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An Act

SENATE BILL 23-184

BY SENATOR(S) Winter F. and Exum, Cutter, Gonzales, Jaquez Lewis, Moreno;

also REPRESENTATIVE(S) Froelich and Garcia, Amabile, Brown, deGruy Kennedy, Dickson, Duran, English, Epps, Gonzales-Gutierrez, Herod, Jodeh, Joseph, Lindsay, Mabrey, Martinez, Mauro, Michaelson Jenet, Ortiz, Parenti, Ricks, Sharbini, Sirota, Story, Titone, Velasco, Vigil, Weissman, Willford, Woodrow.

CONCERNING PROTECTIONS FOR RESIDENTIAL TENANTS, AND, IN CONNECTION THEREWITH, PROHIBITING A LANDLORD FROM CONSIDERING CERTAIN INFORMATION RELATING TO A PROSPECTIVE TENANT'S INCOME OR RENTAL HISTORY, ESTABLISHING A MAXIMUM AMOUNT THAT A LANDLORD CAN REQUIRE AS A SECURITY DEPOSIT, AND ALLOWING A TENANT TO ASSERT AS AN AFFIRMATIVE DEFENSE IN AN EVICTION PROCEEDING THAT A LANDLORD VIOLATED ANTI-DISCRIMINATORY HOUSING LAWS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 38-12-904, **amend** (1)(a); and **add** (1)(c), (1)(d), (1)(e), and (1.8) as follows:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

38-12-904. Consideration of rental applications - limitations - denial notice. (1) (a) If a landlord uses rental history or credit history as criteria in consideration of an application, the landlord shall not consider any rental history or credit history beyond seven years immediately preceding the date of the application AND THE LANDLORD MUST COMPLY WITH SUBSECTIONS (1)(c) AND (1)(d) OF THIS SECTION.

(c) IF A LANDLORD USES FINANCIAL INFORMATION, INCLUDING RENTAL HISTORY OR CREDIT HISTORY, AS A CRITERION IN CONSIDERATION OF A RENTAL APPLICATION FROM A PROSPECTIVE TENANT WHO IS SEEKING TO RENT WITH THE ASSISTANCE OF A HOUSING SUBSIDY, THE LANDLORD SHALL NOT CONSIDER OR INQUIRE ABOUT THE PROSPECTIVE TENANT'S:

(I) AMOUNT OF INCOME, EXCEPT FOR THE PURPOSE OF DETERMINING THAT THE PROSPECTIVE TENANT'S ANNUAL AMOUNT OF INCOME EQUALS OR EXCEEDS TWO HUNDRED PERCENT OF THE PORTION OF THE ANNUAL COST OF RENT THAT IS TO BE PAID BY THE PROSPECTIVE TENANT; OR

(II) CREDIT SCORE, ADVERSE CREDIT EVENT, OR LACK OF CREDIT SCORE UNLESS THE LANDLORD IS REQUIRED BY FEDERAL LAW TO CONSIDER A CREDIT SCORE OR A LACK OF A CREDIT SCORE.

(d) IF A LANDLORD USES FINANCIAL INFORMATION, INCLUDING RENTAL HISTORY OR CREDIT HISTORY, AS A CRITERION IN CONSIDERATION OF A RENTAL APPLICATION FROM ANY PROSPECTIVE TENANT WHO IS SEEKING TO RENT WITHOUT THE ASSISTANCE OF A HOUSING SUBSIDY, THE LANDLORD SHALL NOT CONSIDER OR INQUIRE ABOUT THE PROSPECTIVE TENANT'S AMOUNT OF INCOME, EXCEPT FOR THE PURPOSE OF DETERMINING THAT THE PROSPECTIVE TENANT'S ANNUAL AMOUNT OF INCOME EQUALS OR EXCEEDS TWO HUNDRED PERCENT OF THE ANNUAL COST OF RENT. A LANDLORD SHALL NOT REQUIRE A PROSPECTIVE TENANT TO HAVE AN ANNUAL AMOUNT OF INCOME THAT EXCEEDS TWO HUNDRED PERCENT OF THE ANNUAL COST OF RENT.

(e) NOTWITHSTANDING SUBSECTIONS (1)(c) AND (1)(d) OF THIS SECTION, NOTHING IN SAID SUBSECTIONS PRECLUDES A LANDLORD WHO IS RECEIVING FUNDING FROM A GOVERNMENTAL ENTITY, QUASI-GOVERNMENTAL ENTITY, OR NONPROFIT ORGANIZATION THAT REQUIRES LANDLORDS TO INCOME-QUALIFY TENANTS FOR INCOME-RESTRICTED RENTAL UNITS FROM GATHERING ANY FINANCIAL

INFORMATION ABOUT A PROSPECTIVE TENANT FOR THE PURPOSE OF DETERMINING THE PROSPECTIVE TENANT'S ELIGIBILITY FOR AN INCOME-RESTRICTED RENTAL UNIT IF THE FUNDING SOURCE REQUIRES THE LANDLORD TO COLLECT SUCH INFORMATION AS A CONDITION FOR THE RECEIPT OF FUNDING.

