ENROLLED ORIGINAL

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend, on a temporary basis, the Rental Housing Act of 1985 to require a housing provider to provide the tenant with notice of the housing provider's intent to file a claim against a tenant to recover possession of a rental unit at least 30 days before filing the claim, to require the Superior Court to dismiss a claim brought by a housing provider to recover possession of a rental unit where the housing provider, in cases where a notice to quit or a summons and complaint are served by posting on the leased premise, failed to provide the Superior Court with photographic evidence of the posted service, to require the Superior Court to seal certain eviction records, to authorize the Superior Court to seal certain evictions records upon motion by a tenant, to provide that a housing provider shall not make an inquiry about, require the prospective tenant to disclose or reveal, or base an adverse action on certain criteria, to require a housing provider to provide written notice to a prospective tenant of the housing provider's basis for taking adverse action against the prospective tenant, and to provide the tenant an opportunity to dispute the information forming the basis of the housing provider's adverse action.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fairness in Renting Temporary Amendment Act of 2021".

Sec. 2. Title V of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3505.01 *et seq.*), is amended as follows:

(a) Section 501 (D.C. Official Code § 42-3505.01) is amended by adding a new subsection (a-1) to read as follows:

"(a-1)(1) A housing provider shall provide the tenant with notice of the housing provider's intent to file a claim against a tenant to recover possession of a rental unit at least 30 days before filing the claim, unless the claim pertains to subsection (b-1) of this section. Such notice may be served concurrently with notice provided under subsection (a) of this section.

"(2) The Superior Court shall dismiss a claim brought by a housing provider to recover possession of a rental unit where the housing provider:

"(A) Did not provide the tenant with notice as required by this subsection;

"(B) Filed the claim to recover possession of the rental less than 30 days after providing the tenant with notice as required by this subsection; or

"(C) In cases where a notice to quit or a summons and complaint are served by posting on the leased premise, failed to provide the Superior Court with photographic evidence of the posted service with a readable timestamp that indicates the date and time of when the summons was posted.".

(b) New sections 509 and 510 are added to read as follows:

"Sec. 509. Sealing of eviction court records.

"(a) The Superior Court shall seal all court records relating to an eviction proceeding:

"(1) If the eviction proceeding does not result in a judgment for possession in favor of the housing provider, 30 days after the final resolution of the eviction proceeding; or

"(2) If the eviction proceeding results in a judgement for possession in favor of the housing provider, 3 years after the final resolution of the eviction proceeding; except, that, if the tenant was the defendant in any additional eviction proceedings that resulted in judgment for possession in favor of the housing provider during the 3-year period after the final resolution of the first eviction proceeding, the court shall seal the court records of all such proceedings at the completion of a 3-year period in which the tenant is not a defendant in another eviction proceeding that resulted in judgment for possession in favor of the housing provider.

"(b) For court records relating to an eviction proceeding filed before March 11, 2020, the requirements of subsection (a) of this section shall apply as of January 1, 2021.

"(c)(1) The Superior Court may seal court records relating to an eviction proceeding at any time, upon motion by a tenant, if:

"(A) The tenant demonstrates by a preponderance of the evidence that:

"(i) The housing provider brought the eviction proceeding because the tenant failed to pay an amount of $600 or less;

"(ii) The tenant was evicted from a unit under a federal or District site-based housing assistance program or a federal or District tenant-based housing assistance program;

"(iii) The housing provider's initiation of eviction proceedings against the tenant was in violation of:

"(I) Section 502; or

"(II) Section 261 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1402.61);

"(iv) The housing provider failed to timely abate a violation of 14 DCMR § 100 *et seq.* or 12G DCMR 100 *et seq.* in relation to the defendant tenant's rental unit;

"(v) The housing provider initiated the eviction proceedings because of an incident that would constitute a defense to an action for possession under section 501(c-1) or federal law pertaining to domestic violence, dating violence, sexual assault, or stalking; or

"(vi) The parties entered into a settlement agreement that did not result in the housing provider recovering possession of the rental unit; or

"(B) The Superior Court determines that there are other grounds justifying such relief.

"(2) An order dismissing, granting, or denying a motion filed under this subsection shall be a final order for purposes of appeal.

"(3)(A) A copy of an order issued under this subsection shall be provided to the tenant or his or her counsel.

"(B) A tenant may obtain a copy of an order issued under this subsection at any time from the Clerk of the Superior Court, upon proper identification, without a showing of need.

