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SENATE BILL NO. 1400

Offered January 14, 2025

A BILL to amend the Code of Virginia by adding a section numbered 55.1-1204.2, relating to Virginia Residential Landlord and Tenant Act; algorithmic device services or products prohibited; civil penalty.

Patron—Salim

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 55.1-1204.2 as follows:****§ 55.1-1204.2. Algorithmic device services or products prohibited; civil penalty.****A. For purposes of this section:**

"Algorithmic device" means a device that uses one or more algorithms to perform calculations of data, including data concerning local or statewide rent amounts being charged to tenants by landlords, for the purpose of advising a landlord concerning the amount of rent that the landlord may consider charging a tenant. "Algorithmic device" includes a service or product that incorporates an algorithmic device but does not include (i) any report published periodically, but no more frequently than monthly, by a trade association that receives tenant data and publishes it in an aggregated and anonymous manner or (ii) a product used for the purpose of establishing rent or income limits in accordance with the affordable housing program guidelines of a local government, the Commonwealth, the federal government, or other political subdivision.

"Nonpublic competitor data" means information that is not widely available or easily accessible to the public, including information about actual rent prices, occupancy rates, rental agreement start and end dates, and similar data, regardless of whether the data are attributable to a specific competitor or anonymized, and that is derived from or otherwise provided by another person that competes in the same market as a person or a related market.

B. The sale of algorithmic device services or products for the purpose of setting or recommending the amount of rent to be charged to a tenant for the occupancy of a dwelling unit is prohibited.

A person engaged in the business of providing algorithmic device services or products for the purpose of advising a landlord of the amount of rent that such landlord may consider charging a tenant for the occupancy of a dwelling unit shall not use nonpublic competitor data pertaining to residential properties in the Commonwealth in algorithmic calculations.

C. A violation of subsection B by a person (i) that provides algorithmic device services or products for the purpose of setting or recommending the amount of rent to be charged to a tenant for the occupancy of dwelling units, or by a person (ii) engaged in the business of providing algorithmic device services or products that use nonpublic competitor data pertaining to dwelling units in the Commonwealth in the person's use of algorithmic calculations for the purpose of advising a landlord of the amount of rent that the landlord may consider charging a tenant, is an unfair deceptive trade practice and shall be subject to the penalties set forth in this section.

D. Subsection B shall not apply to an algorithmic device that uses, incorporates, or was trained with nonpublic competitor data if such data includes nonpublic executed rental agreement data that is also made available to the general public in an aggregated and anonymous manner at no more than a reasonable charge. When made available to the general public, the presentation of such nonpublic executed rental agreement data may be tailored for the benefit of and usefulness to consumers and presented as a range of average rent prices for properties in a geographic area defined by its zip code, neighborhood, geographical radius of up to 10 miles, or other type of apartment industry submarket.

E. The Attorney General may cause an action to be brought in the name of the Commonwealth to enjoin any violation of this section by any person and to recover a civil penalty in the amount of not less than \$1,000 nor more than \$5,000 for each such violation. Civil penalties paid pursuant to this section shall be deposited into the Literary Fund.

In an action brought under this section, the Attorney General may recover damages and such other relief allowed by law, including restitution on behalf of tenants injured by violations of this section.

In an action brought under this section, the Attorney General may recover reasonable expenses incurred in investigating and preparing the case and attorney fees.

Whenever the Attorney General has reasonable cause to believe that any person has engaged in, is engaging in, or is about to engage in any violation of this section, the Attorney General is empowered to issue a civil investigative demand. The provisions of § 59.1-9.10 shall apply, mutatis mutandis, to civil investigative demands issued pursuant to this section.

Nothing in this section shall be construed as affecting any private cause of action that may exist under any

59 *law of the Commonwealth.*