

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 23-0743.01 Richard Sweetman x4333

SENATE BILL 23-184

SENATE SPONSORSHIP

Winter F.,

HOUSE SPONSORSHIP

Froelich and Garcia,

Senate Committees

Local Government & Housing

House Committees

A BILL FOR AN ACT

101 CONCERNING PROTECTIONS FOR RESIDENTIAL TENANTS, AND, IN
102 CONNECTION THEREWITH, PROHIBITING A LANDLORD FROM
103 CONSIDERING CERTAIN INFORMATION RELATING TO A
104 PROSPECTIVE TENANT'S INCOME OR RENTAL HISTORY,
105 ESTABLISHING A MAXIMUM AMOUNT THAT A LANDLORD CAN
106 REQUIRE AS A SECURITY DEPOSIT, ALLOWING TENANTS TO PAY
107 SECURITY DEPOSITS IN INSTALLMENTS, AND ALLOWING A
108 TENANT TO ASSERT AS AN AFFIRMATIVE DEFENSE IN AN
109 EVICTION PROCEEDING THAT A LANDLORD VIOLATED
110 ANTI-DISCRIMINATORY HOUSING LAWS.

Bill Summary

(Note: This summary applies to this bill as introduced and does

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.

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>.)

Section 1 of the bill restricts a landlord from considering or inquiring about certain information relating to a prospective tenant's rental history, amount of income, and credit history. **Section 1** also requires a landlord who solicits and accepts rental applications for the rental of a residential premises to rent to the first prospective tenant who applies and satisfies the landlord's financial and other rental screening criteria. A landlord must keep records of when rental applications are received and provide a time-stamped receipt to any prospective tenant who submits a rental application and requests such a receipt.

Section 2 defines the terms "amount of income" and "housing subsidy" for the purposes of the bill.

Section 3 states that a landlord who violates any of the bill's new prohibitions is subject to an initial penalty of \$50, to be paid to the aggrieved party. A landlord who does not cure the violation is also subject to a statutory penalty of \$5,000, to be paid to the aggrieved party in addition to the initial penalty and any economic damages, court costs, and attorney fees.

Sections 1 and 4 establish that a violation of any of the bill's new prohibitions is an unfair housing practice subject to enforcement by private persons, the attorney general, and the Colorado civil rights division.

Section 5 requires a landlord to allow a tenant to pay a security deposit in monthly installments over a period that is equal to half the term of the tenancy. **Section 5** also prohibits a landlord from requiring a tenant to submit a security deposit in an amount that exceeds the amount of one monthly rent payment under the rental agreement.

Sections 6 and 7 establish that a tenant who alleges that the tenant's landlord has violated or is in violation of any state laws concerning unfair housing practices has an affirmative defense against an eviction action.

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

2 **SECTION 1.** In Colorado Revised Statutes, 38-12-904, **amend**
3 (1)(a); and **add** (1)(c), (1)(d), (1)(e), (1)(f), (1)(g), and (1.5) as follows:

4 **38-12-904. Consideration of rental applications - limitations**
5 **- denial notice.** (1) (a) If a landlord uses rental history or credit history

1 as criteria in consideration of an application, the landlord shall not
2 consider any rental history or credit history beyond seven years
3 immediately preceding the date of the application AND THE LANDLORD
4 MUST COMPLY WITH SUBSECTIONS (1)(c), (1)(d), (1)(e), AND (1)(f) OF THIS
5 SECTION.

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

11 (I) PRIOR RENTAL HISTORY INVOLVING NONPAYMENT OR LATE
12 PAYMENT OF RENT;

13 (II) AMOUNT OF INCOME;