"(d) Records sealed under this section shall be opened only:

"(1) Upon written request of the tenant; or

"(2) On order of the Superior Court upon a showing of compelling need.

"(e) The court may release records sealed under this section for scholarly, educational, journalistic, or governmental purposes, upon a balancing of the interests of the tenant for nondisclosure against the interests of the requesting party; provided, that the name, address, and any other personal identifying information of the tenant shall be redacted from any records released under this subsection.

"(f) The Superior Court shall not order the redaction of the tenant's name from any published opinion of the trial or appellate courts that refer to a record sealed under this section.

"(g)(1) Where a housing provider intentionally bases an adverse action taken against a prospective tenant on an eviction court record that the housing provider knows to be sealed pursuant to this section, the prospective tenant may bring a civil action in the Superior Court of the District of Columbia within one year after the alleged violation and, upon prevailing, shall be entitled to the following relief:

"(A) Reasonable attorneys' fees and costs;

"(B) Incidental damages; and

"(C) Equitable relief as may be appropriate.

"(2) For the purposes of this section, the term "adverse action" means:

"(A) Denial of a prospective tenant's rental application; or

"(B) Approval of a prospective tenant's rental application, subject to terms or conditions different and less-favorable to the prospective tenant than those included in any written notice, statement, or advertisement for the rental unit, including written communication sent directly from the housing provider to a prospective tenant.

"Sec. 510. Tenant screening.

"(a) Before requesting any information from a prospective tenant as a part of tenant screening, a housing provider shall first notify the prospective tenant in writing, or by posting in a manner accessible to prospective tenants:

"(1) The types of information that will be accessed to conduct a tenant screening;

"(2) The criteria that may result in denial of the application; and

"(3) If a credit or consumer report is used, the name and contact information of the credit or consumer reporting agency and a statement of the prospective tenant's rights to obtain a free copy of the credit or consumer report in the event of a denial or other adverse action.

"(b) For the purposes of tenant screening, a housing provider shall not make an inquiry about, require the prospective tenant to disclose or reveal, or base an adverse action on:

"(1) Whether a previous action to recover possession from the prospective tenant occurred if the action:

"(A) Did not result in a judgment for possession in favor of the housing provider; or

"(B) Was filed 3 or more years ago.

"(2) Any allegation of a breach of lease by the prospective tenant if the alleged breach:

"(A) Stemmed from an incident that the prospective tenant demonstrates would constitute a defense to an action for possession under section 501(c-1) or federal law pertaining to domestic violence, dating violence, sexual assault, or stalking; or

"(B) Took place 3 or more years ago.

"(c) A housing provider shall not base an adverse action solely on a prospective tenant's credit score, although information within a credit or consumer report directly relevant to fitness as a tenant can be relied upon by a housing provider.

"(d) If a housing provider takes an adverse action, he or she shall provide a written notice of the adverse action to the prospective tenant that shall include:

"(1) The specific grounds for the adverse action;

"(2) A copy or summary of any information obtained from a third-party that formed a basis for the adverse action; and

"(3) A statement informing the prospective tenant of his or her right to dispute the accuracy of any information upon which the housing provider relied in making his or her determination.

"(e)(1) After receipt of a notice of an adverse action, a prospective tenant may provide to the housing provider any evidence that information relied upon by the housing provider is:

"(A) Inaccurate or incorrectly attributed to the prospective tenant; or

"(B) Based upon prohibited criteria under subsection (b) or subsection (c) of this section.

"(2) The housing provider shall provide a written response, which may be by mail, electronic mail, or in person, to the prospective tenant with respect to any information provided under this subsection within 30 business days after receipt of the information from the prospective tenant.

"(3) Nothing in this subsection shall be construed to prohibit the housing provider from leasing a housing rental unit to other prospective tenants.

"(f) Any housing provider who knowingly violates any provision of this section, or any rule issued to implement this section, shall be subject to a civil penalty for each violation not to exceed $1,000.

"(g) For the purposes of this section, the term:

"(1) "Adverse action" means:

"(A) Denial of a prospective tenant's rental application; or

"(B) Approval of a prospective tenant's rental application, subject to terms or conditions different and less-favorable to the prospective tenant than those included in any written notice, statement, or advertisement for the rental unit, including written communication sent directly from the housing provider to a prospective tenant.

"(2) "Tenant screening" means any process used by a housing provider to evaluate the fitness of a prospective tenant.".

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

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

(b) This act shall expire after 225 days of its having taken effect.

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Chairman
Council of the District of Columbia

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Mayor
District of Columbia