

## 1 SENATE BILL NO. 1400

## 2 AMENDMENT IN THE NATURE OF A SUBSTITUTE

3 (Proposed by the Senate Committee on General Laws and Technology

4 on \_\_\_\_\_)

5 (Patron Prior to Substitute—Senator Salim)

6 *A BILL to amend the Code of Virginia by adding a section numbered 55.1-1204.2, relating to Virginia  
7 Residential Landlord and Tenant Act; algorithmic device services or products prohibited; civil penalty.*8 **Be it enacted by the General Assembly of Virginia:**9 **1. That the Code of Virginia is amended by adding a section numbered 55.1-1204.2 as follows:**10 *§ 55.1-1204.2. Algorithmic device services or products prohibited; civil penalty.*11 *A. For purposes of this section:*12 *"Algorithmic device" means a device, commonly known as revenue management software, that uses one  
13 or more algorithms to perform calculations of non-public competitor data concerning local or statewide rent  
14 amounts or occupancy levels for the purpose of advising a landlord on whether to leave a unit vacant or on  
15 the amount of rent that the landlord may obtain for that unit. "Algorithmic device" includes a product that  
16 incorporates an algorithmic device but does not include (i) any report that publishes existing rental data in  
17 an aggregate manner but does not recommend rents or occupancy levels for future leases or (ii) a product  
18 used for the purpose of establishing rent or income limits in accordance with the affordable housing program  
19 guidelines of a local government, the Commonwealth, the federal government, or other political subdivision.*20 *"Nonpublic competitor data" means information that is not available to the general public, including  
21 information about actual rent prices, occupancy rates, lease start and end dates, and similar data, regardless  
22 of whether the data is attributable to a specific competitor or anonymized, and regardless of whether the data  
23 is derived from or otherwise provided by another person that competes in the same market or a related  
24 market.*25 *B. It shall be unlawful to sell, license, or otherwise provide to landlords any algorithmic device that uses  
26 nonpublic competitor data for the purpose of setting, recommending, or advising landlords on rents or  
27 occupancy levels that may be achieved for residential dwelling units.*28 *C. It shall be unlawful for a landlord to use an algorithmic device described in subsection B when setting  
29 rents or occupancy levels for residential dwelling units. Each separate month that a violation exists or  
30 continues, and each separate residential dwelling unit for which the landlord used the algorithmic device,*

31 shall constitute a separate and distinct violation.

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

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

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

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

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