
HOUSE BILL 2622

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By Representatives Orwall, Rolfes, Darneille, Pettigrew, Morrell, Hasegawa, Ormsby, and Moeller

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1 AN ACT Relating to protecting consumers from unfair practices by
2 establishing criteria for the dissemination of credit and court record
3 information contained in a consumer's tenant screening report; amending
4 RCW 19.182.110; adding new sections to chapter 19.182 RCW; creating new
5 sections; repealing RCW 59.18.257; and prescribing penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds that residential
8 landlords frequently use a type of credit report more commonly known as
9 a tenant screening report in evaluating and selecting tenants for their
10 rental properties. These tenant screening reports frequently contain
11 misleading, incomplete, or inaccurate information about: Eviction
12 lawsuits where the landlord was unsuccessful and the tenant prevailed;
13 protection orders the tenant obtained for protection against domestic
14 violence, stalking, or sexual assault; or other court records that,
15 although not predictive of an applicant's suitability for a residential
16 tenancy, are often cited by housing providers as a basis for rejecting
17 rental applicants. This use of court records unfairly diminishes the
18 housing opportunities of many qualified rental applicants, and impairs
19 the access of residential tenants to their day in court. These court

1 records threaten a tenant's future housing prospects irrespective as to
2 the outcome of an action. The costs of tenant screening are passed on
3 to applicants in the form of screening fees, and applicants who apply
4 at multiple housing providers must pay repeated screening fees for
5 successive reports containing the same information.

6 NEW SECTION. **Sec. 2.** This act may be known and cited as the fair
7 tenant screening act.

8 NEW SECTION. **Sec. 3.** A new section is added to chapter 19.182 RCW
9 to read as follows:

10 The definitions in this section apply throughout this section and
11 RCW 19.182.005 through 19.182.150 unless the context clearly requires
12 otherwise.

13 (1) "Comprehensive screening report" means a tenant screening
14 report that contains all of the following:

15 (a) A consumer report concerning the prospective tenant prepared by
16 a nationwide consumer reporting agency no more than ninety days
17 preceding the date of the tenant screening;

18 (b) A report containing the prospective tenant's criminal history;
19 and

20 (c) A report containing the prospective tenant's eviction history.

21 (2) "Criminal history" means a report containing or summarizing the
22 contents of any records of the prospective tenant's arrest, indictment,
23 criminal conviction, or other adjudication of a crime, including
24 registration or duty to register as a sex offender with any state, if
25 any, obtained after a search for such records in every state where the
26 prospective tenant has reported living in the seven years preceding the
27 report date.

28 (3) "Eviction history" means a report containing or summarizing the
29 contents of any records of eviction suits or judicial foreclosure
30 actions concerning the prospective tenant, obtained after a search for
31 such records in every state where the prospective tenant has reported
32 living in the seven years preceding the report date.

33 (4) "Eviction suit" means a civil action for unlawful detainer,
34 forcible detainer, ejectment, or other claim in which the plaintiff
35 seeks to gain or recover possession of residential real property from
36 one or more defendants.

1 (5) "Nationwide consumer reporting agency" has the same meaning as
2 the term "consumer reporting agency that compiles and maintains files
3 on consumers on a nationwide basis" is defined in 15 U.S.C. Sec.
4 1681a(p).

5 (6) "Prospective landlord" means a landlord, as defined in RCW
6 59.18.030, or a person who advertises, solicits, offers, or otherwise
7 holds a dwelling unit out as available for rent to a prospective
8 tenant.

9 (7) "Prospective tenant" means a tenant or a person who has applied
10 for residential housing governed under chapter 59.18 RCW.

