

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 23-0743.01 Richard Sweetman x4333

SENATE BILL 23-184

SENATE SPONSORSHIP

Winter F. and Exum, Cutter, Gonzales, Jaquez Lewis, Moreno

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, AND ALLOWING A TENANT TO**
107 **ASSERT AS AN AFFIRMATIVE DEFENSE IN AN EVICTION**
108 **PROCEEDING THAT A LANDLORD VIOLATED**
109 **ANTI-DISCRIMINATORY HOUSING LAWS.**

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

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.*

SENATE
3rd Reading Unamended
April 17, 2023

SENATE
Amended 2nd Reading
April 14, 2023

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), 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
6 as criteria in consideration of an application, the landlord shall not

1 consider any rental history or credit history beyond seven years
2 immediately preceding the date of the application AND THE LANDLORD
3 MUST COMPLY WITH SUBSECTIONS (1)(c) AND (1)(d) OF THIS SECTION.

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

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

14 (II) 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 TWO HUNDRED PERCENT OF THE ANNUAL COST OF RENT. A
25 LANDLORD SHALL NOT REQUIRE A PROSPECTIVE TENANT TO HAVE AN
26 ANNUAL AMOUNT OF INCOME THAT EXCEEDS TWO HUNDRED PERCENT OF
27 THE ANNUAL COST OF RENT.

1 (e) NOTWITHSTANDING SUBSECTIONS (1)(c) AND (1)(d) OF THIS
2 SECTION, NOTHING IN SAID SUBSECTIONS PRECLUDES A LANDLORD WHO IS
3 RECEIVING FUNDING FROM A GOVERNMENTAL ENTITY,
4 QUASI-GOVERNMENTAL ENTITY, OR NONPROFIT ORGANIZATION THAT
5 REQUIRES LANDLORDS TO INCOME-QUALIFY TENANTS FOR
6 INCOME-RESTRICTED RENTAL UNITS FROM GATHERING ANY FINANCIAL
7 INFORMATION ABOUT A PROSPECTIVE TENANT FOR THE PURPOSE OF
8 DETERMINING THE PROSPECTIVE TENANT'S ELIGIBILITY FOR AN
9 INCOME-RESTRICTED RENTAL UNIT IF THE FUNDING SOURCE REQUIRES THE
10 LANDLORD TO COLLECT SUCH INFORMATION AS A CONDITION FOR THE
11 RECEIPT OF FUNDING.

12 (1.5) A VIOLATION OF SUBSECTION (1)(c) OR (1)(d) OF THIS
13 SECTION CONSTITUTES UNLAWFUL DISCRIMINATION AGAINST AN
14 INDIVIDUAL ON THE BASIS OF THE INDIVIDUAL'S AMOUNT OF INCOME IN
15 VIOLATION OF SECTION 24-34-502 (1)(q), FOR WHICH VIOLATION
16 ENFORCEMENT, PENALTIES, AND OTHER RELIEF IS PROVIDED PURSUANT TO
17 PARTS 3 AND 5 OF ARTICLE 34 OF TITLE 24 IN ADDITION TO ANY RELIEF
18 PROVIDED UNDER THIS PART 9.

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

21 **38-12-902. Definitions.** As used in this part 9, unless the context
22 otherwise requires:

23 (1) "~~Dwelling unit~~" means a structure or the part of a structure that
24 ~~is used as a home, residence, or sleeping place~~ "AMOUNT OF INCOME"
25 MEANS A TENANT'S OR PROSPECTIVE TENANT'S INCOME FROM SALARIES,
26 WAGES, COMMISSIONS, PAYMENTS RECEIVED AS AN INDEPENDENT
27 CONTRACTOR, BONUSES, OR A HOUSING SUBSIDY OR DERIVED FROM ANY

1 OTHER PUBLIC OR PRIVATE SOURCE AND INCLUDES ALL OF A TENANT'S OR
2 PROSPECTIVE TENANT'S CASH ASSETS.

3 (1.3) "DWELLING UNIT" MEANS A STRUCTURE OR THE PART OF A
4 STRUCTURE THAT IS USED AS A HOME, RESIDENCE, OR SLEEPING PLACE.

5 (1.5) "HOUSING SUBSIDY" MEANS ANY PORTION OF A RENTAL
6 PAYMENT THAT IS DERIVED FROM A PUBLIC OR PRIVATE ASSISTANCE,
7 GRANT, OR LOAN PROGRAM AND THAT IS PAID BY THE PROGRAM DIRECTLY,
8 INDIRECTLY, OR ON BEHALF OF A TENANT TO A LANDLORD.

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

11 **38-12-905. Violations - liability - notice required - exceptions**
12 **- no exhaustion of remedies required.** (1) Except as described in
13 ~~subsection (3)~~ SUBSECTIONS (3) AND (5) of this section, a landlord who
14 violates any provision of this part 9 is liable to the person who is charged
15 a rental application fee for treble the amount of the rental application fee,
16 plus court costs and reasonable attorney fees.

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

26 (b) THE RELIEF PROVIDED IN SUBSECTION (5)(a) OF THIS SECTION
27 IS AN ALTERNATIVE TO AND IN ADDITION TO ANY OTHER RELIEF

1 AUTHORIZED BY LAW, AND A PERSON WHO SEEKS REDRESS UNDER THIS
2 SECTION IS NOT REQUIRED TO EXHAUST ADMINISTRATIVE REMEDIES.

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

5 **24-34-502. Unfair housing practices prohibited - definitions.**

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

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

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

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

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

19 **38-12-102.5. Security deposits - maximum amount. ON AND**
20 **AFTER THE EFFECTIVE DATE OF THIS SECTION, A LANDLORD SHALL NOT**
21 **REQUIRE A TENANT TO SUBMIT A SECURITY DEPOSIT IN AN AMOUNT THAT**
22 **EXCEEDS THE AMOUNT OF TWO MONTHLY RENT PAYMENTS UNDER THE**
23 **RENTAL AGREEMENT.**

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

26 **13-40-113. Answer of defendant - additional and amended**
27 **pleadings.** (2.5) A DEFENDANT MAY ASSERT AS AN AFFIRMATIVE DEFENSE

1 TO A PROCEEDING UNDER THIS ARTICLE 40 THAT THE LANDLORD VIOLATED
2 OR IS IN VIOLATION OF A PROVISION OF PART 5 OF ARTICLE 34 OF TITLE 24.

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

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