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

17 (d) IF A LANDLORD USES FINANCIAL INFORMATION, INCLUDING
18 RENTAL HISTORY OR CREDIT HISTORY, AS A CRITERION IN CONSIDERATION
19 OF A RENTAL APPLICATION FROM ANY PROSPECTIVE TENANT WHO IS
20 SEEKING TO RENT WITHOUT THE ASSISTANCE OF A HOUSING SUBSIDY, THE
21 LANDLORD SHALL NOT CONSIDER OR INQUIRE ABOUT THE PROSPECTIVE
22 TENANT'S AMOUNT OF INCOME, EXCEPT FOR THE PURPOSE OF DETERMINING
23 THAT THE PROSPECTIVE TENANT'S ANNUAL AMOUNT OF INCOME EQUALS
24 OR EXCEEDS ONE HUNDRED TWENTY-FIVE PERCENT OF THE ANNUAL COST
25 OF RENT. A LANDLORD SHALL NOT REQUIRE A PROSPECTIVE TENANT TO
26 HAVE AN ANNUAL AMOUNT OF INCOME THAT EXCEEDS ONE HUNDRED
27 TWENTY-FIVE PERCENT OF THE ANNUAL COST OF RENT.

1 (e) A LANDLORD SHALL CONSIDER A PROSPECTIVE TENANT'S
2 RENTAL APPLICATION BASED ON THE TOTALITY OF THE CIRCUMSTANCES
3 ON AN INDIVIDUALIZED BASIS, INCLUDING SUCH FACTORS AS A
4 PROSPECTIVE TENANT'S CASH ASSETS, A TENANT'S ABILITY TO PROVIDE
5 PREPAYMENT OF RENT, AND A DEMONSTRATION OF POSITIVE RENTAL
6 HISTORY.

7 (f) A LANDLORD SHALL NOT REJECT A PROSPECTIVE TENANT FOR
8 FINANCIAL REASONS IF:

9 (I) THE PROSPECTIVE TENANT HAS A COSIGNER WHO SATISFIES THE
10 LANDLORD'S FINANCIAL CRITERIA; OR

11 (II) THE PROSPECTIVE TENANT PROVIDES DOCUMENTATION THAT
12 THE PROSPECTIVE TENANT'S RENT HAS BEEN PAID TIMELY FOR THE LAST
13 THREE MONTHS OF THE PROSPECTIVE TENANT'S MOST RECENT TENANCY.
14 FOR THE PURPOSES OF THIS SUBSECTION (1)(f)(II), A RENT PAYMENT IS
15 CONSIDERED TIMELY IF THE PAYMENT WOULD NOT BE SUBJECT TO A LATE
16 FEE UNDER SECTION 38-12-105.

17 (g) A LANDLORD WHO SOLICITS AND ACCEPTS RENTAL
18 APPLICATIONS FOR THE RENTAL OF A RESIDENTIAL PREMISES SHALL ENTER
19 INTO A RENTAL AGREEMENT WITH THE FIRST PROSPECTIVE TENANT WHO
20 APPLIES AND SATISFIES THE LANDLORD'S FINANCIAL AND OTHER RENTAL
21 SCREENING CRITERIA. A LANDLORD SHALL KEEP RECORDS OF WHEN
22 RENTAL APPLICATIONS ARE RECEIVED AND PROVIDE A TIME-STAMPED
23 RECEIPT TO ANY PROSPECTIVE TENANT WHO SUBMITS A RENTAL
24 APPLICATION AND REQUESTS SUCH A RECEIPT. IF A LANDLORD DOES NOT
25 PROVIDE A TIME-STAMPED RECEIPT UPON THE REQUEST OF A PROSPECTIVE
26 TENANT, THERE IS A REBUTTABLE PRESUMPTION THAT THE LANDLORD HAS
27 VIOLATED THIS SUBSECTION (1)(g).

1 (1.5) A VIOLATION OF SUBSECTION (1)(c), (1)(d), (1)(e), (1)(f), OR
2 (1)(g) OF THIS SECTION CONSTITUTES UNLAWFUL DISCRIMINATION
3 AGAINST AN INDIVIDUAL ON THE BASIS OF THE INDIVIDUAL'S AMOUNT OF
4 INCOME IN VIOLATION OF SECTION 24-34-502 (1)(q), FOR WHICH
5 VIOLATION ENFORCEMENT, PENALTIES, AND OTHER RELIEF IS PROVIDED
6 PURSUANT TO PARTS 3 AND 5 OF ARTICLE 34 OF TITLE 24 IN ADDITION TO
7 ANY RELIEF PROVIDED UNDER THIS PART 9.

