



Councilmember Trayon White

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Human Rights Act of 1977 to prohibit housing providers from inquiring the source of income and credit history of a prospective tenant; to require for housing providers to notify perspective tenants of specific information before collecting any application fee; to strengthen penalizations

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fair Tenant Screening Act of 2019".

Sec. 2. The Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), is amended as follows:

(a) Section 102 (D.C. Official Code § 2-1401.02) is amended as follows:

(1) Paragraph (14A) is redesignated as paragraph (14B)

(2) A new paragraph (14A) is added to read as follows:

“(14A) “Housing provider” shall have the same meaning as provided in section 103(15) of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.03(15)).”.

(3) A new paragraph (27A) is added to read as follows:

36 “(27A) “Rental unit” shall have the same meaning as provided in section 103(33)
37 of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code §
38 42-3501.03(33)).”.

39 (b) A new section 225 is added to read as follows:

40 “Sec. 225. Written screening and admission criteria.

41 “(a) Prior to obtaining any information from or regarding a prospective tenant or
42 collecting any application fee in connection with the rental of a rental unit, a housing provider
43 shall provide the prospective tenant in writing, or by posting, the following information:

44 “(1) Specific information regarding the rental units available for rent from the
45 housing provider, including:

46 “(A) An estimate, made to the best of the housing provider’s ability at that
47 time, of the approximate number of rental units of the type/bedroom size, and in the area or
48 specific property, sought by the prospective tenant that are, or within 30 days will be, available
49 to rent from that housing provider. The estimate shall include the approximate number of
50 applications previously accepted and remaining under consideration for those units. A good faith
51 error by a housing provider in making an estimate under this paragraph shall not constitute a
52 violation of this section;

53 “(B) The amount of rent and monthly fees the housing provider will
54 charge and the deposits the housing provider will require for rental of a rental unit. If charges for
55 water, heat, electricity, or amenities are not included in the rent, the housing provider also shall
56 disclose this fact to the prospective tenant;

57 “(C) The date by which the housing provider will provide the prospective
58 tenant with a response regarding his or her application to rent a rental unit, which shall require a

reasonably prompt response; and

“(D) The process that the housing provider typically will follow in screening the prospective tenant, including whether the housing provider uses a tenant screening company, credit reports, public records, or criminal records, or contacts employers, housing providers or other references.

“(E) The eligibility criteria that the housing provider will apply in screening the prospective tenant, including the specific financial, employment, criminal, and rental history criteria, used in deciding whether to rent or lease to the prospective tenant.

“(2) General information about sections 225, 226, 227, 228 of this Act and the Fair Criminal Record Screening for Housing Act of 2016, effective April 7, 2017 (D.C. Law 21-259; D.C. Official Code § 42-354.01 *et seq.*), including:

“(A) The prospective tenant’s rights under each law, including how to file a complaint pursuant to each law;

“(B) The prospective tenant’s rights under section 226 to dispute the accuracy of any information provided to the housing provider by a third party; and

“(C) The prospective tenant’s rights under section 226 to provide a statement and any supporting documentation of mitigating circumstances;

“(b) A housing provider shall not knowingly misrepresent to a prospective tenant the current or future availability of a rental unit.

“(c) If a housing provider fails to conduct a screening of a prospective tenant for any reason, the housing provider shall refund any application fee paid by the prospective tenant within a reasonable time.”.

(b) A new section 226 is added to read as follows:

82 “Sec. 226. Notice of denial of application.

83 “(a) Not later than the response date provided to the prospective tenant pursuant to
84 section 225(a)(1)(C), the housing provider shall provide the tenant with a written response to his
85 or her application to rent a rental unit. If a lease is not offered, the following information also
86 shall be provided:

87 “(1) The specific grounds that led to the denial;

88 “(2) A copy of any information obtained from a third-party that formed a basis for
89 the denial;

90 “(3) A written itemized accounting of how the application fee was spent; and

91 “(4) A statement informing the prospective tenant of his or her right to dispute the
92 accuracy of any information upon which the housing provider relied in making its determination
93 and/or to request reconsideration in light of mitigating circumstances, as provided in subsection
94 (c) of this section.

95 “(b) Upon written notice of denial of application, a prospective tenant may provide within
96 48 hours after denial of application, and the housing provider reasonably shall consider, any
97 evidence that information relied upon by the housing provider was inaccurate or incorrectly
98 attributed to the prospective tenant or was based on screening criteria prohibited by District law.

99 “(c) Upon written notice of denial of application, a prospective tenant may provide within
100 48 hours after denial of application, and the housing provider reasonably shall consider, any
101 evidence of mitigating circumstances relating to the specific ground or grounds for denial. This
102 may include, but shall not be limited to, credible information that shows:

103 “(1) A history of on-time rental payments by the prospective tenant that otherwise
104 may not appear in a background check;

105 “(2) That a prior eviction of the prospective tenant based on nonpayment of rent
106 was based, in part or solely, on rent not owed by the prospective tenant;

107 “(3) New or increased income of the prospective tenant that is reliable and
108 sufficient to cover rental costs;

109 “(4) Completion by the prospective tenant of an educational program that will
110 increase the prospective tenant’s likelihood of receiving reliable and sufficient employment
111 income;

112 “(5) Letters of recommendation provided on behalf of the prospective tenant by
113 employers or former housing providers;

114 “(6) Changes in circumstances that would make prior lease violations by the
115 prospective tenant less likely to reoccur;

116 “(7) That an alleged lease violation by the prospective tenant was related to either
117 domestic violence or a disability or another prohibited screening category; or

118 “(8) Any other relevant information.”.