11 (8) "Qualified victim protection records" means:

12 (a) Records or information concerning any judicial or
13 administrative proceeding in which the person, about whom the records
14 or information pertains, sought to obtain any order of protection from
15 domestic violence, sexual assault, stalking, harassment, or other
16 violent crime, including any petition or action for a protection order
17 under chapter 9A.46, 10.14, 10.99, 26.09, 26.26, or 26.50 RCW, or any
18 other law;

19 (b) Records or information concerning any judicial or
20 administrative proceeding in which the person, about whom the records
21 or information pertains, exercised or attempted to exercise any right
22 or obtain any benefit available specifically or exclusively to victims
23 of violence, such as, but not limited to, the early termination of a
24 rental agreement under RCW 59.18.575;

25 (c) Records or information indicating that the person, about whom
26 the records or information pertains, asserted that a claim or defense
27 was available to the person in any judicial or administrative
28 proceeding by reason of the person's status as a victim of violence,
29 such as in a proceeding under chapter 49.60 RCW; or

30 (d) Any other records or information indicating that the person,
31 about whom the records or information pertains, is a victim of domestic
32 violence, sexual assault, or stalking, or protected by a court order.

33 "Qualified victim protection records" does not include records or
34 information tending to indicate that the person, about whom the records
35 or information pertains, was a perpetrator of sexual assault,
36 harassment, or violent crime.

37 (9) "Report date" means the date on which a tenant screening report
38 is sent to a person or entity.

1 (10) "Revised tenant screening report" means a tenant screening
2 report that corrects, updates, or otherwise modifies a prior tenant
3 screening report.

4 (11) "Screening service" means any consumer reporting agency that
5 provides a tenant screening report to any person or entity.

6 (12) "Tenant" has the same meaning as in RCW 59.18.030.

7 (13) "Tenant screening" means seeking or obtaining a consumer
8 report about a prospective tenant or using the consumer report in
9 deciding whether to make or accept an offer for residential rental
10 property to or from a prospective tenant.

11 (14) "Tenant screening report" means a consumer report concerning
12 a prospective tenant that is prepared, transmitted, accessed, used, or
13 expected to be used or collected in whole or in part for tenant
14 screening purposes.

15 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.182 RCW
16 to read as follows:

17 (1) Before sending a tenant screening report to any person or
18 entity, the screening service must require the person requesting the
19 screening report to specify the mailing address, fax number, or other
20 alternative address, which may be an electronic mail address, at which
21 the prospective tenant has agreed to receive the materials required
22 under this section, as well as any other communications from the
23 screening service.

24 (2) If a screening service provides a tenant screening report to a
25 person or entity concerning a prospective tenant, the screening service
26 must:

27 (a) Within forty-eight hours of the report date, provide the
28 prospective tenant with an identical copy of the tenant screening
29 report's entire written contents; and

30 (b) Within forty-eight hours of the report date, provide the
31 prospective tenant with a verbatim transcript or detailed written
32 summary of the tenant screening report's nonwritten contents, if any.

33 (3) If a screening service has issued a tenant screening report
34 concerning a prospective tenant, the screening service must, for sixty
35 days following the report date:

36 (a) Provide the prospective tenant with a revised tenant screening

1 report within forty-eight hours of making any update, correction, or
2 other change in the contents of the original tenant screening report;
3 and

4 (b) Provide a copy of the tenant screening report or most recently
5 revised tenant screening report to any prospective landlord who has
6 been authorized by the prospective tenant to receive the report within
7 forty-eight hours of a request.

8 (4) A screening service that has accepted a fee for issuing a
9 tenant screening report concerning a prospective tenant may not, for
10 sixty days following the report date, accept any additional
11 compensation for providing any reports required under subsection (3) of
12 this section. A screening service must maintain reasonable procedures
13 to ensure that it does not collect more than one fee for issuing tenant
14 screening reports concerning the same prospective tenant within a
15 sixty-day period.

16 (5) A screening service or prospective landlord must promptly
17 refund any fee collected in violation of this section. If a screening
18 service or prospective landlord fails within one week to refund a fee
19 collected in violation of this section, a rebuttable presumption arises
20 that the violation was willful.

21 (6) This section does not limit a prospective tenant's rights or
22 the duties of a screening service as otherwise provided in this chapter
23 or chapter 59.18 RCW.

