ENGROSSED

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

LLS NO. 24-0451.01 Richard Sweetman x4333 — **HOUSE BILL 24-1057**

HOUSE SPONSORSHIP

Woodrow and Mabrey,

SENATE SPONSORSHIP

Gonzales,

House Committees	Senate Committees
Transportation, Housing & Local Government	

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

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 - use of algorithmic**

16   **device in setting rent amount prohibited - unfair or deceptive trade**

17   **practice - definition.** (1) IN SETTING THE AMOUNT OF RENT TO BE

18   CHARGED TO A TENANT FOR THE OCCUPANCY OF A RESIDENTIAL PREMISES,

19   INCLUDING DETERMINING ANY CHANGE IN THE AMOUNT OF RENT TO BE

20   CHARGED FOR THE RENEWED OCCUPANCY OF A RESIDENTIAL PREMISES, A

21   LANDLORD SHALL NOT EMPLOY, USE, OR RELY UPON, OR CAUSE ANOTHER

22   PERSON TO EMPLOY, USE, OR RELY UPON, AN ALGORITHMIC DEVICE THAT

23   USES, INCORPORATES, OR WAS TRAINED WITH NONPUBLIC COMPETITOR

1 DATA.

2 (2) A VIOLATION OF SUBSECTION (1) OF THIS SECTION IS AN UNFAIR

3 OR DECEPTIVE TRADE PRACTICE, AS DESCRIBED IN SECTION 6-1-105

4 (1)(eeee), AND A PERSON WHO COMMITS A VIOLATION IS SUBJECT TO ALL

5 PENALTIES AND REMEDIES DESCRIBED IN THE "COLORADO CONSUMER

6 PROTECTION ACT", ARTICLE 1 OF TITLE 6.

7 (3) AS USED IN THIS SECTION:

8 (a) "ALGORITHMIC DEVICE" MEANS A DEVICE THAT USES ONE OR

9 MORE ALGORITHMS TO PERFORM CALCULATIONS OF DATA, INCLUDING

10 DATA CONCERNING LOCAL OR STATEWIDE RENT AMOUNTS BEING CHARGED

11 TO TENANTS BY LANDLORDS, FOR THE PURPOSE OF ADVISING A LANDLORD

12 CONCERNING THE AMOUNT OF RENT THAT THE LANDLORD MAY CONSIDER

13 CHARGING A TENANT. "ALGORITHMIC DEVICE":

14 (I) INCLUDES A PRODUCT THAT INCORPORATES AN ALGORITHMIC

15 DEVICE; AND

16 (II) DOES NOT INCLUDE:

17 (A) ANY REPORT PUBLISHED PERIODICALLY, BUT NO MORE

18 FREQUENTLY THAN MONTHLY, BY A TRADE ASSOCIATION THAT RECEIVES

19 RENTER DATA AND PUBLISHES IT IN AN AGGREGATED AND ANONYMOUS

20 MANNER; OR

21 (B) A PRODUCT USED FOR THE PURPOSE OF ESTABLISHING RENT OR

22 INCOME LIMITS IN ACCORDANCE WITH THE AFFORDABLE HOUSING

23 PROGRAM GUIDELINES OF A LOCAL GOVERNMENT, THE STATE, THE

24 FEDERAL GOVERNMENT, OR OTHER POLITICAL SUBDIVISION.

25 (b) "NONPUBLIC COMPETITOR DATA" MEANS INFORMATION THAT

26 IS NOT WIDELY AVAILABLE OR EASILY ACCESSIBLE TO THE PUBLIC,

27 INCLUDING INFORMATION ABOUT ACTUAL RENT PRICES, OCCUPANCY

1 RATES, LEASE START AND END DATES, AND SIMILAR DATA, REGARDLESS OF

2 WHETHER THE DATA ARE ATTRIBUTABLE TO A SPECIFIC COMPETITOR OR

3 ANONYMIZED, AND THAT IS DERIVED FROM OR OTHERWISE PROVIDED BY

4 ANOTHER PERSON THAT COMPETES IN THE SAME MARKET AS A PERSON, OR

5 A RELATED MARKET.

6 (c) "RENT" MEANS THE TOTAL AMOUNT OF RENT, INCLUDING

7 CONCESSIONS AND FEES, THAT A RESIDENTIAL TENANT IS REQUIRED TO

8 PAY PURSUANT TO A RENTAL AGREEMENT.

9 **SECTION 3.** In Colorado Revised Statutes, 6-1-105, **add**

10 (1)(eeee) as follows:

11 **6-1-105. Unfair or deceptive trade practices.** (1) A person

12 engages in a deceptive trade practice when, in the course of the person's

13 business, vocation, or occupation, the person:

14 (eeee) VIOLATES OR ASSISTS ANOTHER PERSON IN VIOLATING

15 SECTION 38-12-703 CONCERNING THE USE OF AN ALGORITHMIC DEVICE TO

16 DETERMINE THE AMOUNT OF RENT TO CHARGE A TENANT FOR THE

17 OCCUPANCY OF A RESIDENTIAL PREMISES.

18 **SECTION 4. Act subject to petition - effective date -**

19 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following

20 the expiration of the ninety-day period after final adjournment of the

21 general assembly; except that, if a referendum petition is filed pursuant

22 to section 1 (3) of article V of the state constitution against this act or an

23 item, section, or part of this act within such period, then the act, item,

24 section, or part will not take effect unless approved by the people at the

25 general election to be held in November 2024 and, in such case, will take

26 effect on the date of the official declaration of the vote thereon by the

27 governor.

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