

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

February 20, 2025
Date

Committee on Business Affairs & Labor.

After consideration on the merits, the Committee recommends the following:

HB25-1004 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1. Legislative declaration.** (1) The general
4 assembly finds that:

5 (a) Agreements or conspiracies between competitors to fix prices
6 or other commercial terms are illegal under current Colorado law, and
7 algorithmic devices have made illegal agreements more challenging to
8 detect; and

9 (b) In recent years, several lawsuits have been filed alleging that
10 the use of algorithmic devices by landlords to set prices and other
11 commercial terms in the residential housing market results in higher rents
12 and constrained housing supply for residential tenants; and

13 (c) A recent White House study titled "The Cost of
14 Anticompetitive Pricing Algorithms in Rental Housing" estimated that in
15 2023, the cost to renters of anticompetitive pricing was \$3.8 billion, and
16 the cost to renters in the Denver metro area was the second highest of any
17 metro area in the country.

18 (2) Therefore, the general assembly declares that, with certain
19 exceptions, the distribution and use of an algorithmic device by a service
20 provider or landlord to set rents and other certain commercial terms
21 regarding the occupancy of rental housing is prohibited.

22 **SECTION 2.** In Colorado Revised Statutes, **add** 38-12-703 as
23 follows:

24 **38-12-703. Determination of rent amount - sale, distribution,**
25 **and use of algorithmic devices prohibited - illegal restraint of trade**
26 **or commerce - definitions.** (1) (a) THE SALE OR DISTRIBUTION FOR
27 CONSIDERATION OF AN ALGORITHMIC DEVICE WITH THE INTENT THAT IT BE

1 USED BY TWO OR MORE LANDLORDS IN THE SAME MARKET OR A RELATED
2 MARKET TO SET OR RECOMMEND THE AMOUNT OF RENT, LEVEL OF
3 OCCUPANCY, OR OTHER COMMERCIAL TERM ASSOCIATED WITH THE
4 OCCUPANCY OF A RESIDENTIAL PREMISES IS PROHIBITED.

5 (b) THE USE OF AN ALGORITHMIC DEVICE BY A PERSON TO SET OR
6 RECOMMEND THE AMOUNT OF RENT, LEVEL OF OCCUPANCY, OR OTHER
7 COMMERCIAL TERM ASSOCIATED WITH THE OCCUPANCY OF A RESIDENTIAL
8 PREMISES IS PROHIBITED IF THE PERSON KNEW OR SHOULD HAVE KNOWN
9 THAT ANOTHER PERSON USED THE ALGORITHMIC DEVICE, OR AN
10 ALGORITHMIC DEVICE TRAINED ON SUBSTANTIALLY SIMILAR DATA, TO SET
11 OR RECOMMEND THE AMOUNT OF RENT, LEVEL OF OCCUPANCY, OR OTHER
12 COMMERCIAL TERM ASSOCIATED WITH THE OCCUPANCY OF A RESIDENTIAL
13 PREMISES IN THE SAME MARKET OR A RELATED MARKET.

14 (c) A PERSON ENGAGED IN THE BUSINESS OF PROVIDING
15 ALGORITHMIC DEVICE SERVICES OR PRODUCTS THAT ARE USED TO SET OR
16 RECOMMEND THE AMOUNT OF RENT, LEVEL OF OCCUPANCY, OR OTHER
17 COMMERCIAL TERM ASSOCIATED WITH THE OCCUPANCY OF A RESIDENTIAL
18 PREMISES SHALL NOT USE NONPUBLIC COMPETITOR DATA PERTAINING TO
19 RESIDENTIAL PROPERTIES IN COLORADO IN ALGORITHMIC CALCULATIONS.

20 (2) A VIOLATION OF SUBSECTION (1) OF THIS SECTION IS AN
21 ILLEGAL RESTRAINT OF TRADE OR COMMERCE IN VIOLATION OF SECTION
22 6-4-104 AND IS PUNISHABLE IN ACCORDANCE WITH THE "COLORADO
23 STATE ANTITRUST ACT OF 2023", ARTICLE 4 OF TITLE 6.