(1.8) A VIOLATION OF SUBSECTION (1)(c) OR (1)(d) OF THIS SECTION CONSTITUTES UNLAWFUL DISCRIMINATION AGAINST AN INDIVIDUAL ON THE BASIS OF THE INDIVIDUAL'S AMOUNT OF INCOME IN VIOLATION OF SECTION 24-34-502 (1)(q), FOR WHICH VIOLATION ENFORCEMENT, PENALTIES, AND OTHER RELIEF IS PROVIDED PURSUANT TO PARTS 3 AND 5 OF ARTICLE 34 OF TITLE 24 IN ADDITION TO ANY RELIEF PROVIDED UNDER THIS PART 9.

SECTION 2. In Colorado Revised Statutes, 38-12-902, **amend** (1); and **add** (1.5) and (1.7) as follows:

38-12-902. Definitions. As used in this part 9, unless the context otherwise requires:

(1) ~~"Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place~~ "AMOUNT OF INCOME" MEANS A TENANT'S OR PROSPECTIVE TENANT'S INCOME FROM SALARIES, WAGES, COMMISSIONS, PAYMENTS RECEIVED AS AN INDEPENDENT CONTRACTOR, BONUSES, OR A HOUSING SUBSIDY OR DERIVED FROM ANY OTHER PUBLIC OR PRIVATE SOURCE AND INCLUDES ALL OF A TENANT'S OR PROSPECTIVE TENANT'S CASH ASSETS.

(1.5) "DWELLING UNIT" MEANS A STRUCTURE OR THE PART OF A STRUCTURE THAT IS USED AS A HOME, RESIDENCE, OR SLEEPING PLACE.

(1.7) "HOUSING SUBSIDY" MEANS ANY PORTION OF A RENTAL PAYMENT THAT IS DERIVED FROM A PUBLIC OR PRIVATE ASSISTANCE, GRANT, OR LOAN PROGRAM AND THAT IS PAID BY THE PROGRAM DIRECTLY, INDIRECTLY, OR ON BEHALF OF A TENANT TO A LANDLORD.

SECTION 3. In Colorado Revised Statutes, 38-12-905, **amend** (1); and **add** (5) as follows:

38-12-905. Violations - liability - notice required - exceptions - no exhaustion of remedies required. (1) Except as described in

~~subsection (3)~~ SUBSECTIONS (3) AND (5) of this section, a landlord who violates any provision of this part 9 is liable to the person who is charged a rental application fee for treble the amount of the rental application fee, plus court costs and reasonable attorney fees.

(5) (a) A LANDLORD WHO VIOLATES SECTION 38-12-904 (1)(c) OR (1)(d) IS SUBJECT TO AN INITIAL PENALTY OF FIFTY DOLLARS, TO BE PAID TO THE PARTY AGGRIEVED BY THE VIOLATION. A LANDLORD WHO VIOLATES SECTION 38-12-904 (1)(c) OR (1)(d) AND DOES NOT CURE THE VIOLATION PURSUANT TO SUBSECTION (3) OF THIS SECTION IS ALSO SUBJECT TO A STATUTORY PENALTY OF TWO THOUSAND FIVE HUNDRED DOLLARS, TO BE PAID TO THE AGGRIEVED PARTY IN ADDITION TO THE INITIAL PENALTY IMPOSED UNDER THIS SUBSECTION (5)(a) AND ANY ECONOMIC DAMAGES, COURT COSTS, AND ATTORNEY FEES.

(b) THE RELIEF PROVIDED IN SUBSECTION (5)(a) OF THIS SECTION IS AN ALTERNATIVE TO AND IN ADDITION TO ANY OTHER RELIEF AUTHORIZED BY LAW, AND A PERSON WHO SEEKS REDRESS UNDER THIS SECTION IS NOT REQUIRED TO EXHAUST ADMINISTRATIVE REMEDIES.

SECTION 4. In Colorado Revised Statutes, 24-34-502, **amend** (1)(o) and (1)(p); and **add** (1)(q) as follows:

24-34-502. Unfair housing practices prohibited - definitions.

(1) It is an unfair housing practice, unlawful, and prohibited:

(o) For any person to represent to another person that any housing is not available for rent or lease when the housing is in fact available for the purpose of discriminating against the person on the basis of the person's source of income; ~~and~~

(p) For any person, for profit, to induce or attempt to induce another person to rent any housing by representations regarding the entry or prospective entry into the neighborhood of a person or persons with particular sources of income; OR

(q) FOR ANY PERSON TO VIOLATE SECTION 38-12-904 (1)(c) OR (1)(d).

SECTION 5. In Colorado Revised Statutes, **add** 38-12-102.5 as

follows:

38-12-102.5. Security deposits - maximum amount. ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, A LANDLORD SHALL NOT REQUIRE A TENANT TO SUBMIT A SECURITY DEPOSIT IN AN AMOUNT THAT EXCEEDS THE AMOUNT OF TWO MONTHLY RENT PAYMENTS UNDER THE RENTAL AGREEMENT.

SECTION 6. In Colorado Revised Statutes, 13-40-113, **add** (2.5) as follows:

13-40-113. Answer of defendant - additional and amended pleadings. (2.5) A DEFENDANT MAY ASSERT AS AN AFFIRMATIVE DEFENSE TO A PROCEEDING UNDER THIS ARTICLE 40 THAT THE LANDLORD VIOLATED OR IS IN VIOLATION OF A PROVISION OF PART 5 OF ARTICLE 34 OF TITLE 24.

SECTION 7. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to conduct that occurs on or after the applicable effective date of this act.

Steve Fenberg
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO