

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an emergency basis, 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 “Tenant Screen Emergency Amendment Act of 2020”.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Tenant Screening Emergency Amendment Act of 2020”.

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

“Sec. 225. Written screening and admission criteria.

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

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

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

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

40 “(C) The date by which the housing provider will provide the prospective tenant with a
41 response regarding his or her application to rent a rental unit, which shall require a reasonably
42 prompt response; and

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

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

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

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

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

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

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

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

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

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

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

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

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

73 “(3) A written itemized accounting of how the application fee was spent; and
74 “(4) A statement informing the prospective tenant of his or her right to dispute the
75 accuracy of any information upon which the housing provider relied in making its determination
76 and/or to request reconsideration in light of mitigating circumstances, as provided in subsection
77 (c) of this section.

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

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

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

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

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

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

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

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

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

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

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

103 “Sec. 227. Prohibited screening criteria.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

139 “(E-2) For a violation of section 225, 226, 227, or 228, in addition to the penalties set
140 forth in subparagraph (E-1) of this paragraph, the payment of civil penalties, half of which shall

141 be deposited in the General Fund and half of which shall be awarded to the complainant,
142 according to the following schedule:

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

144 “(ii) For a housing provider that owns or leases 11 to 19 rental units, a fine of up to
145 \$2,500;

146 “(iii) For a housing provider that owns or leases 20 or more rental units, a fine of up to
147 \$5,000; and

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

150 Sec. 3. Fiscal impact statement.

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

154 Sec. 4. Effective date.

155 This act shall take effect following approval by the Mayor (or in the event of veto by the
156 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than
157 90 days, as provided for emergency acts of the Council of the District of Columbia in section
158 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
159 87 D.C. Official Code § 1-204.12(a)).