

SENATE BILL REPORT

SB 6490

As of January 29, 2020

Title: An act relating to addressing housing concerns for individuals impacted by the criminal justice system.

Brief Description: Addressing housing concerns for individuals impacted by the criminal justice system.

Sponsors: Senators Darneille, Das, Kuderer, Lovelett, Nguyen, Saldaña and Wilson, C.

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 1/30/20.

Brief Summary of Bill

- Prohibits a landlord from advertising, requiring disclosure of, taking an adverse action against, or implementing any policy or practice that automatically or categorically excludes individuals with any arrest record or conviction record from rental housing.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Staff: Alison Mendiola (786-7488)

Background: Residential Landlord-Tenant Act. The Residential Landlord-Tenant Act (RLTA) regulates the relationship between residential landlords and tenants. The RLTA establishes rights and duties of both tenants and landlords, procedures for the parties to enforce their rights, and remedies for violations of the RLTA.

Tenant screening under the RLTA means using a consumer report or other information about a prospective tenant when determining whether to rent to the tenant. A tenant screening report means a consumer report as defined under the Fair Credit Reporting Act and any other information collected by a tenant screening service.

Landlords may engage in tenant screening to evaluate potential tenants, either by conducting their own searches of public records or by using a tenant screening service to obtain a report on a tenant. Prior to screening, a prospective landlord must notify a prospective tenant about:

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- the kind of information that will be accessed;
- criteria that may result in denial of the application;
- the name and address of the consumer reporting agency, if any is used, along with notice to the prospective tenant of their right, in the event of an adverse action, to a free copy of the consumer report and the opportunity to dispute the report's information; and
- whether the landlord will accept a comprehensive tenant screening report made available to the landlord by a consumer reporting agency; if the landlord will accept a comprehensive tenant screening report, the landlord may access the landlord's own tenant screening report so long as the prospective tenant is not charged for the landlord's own tenant screening report.

A comprehensive reusable tenant screening report means a tenant screening report prepared by a consumer reporting agency at the direction of and paid for by the prospective tenant and made available directly to a prospective landlord at no charge, which contains all of the following:

- a consumer credit report prepared by a consumer reporting agency within the past 30 days;
- the prospective tenant's criminal history;
- the prospective tenant's eviction history;
- an employment verification; and
- the prospective tenant's address and rental history.

A landlord may charge a prospective tenant for the cost of a tenant screening report. If the landlord conducts their own screening, the prospective landlord may charge for actual costs to obtain the background information, as long as the amount charged does not exceed the customary costs charged by a screening service in the area. In either case, the landlord may only assess a charge if the landlord provides the prospective tenant with the requisite prior notice outlined above.

If a prospective landlord takes an adverse action, they must provide a written notice of this action to the prospective tenant stating the reasons for the adverse action. This notice must disclose the basis for the adverse action, including whether it was based on information received from:

- consumer credit reports;
- criminal records;
- previous rental history or references; or
- civil records.

Any landlord who maintains a website advertising a rental unit, or as a source of information for current or prospective tenants, must indicate on the website whether the landlord will accept a comprehensive reusable report.

Unlawful Detainer. The RLTA includes provisions governing unlawful detainer actions, which allow a landlord to evict a tenant who has failed to pay rent or is otherwise holding over, and regain possession of the property.

Summary of Bill: Housing Justice Act. The Housing Justice Act is created. Under this Act, a landlord may not:

- advertise, publicize, or implement any policy or practice that automatically or categorically excludes individuals with any arrest record or conviction record from rental housing;
- require disclosure, inquire about, or take an adverse action against a prospective tenant, tenant, or member of the tenant's household, based on any arrest record or conviction record, subject to specific exceptions; or
- carry out an adverse action based on registry information of a prospective tenant, tenant, or member of the tenant's household, unless the landlord has a legitimate business reason for taking such action.

Adverse Action. If a landlord takes an adverse action based on a legitimate business reason, the landlord must provide written notice of the adverse action to the prospective tenant or tenant, and state the specific registry information that was the basis for the adverse action.

If the tenant screen report or comprehensive reusable tenant screening report is used by a landlord as part of the screening process, the landlord must provide the name and address of the consumer reporting agency and the prospective occupant's or tenant's rights to obtain a free copy of the tenant screening report in the event of a denial or other adverse action and to dispute the accuracy or information in the tenant screening report. The prospective tenant or tenant is provided with at least five business days from the time of the notice to dispute the accuracy and relevance of the tenant screening report.

