings and the allegations in the filings shall be confidential and shall not be disclosed to any person except as provided by this section. Upon the sealing of the court file, the case records and any information concerning the case shall not be made available or transferred to any third party and shall only be available to the following persons:

(1) The tenant whose court file is sealed and any party or attorney who has made an appearance in the case;

(2) the court; and

(3) the clerk of the court responsible for maintaining records.

(b) (1) Except as provided in paragraph (2), the court shall not unseal a case that is sealed pursuant to this section if the case:

(A) Does not result in a judgment;

(B) is dismissed, including, but not limited to, dismissal pursuant to a mediation agreement or agreement between the plaintiff and defendant; or

(C) results in a judgment entered in favor of the defendant.

(2) The court may unseal a case that is sealed pursuant to this section if the defendant requests unsealing or the plaintiff and defendant agree to unsealing.

(c) (1) Except as provided in paragraph (2), the court shall unseal a case that is sealed pursuant to this section if a default judgment or judgment is entered in favor of the plaintiff.

(2) The court shall not unseal a case described in paragraph (1) if:

(A) The plaintiff and defendant agree to keep the case sealed;

(B) the court finds good cause or that it is in the best interest of justice to keep the case sealed. Good cause includes, but is not limited to:

(i) A tenant who is a victim of domestic violence;

(ii) fault by both the plaintiff and defendant; or

(iii) any other identified safety, property or privacy interest.

(d) (1) A consumer reporting agency, tenant screening agency, property management company, landlord or those standing in the position of property management shall not collect or disseminate, cause to be disseminated or permit the dissemination of any eviction filing or eviction case information that is subject to automatic sealing by the court pursuant to this section.

(2) Any violation of this subsection shall be deemed to be a deceptive or unconscionable act or practice under the provisions of the Kansas consumer protection act and shall be subject to the remedies and enforcement provisions of the Kansas consumer protection act. Any person alleging a violation of this subsection may bring a private action to seek relief pursuant to K.S.A. 50-634 or 50-636, and amendments thereto, and such person shall be considered a consumer pursuant to K.S.A. 50-624, and amendments thereto, for the purposes of such private action. The requirements and remedies of this subsection are in addition to and not in substitution for any other requirements and remedies provided by law.

(e) (1) Except as otherwise provided in this subsection, an unsealed or public record of default judgment or judgment in an eviction action where the underlying rental agreement is governed by K.S.A. 58-2540 et seq., and amendments thereto, shall be automatically expunged if the judgment, including a monetary award, if any, is satisfied and two years have passed from the date of judgment.

(2) If a tenant has an additional judgment entered in an eviction action where the underlying rental agreement is governed by K.S.A. 58-2540 et seq., and amendments thereto, within the two-year period described in paragraph (1), the preceding judgment shall not be expunged until the ensuing judgment is eligible for automatic expungement at two years after the most recent judgment.

(3) In accordance with federal law and requirements, a public housing authority may request access to eviction judgment history for the past

three-year period for active applicants for federal housing assistance.

(4) An eviction action where the underlying rental agreement is governed by K.S.A. 58-2540 et seq., and amendments thereto, in which the defendant has an unsatisfied money judgment shall not be expunged unless the defendant and the plaintiff agree to such expungement, but the case may remain sealed as provided in subsection (c)(2).

Sec. 2. K.S.A. 2024 Supp. 60-2617 is hereby amended to read as follows: 60-2617. (a) In a civil or criminal case, the court, upon the court's own motion, may hold a hearing or any party may request a hearing to seal or redact the court records or to close a court proceeding. Reasonable notice of a hearing to seal or redact court records or to close a court proceeding shall be given to all parties in the case. In a criminal case, reasonable notice of a hearing to seal or redact court records or to close a court proceeding shall also be given to the victim, if ascertainable.

(b) After the hearing, the court may order the court files and records in the proceeding, or any part thereof, to be sealed or redacted or the court proceeding closed. If the court grants such an order, before closing proceedings or granting leave to file under seal, the court shall make and enter a written finding of good cause.

(c) In granting the order, the court shall recognize that the public has a paramount interest in all that occurs in a case, whether at trial or during discovery and in understanding disputes that are presented to a public forum for resolution.

(d) Good cause to close a proceeding or seal or redact records, whether upon the motion of a party, or on the court's own motion, does not exist unless the court makes a finding on the record that there exists an identified safety, property or privacy interest of a litigant or a public or private harm that predominates the case and such interest or harm outweighs the strong public interest in access to the court record and proceedings.

(e) Agreement of the parties shall be considered by the court but shall not constitute the sole basis for the sealing or redaction of court records or for closing the court proceeding.

(f) The provisions of this section shall not apply to proceedings under the revised Kansas code for care of children, K.S.A. 38-2201 et seq., and amendments thereto, the revised Kansas juvenile justice code, K.S.A. 38-2301 et seq., and amendments thereto, the Kansas adoption and relinquishment act, K.S.A. 59-2111 et seq., and amendments thereto, *eviction actions pursuant to K.S.A. 61-3801 et seq., where the underlying rental agreement is governed by K.S.A. 58-2540 et seq., and amendments thereto, and section 1, and amendments thereto,* to supreme court rules which allow motions, briefs, opinions and orders of the court to identify parties by initials or by familial relationship or to supreme court rules

which require appellate court deliberations to be kept in strict confidence. Nothing in this section shall be construed to prohibit the issuance of a protective order pursuant to ~~subsection (c) of~~ K.S.A. 60-226*(c)*, and amendments thereto.

(g) The provisions of this section shall not preclude a court from allowing a settlement which includes a confidentiality clause to be filed under seal where the interests of justice would be served by such settlement being filed under seal.

Sec. 3. K.S.A. 61-3804 is hereby amended to read as follows: 61-3804. *(a)* The petition shall describe the premises for which possession is sought and why the plaintiff is seeking possession. If there is rent due for possession of the premises, the petition may include a request for judgment for that amount or the plaintiff may bring a subsequent lawsuit for that amount.

(b) In an action where the underlying rental agreement is governed by K.S.A. 58-2540 et seq., and amendments thereto, the petition, court records and file shall be sealed as provided by section 1, and amendments thereto.

Sec. 4. K.S.A. 61-3806 is hereby amended to read as follows: 61-3806. *(a) Except as provided in subsection (c),* a defendant shall either appear in person or by counsel at the time and date set forth in the summons or file on or before such date a written answer.

(b) The answer, when filed, shall contain the information as required under ~~subsection (b) of~~ K.S.A. 61-2904*(b)*, and amendments thereto.

(c) In an action where the underlying rental agreement is governed by K.S.A. 58-2540 et seq., and amendments thereto, the court shall:

(1) Allow the defendant to appear by two-way electronic audio-video communication between the defendant and the judge in lieu of personal presence of the defendant; and

(2) order mediation unless the court finds that mediation would not aid the parties materially.

Sec. 5. K.S.A. 2024 Supp. 61-3807 is hereby amended to read as follows: 61-3807. (a) If a trial is necessary, the trial shall be conducted within 14 days after the appearance date stated in the summons.

(b) *(1) Except as provided in paragraph (2),* no continuance shall be granted unless the defendant requesting a continuance shall file a bond with good and sufficient security approved by the court, conditioned for the payment of all damages and rent that may accrue if judgment is entered against the defendant.

(2) In an action where the underlying rental agreement is governed by K.S.A. 58-2540 et seq., and amendments thereto, the court shall order a continuance if the parties are participating in mediation.

Sec. 6. K.S.A. 61-3804 and 61-3806 and K.S.A. 2024 Supp. 60-2617

and 61-3807 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.