

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Business Affairs & Labor.

HB25-1004 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1. Legislative declaration.** (1) The general
4 assembly finds that:

5 (a) Agreements or conspiracies between competitors to fix prices
6 or other commercial terms are illegal under current Colorado law, and
7 algorithmic devices have made illegal agreements more challenging to
8 detect; and

9 (b) In recent years, several lawsuits have been filed alleging that
10 the use of algorithmic devices by landlords to set prices and other
11 commercial terms in the residential housing market results in higher rents
12 and constrained housing supply for residential tenants; and

13 (c) A recent White House study titled "The Cost of
14 Anticompetitive Pricing Algorithms in Rental Housing" estimated that in
15 2023, the cost to renters of anticompetitive pricing was \$3.8 billion, and
16 the cost to renters in the Denver metro area was the second highest of any
17 metro area in the country.

18 (2) Therefore, the general assembly declares that, with certain
19 exceptions, the distribution and use of an algorithmic device by a service
20 provider or landlord to set rents and other certain commercial terms
21 regarding the occupancy of rental housing is prohibited.

22 **SECTION 2.** In Colorado Revised Statutes, **add** 38-12-703 as
23 follows:

24 **38-12-703. Determination of rent amount - sale, distribution,
25 and use of algorithmic devices prohibited - illegal restraint of trade
26 or commerce - definitions.** (1) (a) THE SALE OR DISTRIBUTION FOR
27 CONSIDERATION OF AN ALGORITHMIC DEVICE WITH THE INTENT THAT IT BE
28 USED BY TWO OR MORE LANDLORDS IN THE SAME MARKET OR A RELATED
29 MARKET TO SET OR RECOMMEND THE AMOUNT OF RENT, LEVEL OF
30 OCCUPANCY, OR OTHER COMMERCIAL TERM ASSOCIATED WITH THE
31 OCCUPANCY OF A RESIDENTIAL PREMISES IS PROHIBITED.

32 (b) THE USE OF AN ALGORITHMIC DEVICE BY A PERSON TO SET OR
33 RECOMMEND THE AMOUNT OF RENT, LEVEL OF OCCUPANCY, OR OTHER
34 COMMERCIAL TERM ASSOCIATED WITH THE OCCUPANCY OF A RESIDENTIAL
35 PREMISES IS PROHIBITED IF THE PERSON KNEW OR SHOULD HAVE KNOWN
36 THAT ANOTHER PERSON USED THE ALGORITHMIC DEVICE, OR AN
37 ALGORITHMIC DEVICE TRAINED ON SUBSTANTIALLY SIMILAR DATA, TO SET
38 OR RECOMMEND THE AMOUNT OF RENT, LEVEL OF OCCUPANCY, OR OTHER
39 COMMERCIAL TERM ASSOCIATED WITH THE OCCUPANCY OF A RESIDENTIAL
40 PREMISES IN THE SAME MARKET OR A RELATED MARKET.

7 (2) A VIOLATION OF SUBSECTION (1) OF THIS SECTION IS AN
8 ILLEGAL RESTRAINT OF TRADE OR COMMERCE IN VIOLATION OF SECTION
9 6-4-104 AND IS PUNISHABLE IN ACCORDANCE WITH THE "COLORADO
10 STATE ANTITRUST ACT OF 2023", ARTICLE 4 OF TITLE 6.

11 (3) AS USED IN THIS SECTION:

12 (a) "ALGORITHMIC DEVICE" MEANS A DEVICE THAT USES ONE OR
13 MORE ALGORITHMS TO PERFORM CALCULATIONS OF DATA, INCLUDING
14 DATA CONCERNING LOCAL OR STATEWIDE RENT AMOUNTS BEING CHARGED
15 TO TENANTS BY LANDLORDS, FOR THE PURPOSE OF ADVISING A LANDLORD
16 CONCERNING THE AMOUNT OF RENT, LEVEL OF OCCUPANCY, OR OTHER
17 COMMERCIAL TERM ASSOCIATED WITH RENTAL HOUSING. "ALGORITHMIC
18 DEVICE":

19 (I) INCLUDES A PRODUCT THAT INCORPORATES AN ALGORITHMIC
20 DEVICE; AND

21 (II) DOES NOT INCLUDE:

22 (A) A PRODUCT THAT PROVIDES INFORMATION TO THE PUBLIC AND
23 NOT FOR THE PURPOSE OF RECOMMENDING OR SETTING A COMMERCIAL
24 TERM BY TWO OR MORE PERSONS IN THE SAME MARKET OR A RELATED
25 MARKET, SO LONG AS THE INFORMATION WAS NOT TRAINED USING
26 NONPUBLIC COMPETITOR DATA; OR

27 (B) A PRODUCT USED FOR THE PURPOSE OF ESTABLISHING RENT OR
28 INCOME LIMITS IN ACCORDANCE WITH THE AFFORDABLE HOUSING
29 PROGRAM GUIDELINES OF THE STATE, THE FEDERAL GOVERNMENT, A
30 LOCAL GOVERNMENT, OR OTHER POLITICAL SUBDIVISION.

38 (c) "NONPUBLIC DATA" MEANS INFORMATION THAT IS NOT WIDELY
39 AVAILABLE OR EASILY ACCESSIBLE TO THE PUBLIC, INCLUDING
40 PUBLIC-FACING DATA MADE AVAILABLE UNDER TERMS OF SERVICE THAT
41 PROHIBIT THE USE OF THAT DATA.

42 (d) "RENT" MEANS THE TOTAL AMOUNT OF RENT, INCLUDING
43 CONCESSIONS AND FEES, THAT A RESIDENTIAL TENANT IS REQUIRED TO
44 PAY PURSUANT TO A RENTAL AGREEMENT.

45 SECTION 3. In Colorado Revised Statutes, add 6-4-123 as

1 follows:

2 **6-4-123. Pleading standards.** A PLAINTIFF PLAUSIBLY PLEADS A
3 VIOLATION OF SECTION 6-4-104 IF THE COMPLAINT CONTAINS FACTUAL
4 ALLEGATIONS DEMONSTRATING THAT THE EXISTENCE OF A CONTRACT,
5 COMBINATION IN THE FORM OF TRUST OR OTHERWISE, OR CONSPIRACY IN
6 RESTRAINT OF TRADE OR COMMERCE IS AMONG THE REALM OF PLAUSIBLE
7 POSSIBILITIES. A PLAINTIFF NEED NOT ALLEGE FACTS TENDING TO
8 EXCLUDE THE POSSIBILITY OF INDEPENDENT ACTION.

9 **SECTION 4. Act subject to petition - effective date -**
10 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
11 the expiration of the ninety-day period after final adjournment of the
12 general assembly; except that, if a referendum petition is filed pursuant
13 to section 1 (3) of article V of the state constitution against this act or an
14 item, section, or part of this act within such period, then the act, item,
15 section, or part will not take effect unless approved by the people at the
16 general election to be held in November 2026 and, in such case, will take
17 effect on the date of the official declaration of the vote thereon by the
18 governor.

19 (2) This act applies to conduct occurring on or after the applicable
20 effective date of this act.".

21 Page 1, strike lines 101 through 107 and substitute "**CONCERNING**
22 **PRICING COORDINATION BY LANDLORDS.**".

*** * * * *