24 (3) AS USED IN THIS SECTION:

25 (a) "ALGORITHMIC DEVICE" MEANS A DEVICE THAT USES ONE OR
26 MORE ALGORITHMS TO PERFORM CALCULATIONS OF DATA, INCLUDING
27 DATA CONCERNING LOCAL OR STATEWIDE RENT AMOUNTS BEING CHARGED
28 TO TENANTS BY LANDLORDS, FOR THE PURPOSE OF ADVISING A LANDLORD
29 CONCERNING THE AMOUNT OF RENT, LEVEL OF OCCUPANCY, OR OTHER
30 COMMERCIAL TERM ASSOCIATED WITH RENTAL HOUSING. "ALGORITHMIC
31 DEVICE":

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

34 (II) DOES NOT INCLUDE:

35 (A) A PRODUCT THAT PROVIDES INFORMATION TO THE PUBLIC AND
36 NOT FOR THE PURPOSE OF RECOMMENDING OR SETTING A COMMERCIAL
37 TERM BY TWO OR MORE PERSONS IN THE SAME MARKET OR A RELATED
38 MARKET, SO LONG AS THE INFORMATION WAS NOT TRAINED USING
39 NONPUBLIC COMPETITOR DATA; OR

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

1 (b) "NONPUBLIC COMPETITOR DATA" MEANS NONPUBLIC DATA,
2 INCLUDING INFORMATION ABOUT ACTUAL RENT PRICES, OCCUPANCY
3 RATES, LEASE START AND END DATES, AND SIMILAR DATA, REGARDLESS OF
4 WHETHER THE DATA ARE ATTRIBUTABLE TO A SPECIFIC COMPETITOR OR
5 ANONYMIZED, THAT ARE DERIVED FROM OR OTHERWISE PROVIDED BY A
6 PERSON THAT COMPETES IN THE SAME MARKET, OR IN A RELATED MARKET,
7 AS ANOTHER PERSON.

8 (c) "NONPUBLIC DATA" MEANS INFORMATION THAT IS NOT WIDELY
9 AVAILABLE OR EASILY ACCESSIBLE TO THE PUBLIC, INCLUDING
10 PUBLIC-FACING DATA MADE AVAILABLE UNDER TERMS OF SERVICE THAT
11 PROHIBIT THE USE OF THAT DATA.

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

15 **SECTION 3.** In Colorado Revised Statutes, **add 6-4-123** as
16 follows:

17 **6-4-123. Pleading standards.** A PLAINTIFF PLAUSIBLY PLEADS A
18 VIOLATION OF SECTION 6-4-104 IF THE COMPLAINT CONTAINS FACTUAL
19 ALLEGATIONS DEMONSTRATING THAT THE EXISTENCE OF A CONTRACT,
20 COMBINATION IN THE FORM OF TRUST OR OTHERWISE, OR CONSPIRACY IN
21 RESTRAINT OF TRADE OR COMMERCE IS AMONG THE REALM OF PLAUSIBLE
22 POSSIBILITIES. A PLAINTIFF NEED NOT ALLEGE FACTS TENDING TO
23 EXCLUDE THE POSSIBILITY OF INDEPENDENT ACTION.

24 **SECTION 4. Act subject to petition - effective date -**
25 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
26 the expiration of the ninety-day period after final adjournment of the
27 general assembly; except that, if a referendum petition is filed pursuant
28 to section 1 (3) of article V of the state constitution against this act or an
29 item, section, or part of this act within such period, then the act, item,
30 section, or part will not take effect unless approved by the people at the
31 general election to be held in November 2026 and, in such case, will take
32 effect on the date of the official declaration of the vote thereon by the
33 governor.

34 (2) This act applies to conduct occurring on or after the applicable
35 effective date of this act."

36 Page 1, strike lines 101 through 107 and substitute "**CONCERNING**
37 **PRICING COORDINATION BY LANDLORDS.**".

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