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AB-2747 Tenancy: credit reporting. (2023-2024)

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Date Published: 09/20/2024 02:00 PM

Assembly Bill No. 2747

CHAPTER 279

An act to add Section 1954.07 to the Civil Code, relating to tenancy.

[Approved by Governor September 19, 2024. Filed with Secretary of State September 19, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2747, Haney. Tenancy: credit reporting.

Existing law, the Consumer Credit Reporting Agencies Act, defines and regulates consumer credit reports and consumer credit reporting agencies. Existing law, until July 1, 2025, requires a landlord of an assisted housing development 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. Existing law authorizes a landlord to charge a tenant that elects to have rent reported a \$10 fee and prescribes requirements regarding how the offer of rent reporting is to be made.

This bill would require a landlord of a dwelling unit of residential real property to offer any tenant obligated on a lease the option of having the tenant's positive rental payment information, as defined, reported to at least one nationwide consumer reporting agency, as specified. The bill would require, for leases entered into on and after April 1, 2025, the offer of positive rental payment information reporting to be made at the time of the lease agreement and at least once annually thereafter, and for leases outstanding as of January 1, 2025, the offer of positive rental payment information reporting to be made no later than April 1, 2025, and at least once annually thereafter. The bill would authorize a tenant to request, and would require a landlord to provide, additional copies of the written election of positive rental payment information reporting at any time. The bill would authorize a tenant who elects to have positive rental payment information reported as described in these provisions to subsequently file a written request to stop that reporting and would require the landlord to comply with that request. The bill would prohibit a tenant who stops positive rental payment information reporting from electing reporting again for at least 6 months. The bill would authorize a landlord to charge a tenant that elects to have positive rental payment information reported the lesser of \$10 per month or the actual cost to the landlord to provide the service, unless the landlord does not incur any actual cost to provide positive rental payment reporting. The bill would prohibit a landlord from taking certain actions if a tenant fails to pay the landlord's rent reporting charge. The bill would exempt from these provisions a landlord of a residential rental building that contains 15 or fewer dwelling units, unless specified conditions are met, and an assisted housing development, as defined.

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

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

SECTION 1. Section 1954.07 is added to the Civil Code, to read:

1954.07. (a) As specified in subdivision (b), and except as provided in subdivision (j), any landlord of a dwelling unit of residential real property shall offer any tenant obligated on the lease the option of having the tenant's positive 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. Sec. 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. Sec. 1681a(f)) as 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. Sec. 1681a(p)).

(b) For leases entered into on and after April 1, 2025, the offer of positive rental payment information reporting shall be made at the time of the lease agreement and at least once annually thereafter. For leases outstanding as of January 1, 2025, the offer of positive rental payment information reporting shall be made no later than April 1, 2025, and at least once annually thereafter.

(c) A landlord may provide the offer of positive rental payment information reporting required by subdivision (a) to the tenant by first-class United States mail or email.

(d) The offer of positive rental payment information reporting shall include a written election of positive rental payment information reporting that contains all of the following:

(1) A statement that reporting of the tenant's positive rental payment information is optional.

(2) Identification of each consumer reporting agency to which positive rental payment information will be reported.

(3) The amount of any fee charged pursuant to subdivision (g).

(4) Instructions on how to submit the written election of positive rental payment information reporting to the landlord by first-class United States mail or email.

(5) A statement that the tenant may opt into positive rental payment information reporting at any time following the initial offer by the landlord.

(6) A statement that the tenant may elect to stop positive rental payment information reporting at any time, but that the tenant will not be able to resume positive rental payment information reporting for at least six months after the election to opt out.

(7) Instructions on how to opt out of positive rental payment information reporting.

(8) A signature block that the tenant shall date and sign in order to accept the offer of positive rental payment information reporting.

(e) If the offer of positive rental payment information reporting is made by first-class United States mail, the landlord shall provide the tenant with a self-addressed, stamped envelope to return the written election of positive rental payment information reporting.

(f) (1) A tenant may submit the tenant's completed written election of rent reporting at any time after the tenant receives the offer of positive rental payment information reporting from the landlord.

(2) (A) A tenant may request additional copies of the written election of positive rental payment information reporting from the landlord at any time.

(B) A landlord that receives a request from a tenant pursuant to this paragraph shall comply with the request.

(g) (1) If a tenant elects to have that tenant's positive rental payment information 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. If the landlord does not incur any actual cost to report positive rental payment information, no amount shall be charged from the tenant. The payment or nonpayment of this fee by the tenant shall not be reported to a consumer reporting agency.

(2) An amount tendered in full or partial satisfaction of rent or any other obligation under the lease, however designated by the party tendering the payment, shall not be applied or credited to the fee authorized by this subdivision.

(h) If a tenant fails to pay any fee required by the landlord pursuant to subdivision (g), 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 not elect positive rental payment information reporting again for a period of six months from the date on which the fee first became due.

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

(j) This section shall not apply to either of the following:

(1) A landlord of a residential rental building that contains 15 or fewer dwelling units, unless both of the following apply:

(A) The landlord owns more than one residential rental building, regardless of the number of units in each building.

(B) The landlord is one of the following:

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

(ii) A corporation.

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

(2) An assisted housing development, as defined in Section 65863.10 of the Government Code.

(k) 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 the tenant's 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.

(l) (1) As used in this section, "positive rental payment information" means information regarding a tenant's complete, timely payments of rent.

(2) "Positive rental payment information" does not include an instance in which a tenant did not completely or timely make a rental payment.