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SB-1157 Tenancy: credit reporting: lower income households. (2019-2020)

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Senate Bill No. 1157

CHAPTER 204

An act to add and repeal Section 1954.06 of the Civil Code, relating to tenancy.

[Approved by Governor September 28, 2020. Filed with Secretary of State September 28, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1157, Bradford. Tenancy: credit reporting: lower income households.

Existing law regulates the terms and conditions of residential tenancies, and requires a landlord to provide a tenant with various notices at the time the lease is executed and throughout the tenancy.

The Consumer Credit Reporting Agencies Act and the federal Fair Credit Reporting Act regulate consumer credit reporting agencies that collect credit-related information on consumers and report this information to subscribers and the persons who furnish that information to consumer credit reporting agencies, as provided.

This bill, beginning July 1, 2021, and until July 1, 2025, would require a landlord of an assisted housing development, as defined, to offer tenants obligated on the lease of units in the development the option of having their rental payments reported to at least one consumer reporting agency, as specified. The bill would authorize a landlord to charge a tenant that elects to have rent reported the lesser of \$10 per month or the actual cost to the landlord to provide the service. The bill would prescribe requirements regarding how the offer of rent reporting is to be made for new and existing leases. The bill would authorize a tenant who elects to have rent reported to file a written request to stop that reporting, provided that, in this case, the bill would prohibit the tenant from electing rent reporting again for at least 6 months. The bill would declare that a tenant who elects to have rent reported does not forfeit specified tenant rights and if a tenant makes deductions from rent or otherwise withholds it, as authorized, the deductions or withholding does not constitute a late rental payment. The bill would exempt from these provisions a landlord of an assisted housing development with 15 or fewer dwelling units, unless specified conditions are met.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1954.06 is added to the Civil Code, to read:

1954.06. (a) As specified in subdivision (b), and except as provided in subdivision (j), beginning July 1, 2021, any landlord of an assisted housing development shall offer the tenant or tenants obligated on the lease of each unit in that housing development the option of having the tenant's rental payment information reported to at least one nationwide consumer reporting agency that meets the definition in Section 603(p) of the federal Fair Credit Reporting Act (15 U.S.C. Section 1681a(p)) or any other consumer reporting agency that meets the definition in Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. Section 1681a(f)) so long as the consumer reporting agency resells or otherwise furnishes rental payment information to a nationwide consumer

reporting agency that meets the definition in Section 603(p) of the federal Fair Credit Reporting Act (15 U.S.C. Section 1681a(p)). A tenant's election to have rent reported under this subdivision shall be in writing, as described in subdivision (c).

(b) For leases entered into on and after July 1, 2021, the offer of rent reporting shall be made at the time of the lease agreement and at least once annually thereafter. For leases outstanding as of July 1, 2021, the offer of rent reporting shall be made no later than October 1, 2021, and at least once annually thereafter.

(c) The offer of rent reporting shall include a written election of rent reporting that contains all of the following:

- (1) A statement that reporting of the tenant's rental payment information is optional.
- (2) Identification of each consumer reporting agency to which rental payment information will be reported.
- (3) A statement that all of the tenant's rental payments will be reported, regardless of whether the payments are timely, late, or missed.
- (4) The amount of any fee charged pursuant to subdivision (f).
- (5) Instructions on how to submit the written election of rent reporting to the landlord by mail.
- (6) A statement that the tenant may opt into rent reporting at any time following the initial offer by the landlord.
- (7) A statement that the tenant may elect to stop rent reporting at any time, but that they will not be able to resume rent reporting for at least six months after their election to opt out.
- (8) Instructions on how to opt out of reporting rental payment information.
- (9) A signature block that the tenant shall date and sign in order to accept the offer of rent reporting.

(d) When the offer of rent reporting is made, the landlord shall provide the tenant with a self-addressed, stamped envelope to return the written election of rent reporting.

(e) The written election to begin rent reporting shall not be accepted from the tenant at the time of the offer. A tenant may submit their completed written election of rent reporting at any time after they receive the offer of rent reporting from the landlord. A tenant may request and shall obtain additional copies of the written election of rent reporting form from the landlord at any time.

(f) If a tenant elects to have that tenant's rental payments reported to a consumer reporting agency under subdivision (a), the landlord may require that tenant to pay a fee not to exceed the lesser of the actual cost to the landlord to provide the service or ten dollars (\$10) per month. The payment or nonpayment of this fee by the tenant shall not be reported to a consumer reporting agency.

(g) If a tenant fails to pay any fee required by the landlord pursuant to subdivision (f), all of the following shall apply:

- (1) The failure to pay the fee shall not be cause for termination of the tenancy, whether pursuant to Section 1161 of the Code of Civil Procedure or otherwise.
- (2) The landlord shall not deduct the unpaid fee from the tenant's security deposit.
- (3) If the fee remains unpaid for 30 days or more, the landlord may stop reporting the tenant's rental payments and the tenant shall be unable to elect rent reporting again for a period of six months from the date on which the fee first became due.

(h) A tenant who elects to have rent reported as described in subdivision (a) may subsequently file a written request with their landlord to stop that reporting with which the landlord shall comply. A tenant who elects to stop reporting shall not be allowed to elect rent reporting again for a period of at least six months from the date of the tenant's written request to stop reporting.

(i) A tenant who elects to have rent reported does not forfeit any rights under Sections 1941 to 1942, inclusive. If a tenant makes deductions from rent or otherwise withholds rent as authorized by those sections, the deductions or withholding of rent shall not constitute a late rental payment. A tenant invoking the right to repair and deduct or withhold rent under those sections shall notify their landlord of the deduction or withholding prior to the date rent is due. This subdivision shall not be construed to relieve a housing provider of the obligation to maintain habitable premises.

(j) This section shall not apply to any landlord of an assisted housing development that contains 15 or fewer dwelling units, unless both of the following apply:

- (1) The landlord owns more than one assisted housing development, regardless of the number of units in each assisted housing development.

(2) The landlord is one of the following:

(A) A real estate investment trust, as defined in Section 856 of Title 26 of the United States Code.

(B) A corporation.

(C) A limited liability company in which at least one member is a corporation.

(k) For purposes of this section, the following definitions shall apply:

(1) "Assisted housing development" has the same meaning as defined in Section 65863.10 of the Government Code.

(2) "Landlord" means an owner of residential real property containing five or more dwelling units.

(l) This section shall remain in effect only until July 1, 2025, and as of that date is repealed, unless a later enacted statute that is enacted before July 1, 2025, deletes or extends that date.