

Provide Equal Access to the Right to Appeal to ALL Regardless of Case Type

SUPPORT: HB221 (Delegate Hope)

The Problem

- If a party to a civil matter heard in general district court is unsatisfied with the outcome, he has the right to appeal to Circuit Court, and the case is heard *de novo* there. To perfect the appeal, the party must post a money bond, usually in the amount of the judgment being appealed. Virginia law waives this cash bond requirement for parties who are indigent, **unless they are appealing an eviction case based on nonpayment of rent**. A large majority of eviction cases filed in general district court are based on nonpayment of rent.
- Public housing tenants who are indigent can have their appeal bond waived, but because of the relative scarcity of public housing units, most indigent tenants in Virginia don't live in public housing and therefore don't qualify for the appeal bond waiver.
- Indigent tenants who can't pay their rent are almost always unable to post a cash appeal bond.
- **By requiring indigent tenants to pay a cash bond to appeal their case while allowing indigent parties in other civil matters to appeal without a cash bond, Virginia law expressly provides less justice to a specific group of its residents. There is no policy justification for unequal justice.**

HB221 extends the appeal bond waiver to ALL indigent parties, including tenants appealing eviction judgments based on nonpayment of rent

- To qualify for the waiver of the appeal bond, indigent tenants will have to meet the same criteria as other indigent parties. If they receive public assistance or legal aid services, they will be presumed indigent. If not, the court will hold a hearing to determine if they are indigent. (VA Code §17.1-606)
- During the pendency of the appeal, tenants remain obligated to pay their ongoing rent.
- By providing a realistic avenue to appeal for tenants facing eviction for nonpayment of rent, HB221 opens up opportunities for judicial review of novel legal issues raised in these cases. Currently, the appeal bond requirement effectively forecloses judicial review of nonpayment eviction judgments.
- Giving equal access to our justice system to indigent defendants regardless of case type is consistent with Virginia's value of equal access to justice for all.
- Providing indigent tenants with a realistic avenue to appeal eviction judgments will help lower eviction rates throughout the Commonwealth.

For more information, contact: Christie Marra • christie@vplc.org • 804-615-8150 or Janae Craddock Janae @vplc.org