

Substitute for HOUSE BILL No. 2357

AN ACT concerning housing; providing for expungement of certain court records in eviction actions in which the underlying rental agreement is governed by the residential landlord and tenant act; requiring consideration of mediation in eviction actions in which the underlying rental agreement is governed by the residential landlord and tenant act; amending K.S.A. 61-3806 and 61-3807 and repealing the existing sections.

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

New Section 1. (a) (1) Except as otherwise provided in this subsection, a defendant in an eviction action in which the underlying rental agreement is governed by K.S.A. 58-2540 et seq., and amendments thereto, may make an electronic filing for an expungement with the clerk of the district court at no cost. Such filing shall be made under the docket number of such eviction action. The defendant shall provide service of process to the plaintiff in such action by return receipt delivery as described in K.S.A. 60-303, and amendments thereto.

(2) The plaintiff in such action shall have 30 days after delivery of such service of process to file with the court an objection to such expungement. If an objection is filed, the court shall conduct a hearing and determine whether such expungement will be granted pursuant to this section. If no objection is filed, the court shall make such determination without a hearing, and there shall be a presumption that the monetary judgment owed by the defendant to the plaintiff arising from the underlying tenancy or rental agreement related to such eviction action, if any, are satisfied.

(3) The court shall grant an expungement if three years have passed since judgment was entered in such action, the defendant shows that the monetary judgment owed by the defendant to the plaintiff arising from the underlying tenancy or rental agreement related to such eviction action, if any, are satisfied and the defendant has no additional judgment entered in an eviction action in which the underlying rental agreement is governed by K.S.A. 58-2540 et seq., and amendments thereto, within the three-year period.

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

(5) 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.

(6) An eviction action in which the underlying rental agreement is governed by K.S.A. 58-2540 et seq., and amendments thereto, and the defendant has an unsatisfied monetary judgment arising from the underlying tenancy or rental agreement related to such eviction action shall not be expunged unless the defendant and the plaintiff agree to such expungement.

(7) An order expunging an eviction action pursuant to this section shall not be construed to satisfy, extinguish or otherwise affect any monetary obligation owed by the defendant to the plaintiff arising from the underlying tenancy or rental agreement related to such eviction action. Nothing in this section shall impair or limit a plaintiff's right to pursue or maintain a separate civil action for unpaid rent, damages or other sums owed, including any action permitted under K.S.A. 61-3804, and amendments thereto, or other applicable law, within the applicable statute of limitations.

(b) The judicial council shall develop a form to be utilized for obtaining expungement pursuant to this section.

Sec. 2. K.S.A. 61-3806 is hereby amended to read as follows: 61-3806. (a) 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 in which the underlying rental agreement is governed by K.S.A. 58-2540 et seq., and amendments thereto, the court shall consider mediation unless the court finds that mediation would not aid the parties materially or is impracticable.*

Sec. 3. K.S.A. 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 in which the underlying rental agreement is governed by K.S.A. 58-2540 et seq., and amendments thereto, the court shall order a continuance of not more than 14 days from the date that the mediation order is entered if the parties are participating in mediation.*

Sec. 4. K.S.A. 61-3806 and 61-3807 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report_____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report_____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.