

Testimony in Opposition to H 5181
House Judiciary Committee
Submitted by Samuel Cramer
March 18, 2025

Dear Chairperson and Members of the Committee,

The Rhode Island Center for Justice submits this written testimony in opposition to passage of H 5181. The Center for Justice practices landlord tenant law and is one of two organizations in the state that represents tenants in substantial numbers. Each year we represent over 1,000 Rhode Islanders in court proceedings and advise thousands more about their rights under state and federal law. Through this work, we have become intimately familiar with the struggles faced by Rhode Islanders as they navigate a difficult housing market.

H 5181 unnecessarily erodes the procedural rights of tenants. Many of the thousands of Rhode Islanders who seek the assistance of the Center for Justice tell us that they had no idea they were facing an eviction hearing until they received a hearing notice in the mail. Others ask us for help after an eviction proceeding they were unaware of has already concluded. Because these tenants are unaware of the proceedings against them, they lose valuable procedural rights that could provide them an opportunity to mount a fulsome defense to the eviction. We see this happen most often in the context of evictions for non-payment of rent, in which a tenant can be lawfully served process by posting the summons on the tenant's door, known as tack-on service. Many tenants who come to the Center recount to us that they never saw the tack-on summons. There could be several reasons for this, including malicious neighbors, simple accidents, or severe weather. A summons attached to a door can be easily detached with the tenant none the wiser. H 5181 seeks to allow, as a matter of course, the same unreliable method of tack-on service in eviction for reasons other than non-payment of rent. To do so would only increase the number of tenants who lose the opportunity to fully assert their procedural rights.

An examination of the differences between evictions for non-payment of rent and eviction for reasons other than non-payment of rent reveals why this Committee should oppose H 5181. The Residential Landlord Tenant Act recognizes the exigent circumstances attending a tenant's failure to pay rent and provides landlords with an expedited process (including tack-on service) to mitigate their losses and recoup their investment. In a non-payment action, a hearing is scheduled upon filing and several possible defenses are foreclosed to a tenant by the plain terms of the Act. An eviction for reasons other than non-payment of rent, on the other hand, proceeds similarly to any other civil action filed in the District Court. A complaint is filed, a summons is

generated, the summons is served personally on the defendant by a constable, the defendant has 20 days to file a response, the parties are afforded the opportunity to conduct discovery, and the matter is set for trial upon motion to the court. A defendant in an eviction for reasons other than non-payment of rent is afforded these procedural rights because, rent is not at issue and the Act allows for more affirmative defenses than in an eviction for non-payment of rent, in particular retaliation and waiver. Justice is not served by allowing, as a matter of course, tack on service in evictions for reasons other than non-payment of rent, the risks of which will lead to tenants missing filing deadlines, lose the opportunity to engage in discovery, and even risk default in the eviction hearing itself.

Tellingly, this bill would provide methods of service for landlords in the normal civil process that are not available to tenants who seek recourse in the courts. What purpose does it serve to allow a property owner to serve a suit by posting it on a defendant's door but to not provide the same option to a renter? It offends traditional notions of fair play to allow a landlord to serve process when complaining of a breach of the lease by tacking it to the door but not allowing a renter to do the same when they sue the landlord for a breach of the lease or the Residential Landlord Tenant Act. What this bill says is that landlords get to play by a different set of rules than tenants when suing for breach of the lease.

Finally, the changes proposed by H 5181 are unnecessary. In the rare event when a plaintiff landlord is struggling to personally serve a defendant tenant, the landlord can make a motion to the court to allow tack-on service or service by mail. Such motions are routinely granted. Amending the requirements of service on a case-by-case basis when a motion is filed with the court remains a more appropriate course of action than universally eroding the rights of all tenants in Rhode Island as this bill would do.

Thank you for considering this testimony in opposition to H 5181. We encourage this Committee to oppose passage of the bill in order to preserve vital procedural rights enjoyed by thousands of Rhode Island renters.

Sincerely,

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