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MEMORANDUM

To: House Committee on Judiciary
From: Office of Revisor of Statutes
Date: February 10, 2025
Subject: Bill Brief for HB 2357 (As Introduced)

House Bill 2357 provides for sealing and expungement of court records in eviction actions where the underlying rental agreement is governed by the residential landlord and tenant act and requires mediation in such eviction cases unless the court finds that mediation would not aid the parties materially.

Section 1 creates a new law to provide in subsection (a) that upon the filing of a petition for eviction pursuant to K.S.A. 61-3801 et seq. (statutes that govern lawsuits brought to evict a person from possession of real property or of an interest in real property), where the underlying rental agreement is governed by K.S.A. 58-2540 et seq. (the residential landlord and tenant act), 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.

Subsection (b) states that, except as provided further, the court shall not unseal a case if the case: (1) Does not result in a judgment; (2) is dismissed, including, but not limited to, dismissal pursuant to a mediation agreement or agreement between the plaintiff and defendant; or (3) results in a judgment entered in favor of the defendant. The court may unseal a case if the defendant requests unsealing or the plaintiff and defendant agree to unsealing.

Subsection (c) states that, except as provided further, the court shall unseal a case if a default judgment or judgment is entered in favor of the plaintiff. The court shall not unseal a case if: (1) The plaintiff and defendant agree to keep the case sealed; or (2) 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: (1) A tenant who is a victim of domestic violence; (2) fault by both the plaintiff and defendant; or (3) any other identified safety, property or privacy interest.

Subsection (d) provides that 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. 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 such person shall be considered a consumer pursuant to K.S.A. 50-624 for the purposes of such private action.

Subsection (e) states that, except as otherwise provided, an unsealed or public record of default judgment or judgment in an eviction action where the underlying rental agreement is governed by the Kansas residential landlord and tenant act (KRLTA) 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. If a tenant has an additional judgment entered in an eviction action where the underlying rental agreement is governed by the KRLTA within such two-year period, the preceding judgment shall not be expunged until the ensuing judgment is eligible for automatic expungement at two years after the most recent judgment. 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. An eviction action where the underlying rental agreement is governed by the KRLTA 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.

Section 2 amends K.S.A. 60-2617, the statute in the code of civil procedure relating to sealing or redacting court records and proceedings in a civil or criminal case. The bill adds to the list of exceptions provided in current law subsection (f), making this section inapplicable to section 1 and eviction actions where the underlying rental agreement is governed by the KRLTA.

Section 3 amends K.S.A. 61-3804 concerning petitions in eviction actions. The bill adds a new subsection (b) to provide that in an action where the underlying rental agreement is governed by the KRLTA, the petition, court records and file shall be sealed as provided by section 1.

Section 4 amends K.S.A. 61-3806, concerning appearances and answers in eviction actions. Current law requires defendants to 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. The bill adds a new subsection (c) to provide that in an action where the underlying rental agreement is governed by the KRLTA, 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.

Section 5 amends K.S.A. 61-3807, concerning trials and continuances in eviction actions. Current law provides that if a trial is necessary, the trial shall be conducted within 14 days after the appearance date stated in the summons, and 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. The bill adds a new subsection (b)(2) to provide that in an action where the underlying rental agreement is governed by the KRLTA, the court shall order a continuance if the parties are participating in mediation.

The bill would take effect from and after publication in the statute book, July 1, 2025.