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2 
3 Councilmember Anita Bonds


Councilmember Kenyan R. McDuffie

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8 A BILL

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11 _____
12 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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15 Councilmember Kenyan R. McDuffie introduced the following bill, which was referred to the
16 Committee on _____.

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18 To assist in the successful integration of those with a criminal history by removing barriers to
19 securing adequate housing accommodations, to prohibit the consideration of a housing
20 applicant's arrest record during the application process, to restrict a housing provider's
21 inquiry into a housing applicant's prior convictions until after a conditional offer of
22 housing, to establish penalties, and to give authority for enforcement to the Office of
23 Human Rights.

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25 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
26 act may be cited as the "Fair Criminal Record Screening for Housing Act of 2016".

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28 Sec. 2. Definitions. For the purposes of this act, the term

29 (1) "Applicant" means any person considered, who requests to be considered, or
30 who intends in good faith to request to be considered, for tenancy within a housing
31 accommodation.

32 (2) "Arrest" shall have the same meaning as provided in section 2(2)
33 of the Fair Criminal Record Screening Amendment Act of 2014, effective December 17, 2014
34 (D.C. Law 20-152; D.C. Official Code § 32-1341)

35 (3) "Conditional offer" means an offer that is conditional solely on

36 (A) The results of the housing provider's subsequent inquiring into or
37 gathering information about the applicant's criminal record, or

38 (B) Some other housing provider-based contingent expressly
39 communicated to the applicant at the time of the offer

40 (4) “Conviction” shall have the same meaning as provided in section 2(4)
41 of the Fair Criminal Record Screening Amendment Act of 2014, effective December 17, 2014
42 (D.C. Law 20-152; D.C. Official Code § 32-1341)

43 (5) “Criminal accusation” shall have the same meaning as provided in section 2(5)
44 of the Fair Criminal Record Screening Amendment Act of 2014, effective December 17, 2014
45 (D.C. Law 20-152; D.C. Official Code § 32-1341)

46 (6) “Housing accommodation” shall have the same meaning as provided in
47 section 103(14) of the Rental housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C.
48 Official Code § 42-3501.03)

49 (7) “Housing provider” shall have the same meaning as provided in section
50 103(15) of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C.
51 Official Code § 42-3501.03)

52 (8) “Inquiry” shall have the same meaning as provided in section 2(8)
53 of the Fair Criminal Record Screening Amendment Act of 2014, effective December 17, 2014
54 (D.C. Law 20-152; D.C. Official Code § 32-1341)

55 (9) “Rental unit” shall have the same meaning as provided in section 103(33) of
56 the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code §
57 42-3501.03)

58 Sec. 3. Inquiries into certain arrests, accusations, and convictions.

59 (a) A housing provider of a housing accommodation may not make an inquiry about or
60 require an applicant to disclose or reveal

- 61 (1) An arrest, or
- 62 (2) A criminal accusation made against the applicant, which
- 63 (A) Is not then pending against the applicant, or
- 64 (B) Did not result in a conviction
- 65 (b) A housing provider of a housing accommodation may not make an inquiry about or
- 66 require an applicant to disclose or reveal a criminal conviction until after making a conditional
- 67 offer of housing
- 68 (c) The prohibitions of this act shall not apply
- 69 (1) To rental units in housing accommodations containing living quarters
- 70 occupied or intended to be occupied by no more than three families living independently of each
- 71 other, if the owner actually maintains and occupies one of such living quarters as his or her
- 72 residence
- 73 (2) Where a federal or District law or regulation requires the consideration of an
- 74 applicant's criminal history for the purposes of obtaining housing accommodations
- 75 (3) Where a federal or District law or regulation otherwise allows for denial of
- 76 housing application due to certain criminal convictions
- 77 (d) Following the extension of a conditional offer of housing, a housing provider may
- 78 only withdraw the conditional offer to an applicant or take adverse action against an applicant to
- 79 achieve a substantial, legitimate, nondiscriminatory interest. The housing provider's
- 80 determination of such an interest must be reasonable in light of the following factors:
- 81 (1) The nature of the criminal offense;
- 82 (2) The severity of the criminal offense; and
- 83 (3) The age of the applicant at the time of occurrence of the criminal offense;

84 (4) The time which has elapsed since the occurrence of the criminal offense; and
85 (5) Any information produced by the applicant, or produced on his or her behalf,
86 in regard to his or her rehabilitation and good conduct since the occurrence of the criminal
87 offense.

88 (e) If a conditional offer was terminated or an adverse action was taken against the
89 applicant, the applicant may request, within 30 days after termination or adverse action, that the
90 housing provider afford the applicant, free of charge, within 30 days after the receipt of request

91 (1) A copy of any and all records on which the housing provider relied in
92 considering the applicant, including criminal records, and

93 (2) A notice that advises the applicant of his or her opportunity to file an
94 administrative complaint with the Office of Human Rights

95 Sec. 4. Filing a complaint with the Office of Human Rights, exclusive remedy

96 (a) A person claiming to be aggrieved by a violation of this act may file an administrative
97 complaint with the Office of Human Rights, in accordance with the procedures set forth in Title
98 III of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38, D.C.
99 Official Code § 2-1403.01 *et seq*)

100 (b) The administrative remedies referenced in subsection (a) of this section are exclusive.
101 A person claiming to be aggrieved by a violation of this act shall have no private cause of action
102 in any court based on a violation of this act.

103 Sec. 5. Penalties.

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105 If the Commission on Human Rights finds that a violation of this act has occurred, the
106 commission shall impose the following penalties, of which half shall be awarded to the
107 complainant

108 (1) For housing providers that supply 3 to 10 rental units in the relevant housing
109 accommodation, a fine of up to \$1,000,

110 (2) For housing providers that supply 11 to 19 rental units in the relevant housing
111 accommodation, a fine of up to \$2,500,

112 (3) For housing providers that supply 20 or more rental units in the relevant
113 housing accommodation, a fine of up to \$5,000

114 Sec. 6. Reporting requirements.

115 (a) The Office of Human Rights shall maintain data on the number of complaints filed
116 pursuant to this act, demographic information on the complainants, the number of investigations
117 it conducts, and the disposition of every complaint and investigation

118 (b) Data maintained by the Office of Human Rights pursuant to subsection (a) section
119 shall be submitted to the Council annually, beginning one year from the effective date of this act

120 (c) Eighteen months after the effective date of this act, the Office of the District of
121 Columbia Auditor (“ODCA”) shall provide the Council with a report, using information that
122 ODCA may request from relevant government agencies, nonprofit organizations, and housing
123 providers that are willing to voluntarily provide data, on the rental to applicants with criminal
124 backgrounds by housing providers and the impact of this act on housing providers.

125 Sec. 7. Rules.

126 The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act,
127 approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules
128 to implement the provisions of this act.

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131 Sec. 8. Fiscal impact statement.

132 The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal
133 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
134 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

135 Sec. 9. Effective date.

136 This act shall take effect following approval by the Mayor (or in the event of veto by the
137 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
138 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
139 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
140 Columbia Register.