Any refusal of tenancy under the act must be communicated to the tenant pursuant to the requirements of the adverse action notice as described in the RLTA.

Other Provisions. A landlord in violation of the act may be liable up to four and one-half times the monthly rent of the property at issue, as well as court costs and reasonable attorneys' fees. It is a defense to an unlawful detainer action that the action to remove the tenant and recover possession of the premises is a violation of the act. The act does not prohibit adverse housing decisions based upon other lawful factors within the landlord's knowledge. The act does not impair the ability of a local government to take an action that is more stringent than this act. This act supersedes and preempts all other local rules, regulations, codes, statutes, or ordinances regarding the provision of rental housing to tenants and prospective tenants with a conviction record or arrest record.

Exclusions. This act does not apply to:

- the renting, subrenting, leasing, or subleasing of any dwelling unit owned or managed by a public housing authority;
- the renting, subrenting, leasing, or subleasing of a single-family dwelling unit in which the owners or subleasing tenant or subrenting tenant occupy part of the single-family dwelling unit;
- the renting, subrenting, leasing, or subleasing of an accessory dwelling unit or detached accessory dwelling unit in which the owner or person entitled to possession of the unit maintains a permanent residence, home, or abode on the same lot.

Definitions. Adverse action means:

- refusing to engage in or negotiate a rental real estate transaction;
- denying tenancy;
- representing that real property listed for rent or lease is not available for inspection, rental, or lease when in fact it is available;
- failing or refusing to add a household member to an existing lease;
- expelling or evicting an occupant from real property or otherwise making unavailable or denying a dwelling;
- applying different terms, conditions, or privileges to a rental agreement including, but not limited to, setting rates for rental or lease, establishing damage deposits, or other financial conditions for rental or lease, or furnishing facilities or services in connection with such transaction;
- refusing or intentionally failing to list real property for rent or lease;
- refusing or intentionally failing to show real property listed for rent or lease;
- refusing or intentionally failing to accept or transmit any reasonable offer to lease, or rent real property;
- terminating a lease; or
- threatening, penalizing, retaliating, or otherwise discriminating against any person for any reason prohibited under this act.

An adverse action notice must include information received in a criminal history record that relates to a legitimate business reason of the landlord.

Arrest record includes, but is not limited to, information indicating that a person has been questioned, apprehended, taken into custody or detention, held for investigation, arrested, charged with, indicted, or tried for any felony, misdemeanor, or other offense pursuant to any law enforcement or military authority.

Conviction record includes, but is not limited to, information indicating that a person has been convicted of a felony, misdemeanor, or other offense including a civil ordinance violation or forfeiture, placed on probation, fined, imprisoned, or paroled pursuant to any law enforcement or military authority.

A legitimate business reason exists when the policy or practice is necessary to achieve a substantial, legitimate, and nondiscriminatory interest, which is determined by the landlord by demonstrating, through reliable evidence, a nexus between the policy or practice and resident safety or protecting the property, or both, in light of the following factors:

- the nature and severity of the conviction;
- the number and types of convictions;
- the time that has elapsed since the date of conviction;
- the age of the individual at the time of conviction;
- evidence of good tenant history before or after the conviction occurred;
- any supplemental information related to the individual's rehabilitation, good conduct, and additional facts or explanations if provided by the individual, and such a review of conviction information is limited to those convictions included in registry information.

Registry information means information solely obtained from a county, statewide, or national sex offender registry including, but not limited to, the registrant's physical description, address, and conviction description and dates.

Supplemental information means any information produced by the prospective tenant or tenant, or produced on the tenant's behalf, with respect to the tenant's rehabilitation or good conduct including, but not limited to a written or oral statement from:

- the prospective tenant or tenant;
- a current or previous employer;
- a current or previous landlord;
- a member of the judiciary or law enforcement, parole or probation officer, or person who provides similar services; or
- a member of the clergy, counselor, therapist, social worker, community or volunteer organization, or person or institution who provides similar services.

Supplemented information also includes a certificate of rehabilitation; a certificate of completion or enrollment in an educational or vocational training program, including apprenticeship programs; or a certificate of completion or enrollment in a drug or alcohol treatment program or in a rehabilitation program.

Miscellaneous. A comprehensive reusable tenant screening report may include a prospective tenant's criminal history except as limited by the act. The definitions of tenant screening and tenant screen report are amended to exclude information prohibited by the act. It is clarified that a prospective landlord is subject to the terms of the act prior to obtaining any information about a prospective tenant.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.