Second Regular Session Seventy-fourth General Assembly STATE OF COLORADO

REREVISED

This Version Includes All Amendments Adopted in the Second House

LLS NO. 24-0451.01 Richard Sweetman x4333

HOUSE BILL 24-1057

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A BILL FOR AN ACT

101	CONCERNING PROHIBITING THE USE OF AN ALGORITHMIC DEVICE BY
102	A LANDLORD FOR THE PURPOSE OF DETERMINING THE AMOUNT
103	OF RENT TO CHARGE A RESIDENTIAL TENANT, AND, IN
104	CONNECTION THEREWITH, DECLARING THAT SUCH USE IS AN
105	UNFAIR OR DECEPTIVE TRADE PRACTICE UNDER THE
106	"COLORADO CONSUMER PROTECTION ACT".

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill states that a landlord may not employ or rely upon an

SENATE rd Reading Unamended April 24 2024

SENATE Amended 2nd Reading April 23, 2024

HOUSE 3rd Reading Unamended March 4, 2024

HOUSE Amended 2nd Reading March 1, 2024

Shading denotes HOUSE amendment. <u>Double underlining denotes SENATE amendment.</u>

Capital letters or bold & italic numbers indicate new material to be added to existing law.

Dashes through the words or numbers indicate deletions from existing law.

algorithmic device in setting the amount of rent to be charged to a tenant for the occupancy of a residential premises. A violation of the prohibition is an unfair or deceptive trade practice under the "Colorado Consumer Protection Act" and may be punished accordingly.

I	Be it enacted by the General Assembly of the State of Colorado:
2	SECTION 1. Legislative declaration. (1) The general assembly
3	finds that the use of algorithmic devices:
4	(a) Has been the subject of lawsuits that allege such products pose
5	a heightened risk of anticompetitive conduct, price fixing, and collusion,
6	all of which allegedly result in higher rents for residential tenants; and
7	(b) Allegedly poses the risk that landlords will outsource pricing
8	decisions, which the general assembly determines should always be made
9	by the landlord.
10	(2) Therefore, the general assembly declares that, with certain
11	exceptions, the use of an algorithmic device by a landlord to set the
12	amount of a residential tenant's rent is prohibited.
13	SECTION 2. In Colorado Revised Statutes, add 38-12-703 as
14	follows:
15	38-12-703. Determination of rent amount - sale of
16	algorithmic device services or products prohibited - unfair or
17	deceptive trade practice - definition. (1) (a) THE SALE OF ALGORITHMIC
18	DEVICE SERVICES OR PRODUCTS FOR THE PURPOSE OF SETTING OR
19	RECOMMENDING THE AMOUNT OF RENT TO BE CHARGED TO A TENANT FOR
20	THE OCCUPANCY OF A RESIDENTIAL PREMISES IS PROHIBITED.
21	(b) A PERSON ENGAGED IN THE BUSINESS OF PROVIDING
22	ALGORITHMIC DEVICE SERVICES OR PRODUCTS FOR THE PURPOSE OF
23	ADVISING A LANDLORD OF THE AMOUNT OF RENT THAT THE LANDLORD

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1	MAY CONSIDER CHARGING A TENANT FOR THE OCCUPANCY OF A
2	RESIDENTIAL PREMISES SHALL NOT USE NONPUBLIC COMPETITOR DATA
3	PERTAINING TO RESIDENTIAL PROPERTIES IN COLORADO IN ALGORITHMIC
4	<u>CALCULATIONS.</u>
5	(2) A VIOLATION OF SUBSECTION (1) OF THIS SECTION BY A PERSON
6	THAT PROVIDES ALGORITHMIC DEVICE SERVICES OR PRODUCTS FOR THE
7	PURPOSE OF SETTING OR RECOMMENDING THE AMOUNT OF RENT TO BE
8	CHARGED TO A TENANT FOR THE OCCUPANCY OF RESIDENTIAL PREMISES,
9	OR BY A PERSON ENGAGED IN THE BUSINESS OF PROVIDING ALGORITHMIC
10	DEVICE SERVICES OR PRODUCTS THAT USE NONPUBLIC COMPETITOR DATA
11	PERTAINING TO RESIDENTIAL PROPERTIES IN COLORADO IN THE PERSON'S
12	USE OF ALGORITHMIC CALCULATIONS FOR THE PURPOSE OF ADVISING A
13	LANDLORD OF THE AMOUNT OF RENT THAT THE LANDLORD MAY CONSIDER
14	CHARGING A TENANT, IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE, AS
15	DESCRIBED IN SECTION 6-1-105 (1)(eeee). A PERSON WHO COMMITS A
16	<u>VIOLATION IS SUBJECT TO ALL</u> PENALTIES AND REMEDIES DESCRIBED IN
17	THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6.
18	(3) Subsection (1) of this section does not apply to an
19	ALGORITHMIC DEVICE THAT USES, INCORPORATES, OR WAS TRAINED WITH
20	NONPUBLIC COMPETITOR DATA IF SUCH DATA INCLUDES NONPUBLIC
21	EXECUTED LEASE DATA THAT IS ALSO MADE AVAILABLE TO THE GENERAL
22	PUBLIC IN AN AGGREGATED AND ANONYMOUS MANNER AT NO MORE THAN
23	A REASONABLE CHARGE. WHEN MADE AVAILABLE TO THE GENERAL
24	PUBLIC, THE PRESENTATION OF SUCH NONPUBLIC EXECUTED LEASE DATA
25	MAY BE TAILORED FOR THE BENEFIT OF AND USEFULNESS TO CONSUMERS
26	AND PRESENTED AS A RANGE OF AVERAGE RENT PRICES FOR PROPERTIES
27	IN A GEOGRAPHIC AREA DEFINED BY ITS ZIP CODE, NEIGHBORHOOD,