119 (c) A new section 227 is added to read as follows:

120 “Sec. 227. Prohibited screening criteria.

121 “(a) When evaluating a prospective tenant in connection with an application to rent a
122 rental unit, a housing provider shall not inquire into or consider:

123 “(1) An action to recover possession from the prospective tenant, if the action:

124 “(A) Did not result in a judgment for possession in favor of the housing
125 provider;

126 “(B) Was filed 2 or more years before the prospective tenant submits the
127 application.

128 “(2) Any allegation of breach of a residential lease by the prospective tenant if the
129 alleged breach:

130 “(A) Stemmed from an incident that took place 2 or more years before the
131 prospective tenant submits the application;

132 “(B) Was related to the prospective tenant’s or a household member’s
133 disability;

134 “(C) Stemmed from an incident related to domestic violence or from any
135 evidence that the prospective tenant is or has been the victim of domestic violence, including but
136 not limited to records of Civil or Criminal Protection Orders sought or obtained, or criminal
137 matters in which the tenant is a witness; or

138 “(D) Related to the prospective tenant or a household member being the
139 victim of a crime in the unit subject to the residential lease;

140 “(3) Any action initiated by the prospective tenant against a housing provider,
141 including but not limited to an action alleging failure to maintain a rental unit in compliance with
142 applicable laws governing housing conditions; or

143 “(4) Any factors not outlined in the eligibility criteria established by the housing
144 provider and provided to the prospective tenant pursuant to section 225(a)(1)(E).

145 “(b) If the prospective tenant is seeking to rent with the assistance of an income-based
146 subsidy, a housing provider shall not inquire into or consider:

147 “(1) Any prior rental history of the prospective tenant involving nonpayment or
148 late payment of rent, if the nonpayment or late payment of rent occurred prior to receipt of the
149 income-based subsidy;

150 “(2) Income levels or credit score; and

151 “(3) Any credit issues that arose prior to the receipt of the income-based subsidy.

152 “(c) No housing provider shall charge a greater amount or additional fee to a prospective
153 tenant seeking to rent with the assistance of an income-based subsidy than it would charge to a
154 prospective tenant who does not have an income-based subsidy.

155 “(d) A housing provider shall not deny housing to a prospective tenant based on any of
156 the prohibited screening and admission criteria described herein.”.

157 (d) A new subsection 228 is added to read as follows:

158 “Sec. 228. Background screening companies.

159 “(a) Any business entity providing tenant background screening services to a housing
160 provider in the District of Columbia shall appoint and continuously maintain a registered agent
161 for service of process.

162 “(b) A business entity shall make record of the appointment of a registered agent pursuant
163 to this section by filing a written statement with the Director of the Department of Housing and
164 Community Development (“Director”).

165 “(c) The registered agent shall be an individual who is a resident of the District of
166 Columbia or an organization incorporated in the District of Columbia.

167 “(d) If the business entity changes its registered agent, or if the name, address, or any
168 other information about the agent changes after the business entity files a written statement with
169 the Director pursuant to subsection (b) of this section, the business entity shall, no later than 7
170 business days after the change, file a written statement notifying the Director of the change.

171 “(e) If the business entity fails to appoint or maintain a registered agent in the District, the
172 Mayor shall serve as the agent of the business entity upon whom any process, notice, or demand
173 against the business entity may be served. All matters served upon the Mayor pursuant to this

section shall be handled in the same manner as matters served upon the Mayor pursuant to D.C. Official Code § 29-104.12(d).

“(f) Any business entity providing background screening services in the District in violation of this section shall be subject to a penalty of \$600 per violation.”

“(g) Nothing in this section shall limit or restrict the type or amount of relief that an individual may be otherwise entitled to under this act.”

(e) Section 313(a)(1) (D.C. Official Code 2-1403.13(a)(1)) is amended by adding a new subparagraph (E-2) to read as follows:

“(E-2) For a violation of section 225, 226, 227, or 228, in addition to the penalties set forth in subparagraph (E-1) of this paragraph, the payment of civil penalties, half of which shall be deposited in the General Fund and half of which shall be awarded to the complainant, according to the following schedule:

“(i) For a housing provider that owns or leases 3 to 10 rental units, a fine of up to \$1,000;

“(ii) For a housing provider that owns or leases 11 to 19 rental units, a fine of up to \$2,500;

“(iii) For a housing provider that owns or leases 20 or more rental units, a fine of up to \$5,000; and

“(iv) For a business entity providing tenant background screening services in the District, a fine of up to \$1200.

Sec. 3. Fiscal impact statement.

195 The Council adopts the fiscal impact statement in the committee report as the fiscal
196 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
197 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

198 Sec. 4. Effective date.

199 This act shall take effect following approval by the Mayor (or in the event of veto by the
200 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
201 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
202 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
203 Columbia Register.