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3 Chairman Phil Mendelson

Councilmember Mary M. Cheh

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7 Councilmember Anita Bonds

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10 A BILL

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14 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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20 To amend, on an emergency basis, the Rental Housing Act of 1985 to require a housing provider
21 to serve a written notice to vacate on a tenant before evicting the tenant for any reason, to
22 require a housing provider to provide the tenant with notice of the housing provider's
23 intent to file a claim against a tenant to recover possession of a rental unit at least 30 days
24 before filing the claim, to require the Superior Court to dismiss a claim brought by a
25 housing provider to recover possession of a rental unit where the housing provider, in
26 cases where a notice to quit or a summons and complaint are served by posting on the
27 leased premise, failed to provide the Superior Court with photographic evidence of the
28 posted service, to provide that no tenant shall be evicted from a rental unit for which the
29 housing provider does not have a current business license for rental housing, to require
30 the Superior Court to seal certain eviction records, to authorize the Superior Court to seal
31 certain evictions records upon motion by a tenant, to provide that a housing provider shall
32 not make an inquiry about, require the prospective tenant to disclose or reveal, or base an
33 adverse action on certain criteria, to require a housing provider to provide written notice
34 to a prospective tenant of the housing provider's basis for taking adverse action against
35 the prospective tenant, to provide the tenant an opportunity to dispute the information
36 forming the basis of the housing provider's adverse action; and to amend section 16-1501
37 of the District of Columbia Official Code to provide that the person aggrieved shall not
38 file a complaint seeking restitution of possession for nonpayment of rent in an amount
39 less than \$600.

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

43 Sec. 2. Title V of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-
44 10; D.C. Official Code § 42-3505.01 *et seq.*), is amended as follows:

45 (a) Section 501 (D.C. Official Code § 42-3505.01) is amended as follows:

46 (1) Subsection (a) is amended by striking the phrase “any reason other than the
47 nonpayment of rent” and inserting the phrase “any reason” in its place.

48 (2) A new subsection (a-1) is added to read as follows:

49 “(a-1)(1) A housing provider shall provide the tenant with notice of the housing
50 provider’s intent to file a claim against a tenant to recover possession of a rental unit at least 30
51 days before filing the claim. Such notice may be served concurrently with notice provided under
52 subsection (a) of this section.

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

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

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

58 “(C) In cases where a notice to quit or a summons and complaint are
59 served by posting on the leased premise, failed to provide the Superior Court with photographic
60 evidence of the posted service, including evidence of the time and date of the service.”.

61 (b) A new subsection (r) is added to read as follows:

62 “(r) No tenant shall be evicted from a rental unit for which the housing provider does not
63 have a current business license for rental housing issued pursuant to D.C. Official Code § 47-
64 2828(c)(1); except, that a housing provider that obtains the required license shall not be
65 precluded by this subsection from proceeding with an eviction.”

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

67 “Sec. 509. Sealing of eviction court records.

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

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

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

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

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

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

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

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

88 “(iii) The housing provider’s initiation of eviction proceedings
89 against the tenant was in violation of:

90 “(I) Section 502; or

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

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

95 “(v) The housing provider initiated the eviction proceedings
96 because of an incident that would constitute a defense to an action for possession under section
97 501(c-1) or federal law pertaining to domestic violence, dating violence, sexual assault, or
98 stalking; or

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

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

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

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

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

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

111 “(1) Upon written request of the tenant;

112 “(2) Upon motion and for good cause shown, and at the discretion of the court
113 upon a balancing of the interests of the tenant for nondisclosure against the interests of the
114 requesting party, for scholarly, educational, journalistic, or governmental purposes only;
115 provided, however, that the name, address, or any other information sufficient to identify the
116 parties to the litigation shall be redacted or removed from the record, or otherwise remain sealed.
117 Nothing in this paragraph shall be deemed to permit the release of personal identifying
118 information for commercial purposes; or

119 “(3) On order of the Superior Court upon a showing of compelling need.

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

122 “Sec. 510. Tenant screening.

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

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

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

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

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

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

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

138 “(B) Was filed 3 or more years ago.

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

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

144 “(B) Took place 3 or more years ago.

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

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

150 “(1) The specific grounds for the adverse action;

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

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

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

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

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

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

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

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

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

171 “(1) “Adverse action” means:

172 “(A) Denial of a prospective tenant’s rental application; or

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

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

179 “(h) This section shall apply as of January 1, 2021.”.

180 Sec. 3. Section 16-1501 of the District of Columbia Official Code is amended by adding
181 a new subsection (c) to read as follows:

182 “(c) The person aggrieved shall not file a complaint seeking restitution of possession
183 pursuant to this section for nonpayment of rent in an amount less than \$600; except, that the
184 person aggrieved may file a complaint to recover the amount owed.”.

185 Sec. 4. Fiscal impact statement.

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

189 Sec. 5. Effective date.

190 This act shall take effect following approval by the Mayor (or in the event of veto by the
191 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than
192 90 days, as provided for emergency acts of the Council of the District of Columbia in section
193 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
194 D.C. Official Code § 1-204.12(a)).