


Government of the District of Columbia  
Office of the Chief Financial Officer



**Fitzroy Lee**  
Acting Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Fitzroy Lee  
Acting Chief Financial Officer 

**DATE:** November 30, 2021

**SUBJECT:** Fiscal Impact Statement – Eviction Record Sealing Authority and  
Fairness in Renting Amendment Act of 2021

**REFERENCE:** Bill 24-119, Draft Committee Print as provided to the Office of Revenue  
Analysis on November 19, 2021

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**Conclusion**

Funds are sufficient in the fiscal year 2022 through fiscal year 2025 budget and financial plan to implement the bill.

**Background**

The bill makes a number of changes to eviction procedures, including the processes of notifying tenants, of filing a claim in court, and of sealing case records. The bill also imposes new requirements on housing providers when receiving rental applications and for conducting screenings of prospective tenants.

The bill prohibits housing providers from filing to evict a tenant for non-payment of rent if the amount owed is less than \$600. Providers must have a current license for rental housing<sup>1</sup> and a valid registration<sup>2</sup> with the Rental Accommodations Division (unless exempt) in order to file a complaint seeking to evict a tenant and must at the time of filing provide documentation of such license. The bill requires, if the tenant cannot be served with the eviction notice, that the notice be posted on the

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<sup>1</sup> pursuant to D.C. Official Code § 47-2828(c)(1)

<sup>2</sup> pursuant to D.C. Official Code § 42-3502.05

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rental premises and that a date and time-stamped photo of such notice be submitted to the court with the eviction filing. Tenant notices must be provided in a language other than English and Spanish if the housing provider is aware the tenant speaks another language. Housing providers must provide a tenant with an eviction notice at least 30 days prior to filing a complaint in court. The notice must include specific language, to include the amount of rent due, a reference to an attached ledger of all charges and payments in the period of delinquency, a statement that the tenant has the right to remain in the unit if the total balance of unpaid rent is paid, and a statement that only a court may order an eviction and that tenants have a right to defend themselves in court. The notification must also reference the availability of free legal assistance at the Office of the Tenant Advocate and the Landlord Tenant Legal Assistance Network along with contact phone numbers. Failure to comply with the notice provisions or proof of the required business license will prevent the D.C. Superior Court from ordering repossession of the rental unit.

The bill requires the Superior Court to seal the eviction case record within 30 days if the housing provider does not win a judgment allowing repossession of the unit, and within 3 years if the court ruled in favor of the housing provider's repossession. A tenant may also petition for any case to be sealed in which the amount one of the following applies:

- The amount of rent owed was \$600 or less;
- the unit was rented under any District or federally-based housing subsidy;
- the housing provider filed the eviction case as retaliation, coercion or threat against any right granted or protected by the Rental Housing Act<sup>3</sup> or the Human Rights Act<sup>4</sup>;
- the housing provider failed to timely abate a violation of Department of Consumer and Regulatory Affairs rules regarding residential building codes in relation to the tenant's rental unit;
- the eviction was filed due to a tenant's actions which were a defense against intra-family violence, domestic violence, dating violence, sexual assault, or stalking;
- the parties entered into a settlement agreement that did not result in the housing provider recovering possession of the unit; or
- for other reasons the court deems worthy of relief.

Sealed records may only be re-opened upon the request of the tenant or upon order of the court showing a compelling need. The bill allows the court to provide sealed records for scholarly, educational, journalistic, or governmental purposes, provided personally identifiable information is removed (unless court-approved under specific conditions, including a data-sharing agreement).

Prospective tenants who know that a housing provider has taken an adverse decision regarding a rental unit application based on a sealed eviction court record may file a civil action against such housing provider. Such adverse action is defined as denial of a housing application or rental on terms inferior to advertised or terms previously offered in writing. Housing providers can receive a civil penalty of up to \$1,000.

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<sup>3</sup> Per Section 502 of the Rental Housing Act of 1985, (D.C. Law 6-10; D.C. Official Code § 42-3501.01)

<sup>4</sup> Per Section 261 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1402.61)

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In addition to prohibiting denials of rental unit applications based on sealed eviction case records, the bill requires housing providers do the following in their prospective tenant screening and application process:

- disclose the amount and purpose of each mandatory and voluntary fee and deposit that is charged to tenants and prospective tenants;
- disclose the types of information that will be accessed to conduct a tenant screening;
- disclose the criteria that will result in denial of the application;
- provide the name and contact information of any the credit or consumer reporting agency used in the screening process along with a statement of the prospective tenant's rights to obtain a free copy of the credit or consumer report in the event of a denial or other adverse action;
- provide the approximate quantity of rental units that will be available for rent over a specified period, by bedroom size and monthly rent;
- provide the number of days after receipt of a prospective tenant's application that the housing provider will respond with an approval or denial decision;
- charge an application fee of no more than the greater of \$35 or the actual cost of obtaining information for screening a prospective tenant.
- refund an application fee if an applicant is not screened within 14 days;
- refrain from denying an application or taking other adverse action based solely on the applicant's credit score;
- provide denied or otherwise adversely-resolved applicants with a letter specifying the specific grounds for the action, a copy of any third-party information relied upon, and a statement informing the applicant of their right to dispute any inaccurate information.

Housing providers receiving evidence of inaccurate information must respond to applicants within 30 days, in writing, but are not prevented from leasing available units to other prospective tenants in this timeframe.

The bill amends the Human Rights Act to add a "sealed eviction record" to a list of protections for which discrimination in real property transactions is unlawful<sup>5</sup>. The bill amends source of income protections to add District payments to the source of income definition, to be consistent with the Rental Housing Source of Income Amendment Act of 2020<sup>6</sup>. The bill further clarifies these existing protections as they relate to source of income by specifying that discriminatory actions in cases of prospective tenants seeking to rent with the assistance of a subsidy voucher include (a) considering prior nonpayment or late payment of rent or any credit issue if that occurred prior to the receipt of the voucher; (b) considering the income level, credit score or lack of credit score; (c) charging certain fees and deposits; and (d) offering an available unit to someone of a nonprotected class who submitted their rental application after the rejected applicant. The bill specifies that unlawful discriminatory practices include requiring a person to disclose a sealed eviction record.

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<sup>5</sup> By amending D.C. Official Code § 2-1402.21

<sup>6</sup> D.C. Law 23-213, Effective from Mar 16, 2021

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### **Financial Plan Impact**

Funds are sufficient in the fiscal year 2022 through fiscal year 2025 budget and financial plan to implement the bill. The bill places new requirements on the D.C. Superior Court, which is federally-funded but also does not expect any negative impacts to the bill. The bill does not change practices at the Rental Accommodations Division of the Department of Housing and Community Development.

The bill updates District human rights protections to include having a sealed eviction record; updates the definition of source of income; and clarifies actions that constitute source of income discrimination. The Office of Human Rights (OHR) will need to investigate any complaints (and mediate or adjudicate substantiated complaints) of discriminatory housing actions based on having a sealed eviction record. The bill's record-sealing provisions should prevent most discriminatory actions by preventing housing providers from having this information in their screening process. Any substantial increase in complaints of discrimination would negatively impact OHR operations. However, data from OHR indicates that housing cases currently are only 13% of total OHR cases.<sup>7</sup> If the bill causes unexpected increases in discrimination complaints, the impact on the agency is expected to be marginal.

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<sup>7</sup> Biennial Report, [OHR-V5-9-28-2021.pdf \(dc.gov\)](#)