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
3rd 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. Double underlining denotes SENATE amendment.
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.

1   *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

MAY CONSIDER CHARGING A TENANT FOR THE OCCUPANCY OF A RESIDENTIAL PREMISES SHALL NOT USE NONPUBLIC COMPETITOR DATA PERTAINING TO RESIDENTIAL PROPERTIES IN COLORADO IN ALGORITHMIC CALCULATIONS.

(2) A VIOLATION OF SUBSECTION (1) OF THIS SECTION BY A PERSON THAT PROVIDES ALGORITHMIC DEVICE SERVICES OR PRODUCTS FOR THE PURPOSE OF SETTING OR RECOMMENDING THE AMOUNT OF RENT TO BE CHARGED TO A TENANT FOR THE OCCUPANCY OF RESIDENTIAL PREMISES, OR BY A PERSON ENGAGED IN THE BUSINESS OF PROVIDING ALGORITHMIC DEVICE SERVICES OR PRODUCTS THAT USE NONPUBLIC COMPETITOR DATA PERTAINING TO RESIDENTIAL PROPERTIES IN COLORADO IN THE PERSON'S USE OF ALGORITHMIC CALCULATIONS FOR THE PURPOSE OF ADVISING A LANDLORD OF THE AMOUNT OF RENT THAT THE LANDLORD MAY CONSIDER CHARGING A TENANT, IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE, AS DESCRIBED IN SECTION 6-1-105 (1)(eeee). A PERSON WHO COMMITS A VIOLATION IS SUBJECT TO ALL PENALTIES AND REMEDIES DESCRIBED IN THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6.

(3) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO AN ALGORITHMIC DEVICE THAT USES, INCORPORATES, OR WAS TRAINED WITH NONPUBLIC COMPETITOR DATA IF SUCH DATA INCLUDES NONPUBLIC EXECUTED LEASE DATA THAT IS ALSO MADE AVAILABLE TO THE GENERAL PUBLIC IN AN AGGREGATED AND ANONYMOUS MANNER AT NO MORE THAN A REASONABLE CHARGE. WHEN MADE AVAILABLE TO THE GENERAL PUBLIC, THE PRESENTATION OF SUCH NONPUBLIC EXECUTED LEASE DATA MAY BE TAILORED FOR THE BENEFIT OF AND USEFULNESS TO CONSUMERS AND PRESENTED AS A RANGE OF AVERAGE RENT PRICES FOR PROPERTIES IN A GEOGRAPHIC AREA DEFINED BY ITS ZIP CODE, NEIGHBORHOOD,

GEOGRAPHICAL RADIUS OF UP TO TEN MILES, OR OTHER TYPE OF APARTMENT INDUSTRY SUBMARKET.

(4) AS USED IN THIS SECTION:

(a) "ALGORITHMIC DEVICE" MEANS A DEVICE THAT USES ONE OR MORE ALGORITHMS TO PERFORM CALCULATIONS OF DATA, INCLUDING DATA CONCERNING LOCAL OR STATEWIDE RENT AMOUNTS BEING CHARGED TO TENANTS BY LANDLORDS, FOR THE PURPOSE OF ADVISING A LANDLORD CONCERNING THE AMOUNT OF RENT THAT THE LANDLORD MAY CONSIDER CHARGING A TENANT. "ALGORITHMIC DEVICE":

(I) INCLUDES A PRODUCT THAT INCORPORATES AN ALGORITHMIC DEVICE; AND

(II) DOES NOT INCLUDE:

(A) ANY REPORT PUBLISHED PERIODICALLY, BUT NO MORE FREQUENTLY THAN MONTHLY, BY A TRADE ASSOCIATION THAT RECEIVES RENTER DATA AND PUBLISHES IT IN AN AGGREGATED AND ANONYMOUS MANNER; OR

(B) A PRODUCT USED FOR THE PURPOSE OF ESTABLISHING RENT OR INCOME LIMITS IN ACCORDANCE WITH THE AFFORDABLE HOUSING PROGRAM GUIDELINES OF A LOCAL GOVERNMENT, THE STATE, THE FEDERAL GOVERNMENT, OR OTHER POLITICAL SUBDIVISION.

(b) "NONPUBLIC COMPETITOR DATA" MEANS INFORMATION THAT IS NOT WIDELY AVAILABLE OR EASILY ACCESSIBLE TO THE PUBLIC, INCLUDING INFORMATION ABOUT ACTUAL RENT PRICES, OCCUPANCY RATES, LEASE START AND END DATES, AND SIMILAR DATA, REGARDLESS OF WHETHER THE DATA ARE ATTRIBUTABLE TO A SPECIFIC COMPETITOR OR ANONYMIZED, AND THAT IS DERIVED FROM OR OTHERWISE PROVIDED BY ANOTHER PERSON THAT COMPETES IN THE SAME MARKET AS A PERSON, OR

A RELATED MARKET.

(c) "RENT" MEANS THE TOTAL AMOUNT OF RENT, INCLUDING CONCESSIONS AND FEES, THAT A RESIDENTIAL TENANT IS REQUIRED TO PAY PURSUANT TO A RENTAL AGREEMENT.

SECTION 3. In Colorado Revised Statutes, 6-1-105, **add** (1)(eeee) as follows:

6-1-105. Unfair or deceptive trade practices. (1) A person engages in a deceptive trade practice when, in the course of the person's business, vocation, or occupation, the person:

(eeee) VIOLATES OR ASSISTS ANOTHER PERSON IN VIOLATING SECTION 38-12-703 CONCERNING THE USE OF AN ALGORITHMIC DEVICE TO DETERMINE THE AMOUNT OF RENT TO CHARGE A TENANT FOR THE OCCUPANCY OF A RESIDENTIAL PREMISES.

SECTION 4. 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 a landlord's calculation of the amount of rent that the landlord charges for the occupancy of a residential premises pursuant to any rental agreement that is executed on or after the applicable effective date of this act.