

By: Eckhardt

S.B. No. 1288

A BILL TO BE ENTITLED

AN ACT

relating to criminal history screening of applicants for residential tenancies; imposing civil penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 92.351, Property Code, is amended by adding Subdivision (3-a) to read as follows:

(3-a) "Conviction" means a verdict or plea of guilty or nolo contendere. The term does not include deferred adjudication or community supervision.

SECTION 2. Section 92.3515, Property Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) At the time an applicant is provided with a rental application and before accepting an application fee, the landlord shall make available to the applicant printed notice of the landlord's tenant selection criteria and the grounds for which the rental application may be denied, including the applicant's:

- (1) criminal history;
- (2) previous rental history;
- (3) current income;
- (4) credit history; or
- (5) failure to provide accurate or complete information on the application form.

(a-1) The printed notice must state in writing that the

1 applicant may provide evidence showing:

2 (1) the inaccuracies in the applicant's criminal
3 history;

4 (2) the applicant's rehabilitation; or

5 (3) other mitigating factors.

6 SECTION 3. Section 92.354, Property Code, is amended to
7 read as follows:

8 Sec. 92.354. LIABILITY OF LANDLORD. (a) A landlord who in
9 bad faith fails to refund an application fee or deposit in violation
10 of this subchapter is liable for an amount equal to the sum of \$100,
11 three times the amount wrongfully retained, and the applicant's
12 reasonable attorney's fees.

13 (b) A landlord who violates Section 92.3515 or 92.356 is
14 liable for an amount equal to the sum of \$500 and the applicant's
15 reasonable attorney's fees.

16 SECTION 4. Subchapter I, Chapter 92, Property Code, is
17 amended by adding Section 92.356 to read as follows:

18 Sec. 92.356. CRIMINAL RECORD SCREENING. (a) In
19 determining an applicant's eligibility for tenancy, a landlord may
20 not inquire about, require an applicant to disclose, or consider
21 any criminal history of the applicant that did not result in a
22 conviction.

23 (b) A landlord may not have a policy to ban renting or
24 leasing to tenants with a criminal conviction history. The
25 landlord's determination to deny a tenancy because of criminal
26 history must be based on a nondiscriminatory interest that is
27 reasonable after an individualized assessment and consideration

1 of:

2 (1) the nature and severity of the criminal offense;

3 (2) the age of the applicant at the time of the
4 occurrence of the criminal offense;

5 (3) the time that has elapsed since the occurrence of
6 the criminal offense;

7 (4) any information produced by the applicant, or
8 produced on the applicant's behalf, in regard to the applicant's
9 rehabilitation and good conduct since the occurrence of the
10 criminal offense;

11 (5) the degree to which the criminal offense, if it
12 reoccurred, would negatively impact the safety of the landlord's
13 other tenants or property; and

14 (6) whether the criminal offense occurred on or was
15 connected to property that was rented or leased by the applicant.

16 (c) Not later than the 20th day after the date a landlord
17 denies the applicant, the applicant may request that the landlord
18 provide the applicant a copy of all information on which the
19 landlord relied in considering the applicant, including criminal
20 records. A landlord shall provide the information, at the
21 applicant's expense of not more than five cents per page, not later
22 than the 30th day after the date the request is received.

23 SECTION 5. The changes in law made by this Act apply only to
24 a lease or rental application submitted on or after the effective
25 date of this Act. A lease or rental application submitted before
26 the effective date of this Act is governed by the law in effect
27 immediately before the effective date of this Act, and the former

1 law is continued in effect for that purpose.

2 SECTION 6. This Act takes effect September 1, 2021.