24 **Sec. 5.** RCW 19.182.110 and 1993 c 476 s 13 are each amended to
25 read as follows:

26 If a person takes an adverse action with respect to a consumer that
27 is based, in whole or in part, on information contained in a consumer
28 report, the person shall:

29 (1) Provide written notice of the adverse action to the consumer,
30 except verbal notice may be given by a person in an adverse action
31 involving a business regulated by the Washington utilities and
32 transportation commission (~~or involving an application for the rental~~
33 ~~or leasing of residential real estate~~) if such verbal notice does not
34 impair a consumer's ability to obtain a credit report without charge
35 under RCW 19.182.100(2); (~~and~~)

36 (2) Provide the consumer with the name, address, and telephone

1 number of the consumer reporting agency that furnished the report to
2 the person; and

3 (3) If the adverse action involves an application for the rental or
4 leasing of residential real estate, the written notice must contain the
5 reasons for the adverse action.

6 NEW SECTION. Sec. 6. A new section is added to chapter 19.182 RCW
7 to read as follows:

8 (1) A consumer reporting agency may not make a tenant screening
9 report that contains any of the following items of information about a
10 prospective tenant:

11 (a) Eviction suits, unless the eviction suit resulted in a judgment
12 or other adjudication that is less than seven years old in which the
13 consumer was found to be a responsible party. For the purposes of this
14 subsection, a consumer is deemed to have been a responsible party only
15 if:

16 (i) The consumer's right to possession of the premises to which the
17 eviction suit related had not been terminated by a foreclosure sale
18 within ninety days of the eviction suit;

19 (ii) A judgment or other order was entered in the eviction suit
20 finding that the party was guilty of unlawful detainer or otherwise in
21 unlawful possession of the premises; and

22 (iii) The judgment or order has not been vacated, expunged, sealed,
23 or similarly impaired;

24 (b) Qualified victim protection records; or

25 (c) Other information prohibited from disclosure under RCW
26 19.182.040.

27 (2) Any person who violates this section is liable to the consumer
28 for any other amount as authorized under this section and the amount of
29 the consumer's actual damages and costs of the action together with
30 reasonable attorneys' fees as determined by the court. A screening
31 service that willfully fails to comply with any requirement imposed
32 under this section in connection with a tenant or prospective tenant is
33 liable to the tenant or prospective tenant in the amount of one
34 thousand dollars for each willful violation.

35 NEW SECTION. Sec. 7. A new section is added to chapter 19.182 RCW
36 to read as follows:

1 (1) Before requesting or obtaining a tenant screening report about
2 a prospective tenant, a prospective landlord must obtain from the
3 prospective tenant a mailing address, fax number, or other alternative
4 address, which may be an electronic mail address, at which the
5 prospective tenant has agreed to receive communications from the
6 screening service, including copies of any tenant screening reports.

7 (2) A prospective landlord may not charge any tenant screening
8 costs to a prospective tenant who provided the prospective landlord
9 with a comprehensive screening report within sixty days of the report
10 date.

11 (3) If the prospective landlord uses a screening service, the
12 landlord must notify a prospective tenant of his or her right to avoid
13 tenant screening fees by providing a comprehensive screening report.

14 (4) This section does not preclude a prospective landlord from
15 seeking or obtaining background information about a prospective tenant
16 at the prospective landlord's own expense.

17 (5) A prospective landlord who takes any adverse action toward a
18 prospective tenant must make the disclosures as required under this
19 chapter and 15 U.S.C. Sec. 1681m.

20 (6) Any prospective landlord who violates this section is liable to
21 the prospective tenant for the amount of the prospective tenant's
22 actual damages and costs of the action together with reasonable
23 attorneys' fees as determined by the court. However, where a
24 prospective landlord has willfully failed to comply with any
25 requirement imposed under this section, the prospective tenant must
26 also be awarded a monetary penalty of one thousand dollars for each
27 willful violation.

28 NEW SECTION. **Sec. 8.** RCW 59.18.257 (Screening of tenants--Costs--
29 Notice to tenant--Violation) and 1991 c 194 s 3 are each repealed.

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