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1	GEOGRAPHICAL RADIUS OF UP TO TEN MILES, OR OTHER TYPE OF
2	APARTMENT INDUSTRY SUBMARKET.
3	(4) As used in this section:
4	(a) "ALGORITHMIC DEVICE" MEANS A DEVICE THAT USES ONE OR
5	MORE ALGORITHMS TO PERFORM CALCULATIONS OF DATA, INCLUDING
6	DATA CONCERNING LOCAL OR STATEWIDE RENT AMOUNTS BEING CHARGED
7	TO TENANTS BY LANDLORDS, FOR THE PURPOSE OF ADVISING A LANDLORD
8	CONCERNING THE AMOUNT OF RENT THAT THE LANDLORD MAY CONSIDER
9	CHARGING A TENANT. "ALGORITHMIC DEVICE":
10	(I) INCLUDES A PRODUCT THAT INCORPORATES AN ALGORITHMIC
11	DEVICE; AND
12	(II) DOES NOT INCLUDE:
13	(A) ANY REPORT PUBLISHED PERIODICALLY, BUT NO MORE
14	FREQUENTLY THAN MONTHLY, BY A TRADE ASSOCIATION THAT RECEIVES
15	RENTER DATA AND PUBLISHES IT IN AN AGGREGATED AND ANONYMOUS
16	MANNER; OR
17	(B) A PRODUCT USED FOR THE PURPOSE OF ESTABLISHING RENT OR
18	INCOME LIMITS IN ACCORDANCE WITH THE AFFORDABLE HOUSING
19	PROGRAM GUIDELINES OF A LOCAL GOVERNMENT, THE STATE, THE
20	FEDERAL GOVERNMENT, OR OTHER POLITICAL SUBDIVISION.
21	(b) "Nonpublic competitor data" means information that
22	IS NOT WIDELY AVAILABLE OR EASILY ACCESSIBLE TO THE PUBLIC,
23	INCLUDING INFORMATION ABOUT ACTUAL RENT PRICES, OCCUPANCY
24	RATES, LEASE START AND END DATES, AND SIMILAR DATA, REGARDLESS OF
25	WHETHER THE DATA ARE ATTRIBUTABLE TO A SPECIFIC COMPETITOR OR
26	ANONYMIZED, AND THAT IS DERIVED FROM OR OTHERWISE PROVIDED BY
27	ANOTHER PERSON THAT COMPETES IN THE SAME MARKET AS A PERSON, OR

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1	A RELATED MARKET.
2	(c) "RENT" MEANS THE TOTAL AMOUNT OF RENT, INCLUDING
3	CONCESSIONS AND FEES, THAT A RESIDENTIAL TENANT IS REQUIRED TO
4	PAY PURSUANT TO A RENTAL AGREEMENT.
5	SECTION 3. In Colorado Revised Statutes, 6-1-105, add
6	(1)(eeee) as follows:
7	6-1-105. Unfair or deceptive trade practices. (1) A person
8	engages in a deceptive trade practice when, in the course of the person's
9	business, vocation, or occupation, the person:
10	(eeee) VIOLATES OR ASSISTS ANOTHER PERSON IN VIOLATING
11	SECTION 38-12-703 CONCERNING THE USE OF AN ALGORITHMIC DEVICE TO
12	DETERMINE THE AMOUNT OF RENT TO CHARGE A TENANT FOR THE
13	OCCUPANCY OF A RESIDENTIAL PREMISES.
14	SECTION 4. Act subject to petition - effective date -
15	applicability. (1) This act takes effect at 12:01 a.m. on the day following
16	the expiration of the ninety-day period after final adjournment of the
17	general assembly; except that, if a referendum petition is filed pursuant
18	to section 1 (3) of article V of the state constitution against this act or an
19	item, section, or part of this act within such period, then the act, item,
20	section, or part will not take effect unless approved by the people at the
21	general election to be held in November 2024 and, in such case, will take
22	effect on the date of the official declaration of the vote thereon by the
23	governor.
24	(2) This act applies to a landlord's calculation of the amount of
25	rent that the landlord charges for the occupancy of a residential premises
26	pursuant to any rental agreement that is executed on or after the
27	applicable effective date of this act

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