8 **SECTION 2.** In Colorado Revised Statutes, 38-12-902, **amend**
9 (1); and **add** (1.3) and (1.5) as follows:

10 **38-12-902. Definitions.** As used in this part 9, unless the context
11 otherwise requires:

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

19 (1.3) "DWELLING UNIT" MEANS A STRUCTURE OR THE PART OF A
20 STRUCTURE THAT IS USED AS A HOME, RESIDENCE, OR SLEEPING PLACE.

21 (1.5) "HOUSING SUBSIDY" MEANS ANY PORTION OF A RENTAL
22 PAYMENT THAT IS DERIVED FROM A PUBLIC OR PRIVATE ASSISTANCE,
23 GRANT, OR LOAN PROGRAM AND THAT IS PAID BY THE PROGRAM DIRECTLY,
24 INDIRECTLY, OR ON BEHALF OF A TENANT TO A LANDLORD.

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

27 **38-12-905. Violations - liability - notice required - exceptions**

1 - **no exhaustion of remedies required.** (1) Except as described in
2 ~~subsection (3)~~ SUBSECTIONS (3) AND (5) of this section, a landlord who
3 violates any provision of this part 9 is liable to the person who is charged
4 a rental application fee for treble the amount of the rental application fee,
5 plus court costs and reasonable attorney fees.

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

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

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

21 **24-34-502. Unfair housing practices prohibited - definitions.**

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

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

27 (p) For any person, for profit, to induce or attempt to induce

1 another person to rent any housing by representations regarding the entry
2 or prospective entry into the neighborhood of a person or persons with
3 particular sources of income; OR

4 (q) FOR ANY PERSON TO VIOLATE SECTION 38-12-904 (1)(c),
5 (1)(d), (1)(e), (1)(f), OR (1)(g).

6 **SECTION 5.** In Colorado Revised Statutes, **add** 38-12-102.5 as
7 follows:

8 **38-12-102.5. Security deposits - maximum amount - payment**
9 **in installments.** (1) ON AND AFTER THE EFFECTIVE DATE OF THIS
10 SECTION, A LANDLORD:

11 (a) SHALL ALLOW A TENANT TO PAY A SECURITY DEPOSIT IN
12 MONTHLY INSTALLMENTS OVER A PERIOD THAT IS EQUAL TO HALF THE
13 TERM OF THE TENANCY; AND

14 (b) SHALL NOT REQUIRE A TENANT TO SUBMIT A SECURITY DEPOSIT
15 IN AN AMOUNT THAT EXCEEDS THE AMOUNT OF ONE MONTHLY RENT
16 PAYMENT UNDER THE RENTAL AGREEMENT.

17 **SECTION 6.** In Colorado Revised Statutes, **add** 24-34-511 as
18 follows:

19 **24-34-511. Alleged violations - affirmative defense to eviction**
20 **proceedings.** AS SET FORTH IN SECTION 13-40-113 (2.5), A TENANT THAT
21 ALLEGES THAT THE TENANT'S LANDLORD HAS VIOLATED OR IS IN
22 VIOLATION OF ANY PROVISION OF THIS PART 5 HAS AN AFFIRMATIVE
23 DEFENSE AGAINST AN EVICTION ACTION INITIATED UNDER ARTICLE 40 OF
24 TITLE 13.

25 **SECTION 7.** In Colorado Revised Statutes, 13-40-113, **add** (2.5)
26 as follows:

27 **13-40-113. Answer of defendant - additional and amended**

1 **pleadings.** (2.5) A DEFENDANT MAY ASSERT AS AN AFFIRMATIVE DEFENSE
2 TO A PROCEEDING UNDER THIS ARTICLE 40 THAT THE LANDLORD VIOLATED
3 OR IS IN VIOLATION OF A PROVISION OF PART 5 OF ARTICLE 34 OF TITLE 24.

4 **SECTION 8. Act subject to petition - effective date -**
5 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
6 the expiration of the ninety-day period after final adjournment of the
7 general assembly; except that, if a referendum petition is filed pursuant
8 to section 1 (3) of article V of the state constitution against this act or an
9 item, section, or part of this act within such period, then the act, item,
10 section, or part will not take effect unless approved by the people at the
11 general election to be held in November 2024 and, in such case, will take
12 effect on the date of the official declaration of the vote thereon by the
13 governor.

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