25100300D

1 **HOUSE BILL NO. 1870**
2 Offered January 13, 2025
3 Prefiled January 6, 2025
4 *A BILL to amend the Code of Virginia by adding a section numbered 55.1-1204.2, relating to Virginia*
5 *Residential Landlord and Tenant Act; algorithmic device services or products prohibited; civil penalty.*
6 ————————
   Patrons—Callsen, Anthony, Bennett-Parker, Price, Shin, Clark, Cousins, Henson and McClure
7 ————————
8 Referred to Committee on General Laws
9 ————————
10 **Be it enacted by the General Assembly of Virginia:**
11 **1. That the Code of Virginia is amended by adding a section numbered 55.1-1204.2 as follows:**
12   *§ 55.1-1204.2. Algorithmic device services or products prohibited; civil penalty.*
13   *A. For purposes of this section:*
14   *"Algorithmic device" means a device that uses one or more algorithms to perform calculations of data,*
15 *including data concerning local or statewide rent amounts being charged to tenants by landlords, for the*
16 *purpose of advising a landlord concerning the amount of rent that the landlord may consider charging a*
17 *tenant. "Algorithmic device" includes a service or product that incorporates an algorithmic device but does*
18 *not include (i) any report published periodically, but no more frequently than monthly, by a trade association*
19 *that receives tenant data and publishes it in an aggregated and anonymous manner or (ii) a product used for*
20 *the purpose of establishing rent or income limits in accordance with the affordable housing program*
21 *guidelines of a local government, the Commonwealth, the federal government, or other political subdivision.*
22   *"Nonpublic competitor data" means information that is not widely available or easily accessible to the*
23 *public, including information about actual rent prices, occupancy rates, rental agreement start and end*
24 *dates, and similar data, regardless of whether the data are attributable to a specific competitor or*
25 *anonymized, and that is derived from or otherwise provided by another person that competes in the same*
26 *market as a person or a related market.*
27   *B. The sale of algorithmic device services or products for the purpose of setting or recommending the*
28 *amount of rent to be charged to a tenant for the occupancy of a dwelling unit is prohibited.*
29   *A person engaged in the business of providing algorithmic device services or products for the purpose of*
30 *advising a landlord of the amount of rent that such landlord may consider charging a tenant for the*
31 *occupancy of a dwelling unit shall not use nonpublic competitor data pertaining to residential properties in*
32 *the Commonwealth in algorithmic calculations.*
33   *C. A violation of subsection B by a person (i) that provides algorithmic device services or products for the*
34 *purpose of setting or recommending the amount of rent to be charged to a tenant for the occupancy of*
35 *dwelling units, or by a person (ii) engaged in the business of providing algorithmic device services or*
36 *products that use nonpublic competitor data pertaining to dwelling units in the Commonwealth in the*
37 *person's use of algorithmic calculations for the purpose of advising a landlord of the amount of rent that the*
38 *landlord may consider charging a tenant, is an unfair deceptive trade practice and shall be subject to the*
39 *penalties set forth in this section.*
40   *D. Subsection B shall not apply to an algorithmic device that uses, incorporates, or was trained with*
41 *nonpublic competitor data if such data includes nonpublic executed rental agreement data that is also made*
42 *available to the general public in an aggregated and anonymous manner at no more than a reasonable*
43 *charge. When made available to the general public, the presentation of such nonpublic executed rental*
44 *agreement data may be tailored for the benefit of and usefulness to consumers and presented as a range of*
45 *average rent prices for properties in a geographic area defined by its zip code, neighborhood, geographical*
46 *radius of up to 10 miles, or other type of apartment industry submarket.*
47   *E. The Attorney General may cause an action to be brought in the name of the Commonwealth to enjoin*
48 *any violation of this section by any person and to recover a civil penalty in the amount of not less than $1,000*
49 *nor more than $5,000 for each such violation. Civil penalties paid pursuant to this section shall be deposited*
50 *into the Literary Fund.*
51   *In an action brought under this section, the Attorney General may recover damages and such other relief*
52 *allowed by law, including restitution on behalf of tenants injured by violations of this section.*
53   *In an action brought under this section, the Attorney General may recover reasonable expenses incurred*
54 *in investigating and preparing the case and attorney fees.*
55   *Whenever the Attorney General has reasonable cause to believe that any person has engaged in, is*
56 *engaging in, or is about to engage in any violation of this section, the Attorney General is empowered to*
57 *issue a civil investigative demand. The provisions of § 59.1-9.10 shall apply, mutatis mutandis, to civil*
58 *investigative demands issued pursuant to this section.*

59   *Nothing in this section shall be construed as affecting any private cause of action that may exist under any*
60   *law of the Commonwealth.*