

By Senator Siplin

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1 A bill to be entitled
2 An act relating to residential tenancies;
3 amending s. 83.43, F.S.; redefining the term
4 "landlord" for purposes of part II of ch. 83,
5 F.S., to include a rental management company,
6 rental agency, or any other person having the
7 actual or apparent authority to lease a
8 dwelling; creating s. 83.451, F.S.; limiting
9 the use of credit reports and credit scores by
10 landlords when renting a residential dwelling
11 unit; providing definitions; requiring a
12 landlord to inform an applicant or tenant that
13 a credit report or score is being requested for
14 rental purposes; directing a landlord who makes
15 an adverse decision based upon a credit report
16 to provide a copy of the credit report to the
17 applicant or tenant at no charge or provide the
18 applicant or tenant with the name, address, and
19 telephone number of the consumer reporting
20 agency from which the tenant or applicant may
21 obtain the credit report; directing a landlord
22 to notify an applicant or tenant and explain
23 the reasons for the adverse decision; providing
24 that a landlord may not request a credit report
25 based on specified factors; prohibiting a
26 landlord from making an adverse decision solely
27 because of information contained in a credit
28 report without consideration of any other
29 factor; providing criteria for the proper use
30 of a credit report; requiring a landlord to
31 provide a means of appeal for an applicant or

1 tenant whose credit report or credit score is
2 unduly influenced by certain circumstances;
3 providing an effective date.

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5 Be It Enacted by the Legislature of the State of Florida:

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7 Section 1. Subsection (3) of section 83.43, Florida
8 Statutes, is amended to read:

9 83.43 Definitions.--As used in this part, the
10 following words and terms shall have the following meanings
11 unless some other meaning is plainly indicated:

12 (3) "Landlord" means the owner or lessor of a dwelling
13 unit and any rental management company, rental agency, or any
14 other person having the actual or apparent authority of an
15 agent to perform the duties imposed by this part.

16 Section 2. Section 83.451, Florida Statutes, is
17 created to read:

18 83.451 Use of credit reports and credit scores by
19 landlords.--

20 (1) The purpose of this section is to regulate and
21 limit the use of credit reports and credit scores by landlords
22 when renting a residential dwelling unit.

23 (2) As used in this section, the term:

24 (a) "Adverse decision" means a decision by a landlord
25 to deny an application to rent or to refuse to renew a rental
26 agreement; to require a cosigner on the rental agreement; to
27 offer a rental agreement requiring a security deposit that is
28 not required of another applicant or tenant; to offer a rental
29 agreement requiring a larger security deposit than that
30 required of another applicant or tenant; or to increase the

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1 rent to a higher amount than that charged to another applicant
2 or tenant.

3 (b) "Credit report" means any written, oral, or other
4 communication of any information by a consumer reporting
5 agency, as defined in the federal Fair Credit Reporting Act,
6 15 U.S.C. ss. 1681 et seq., bearing on an applicant's or
7 tenant's credit worthiness, credit standing, or credit
8 capacity, which is used or expected to be used or collected as
9 a factor to establish an applicant's or tenant's eligibility
10 for a rental agreement, or any other purpose authorized under
11 the applicable provision of the federal act. A credit score
12 alone, as calculated by a consumer reporting agency, is not a
13 credit report.

14 (c) "Credit score" means a score, grade, or value that
15 is derived by using any or all data from a credit report in
16 any type of model, method, or program, whether electronically,
17 in an algorithm, computer software or program, or any other
18 process, for the purpose of grading or ranking credit report
19 data.

20 (3) A landlord must inform an applicant or tenant, in
21 the same medium as the application or renewal is taken, that a
22 credit report or score is being requested for rental purposes.
23 A landlord who makes an adverse decision based, in whole or in
24 part, upon a credit report must provide a copy of the credit
25 report to the applicant or tenant at no charge or provide the
26 applicant or tenant with the name, address, and telephone
27 number of the consumer reporting agency from which the tenant
28 or applicant may obtain the credit report. The landlord must
29 provide notification to the applicant or tenant explaining the
30 reasons for the adverse decision. The reasons must be provided
31 in sufficiently clear and specific language so that an

1 applicant or tenant can identify the basis for the landlord's
2 adverse decision. The notification must include a description
3 of the four primary reasons, or a fewer number if fewer
4 persons exist, which were the primary influences on the
5 adverse decision. The use of generalized terms such as "poor
6 credit history" or "poor credit rating" do not meet the
7 explanation requirements of this subsection. A credit score
8 may not be used in making a decision concerning a rental
9 agreement unless the scoring process produces information in
10 sufficient detail to permit compliance with the requirements
11 of this section.

12 (4)(a) A landlord may not request a credit report or
13 credit score based upon the race, color, religion, marital
14 status, age, gender, income, national origin, or place of
15 residence of the applicant or tenant.

16 (b) A landlord may not make an adverse decision that
17 is based solely on information contained in a credit report or
18 credit score without consideration of any other factor.

19 (c) A landlord may not make an adverse decision or use
20 a credit score that could lead to such a decision if based, in
21 whole or in part, on:

22 1. The absence of, or an insufficient, credit history,
23 in which instance the landlord shall:

24 a. Treat the applicant or tenant as otherwise approved
25 unless the landlord presents evidence that the absence of, or
26 the insufficient, credit history is related to the risk of
27 renting by the landlord;

28 b. Treat the person as if the applicant or tenant had
29 neutral credit information;

30 c. Exclude the use of credit information as a factor
31 and use only other rental criteria;

1 2. Collection accounts having a medical industry code,
2 if so identified on the applicant's or tenant's credit report;

3 or

4 3. Place of current residence.

5 (d) A landlord may use the number of credit inquiries
6 requested or made regarding the applicant or tenant, except
7 for:

8 1. Credit inquiries not initiated by the applicant or
9 tenant or inquiries requested by the person for his or her own
10 credit information.

11 2. Collection accounts having a medical industry code,
12 if so identified on the applicant's or tenant's credit report.

13 3. Multiple-lender inquiries, if coded by the consumer
14 reporting agency on the applicant's or tenant's credit report
15 as being from the home mortgage industry and made within 30
16 days of one another, unless only one inquiry is considered.

17 4. Multiple-lender inquiries, if coded by the consumer
18 reporting agency on the applicant's or tenant's credit report
19 as being from the automobile lending industry and made within
20 30 days of one another, unless only one inquiry is considered.

21 (e) A landlord must, upon the request of an applicant
22 or tenant, provide a means of appeal for an applicant or
23 tenant whose credit report or credit score is unduly
24 influenced by a dissolution of marriage, the death of a
25 spouse, or temporary loss of employment. The landlord must
26 complete its review within 10 business days after the request
27 by the applicant or tenant and receipt of reasonable
28 documentation requested by the landlord, and, if the landlord
29 determines that the credit report or credit score was unduly
30 influenced by any of such factors, the landlord shall treat
31 the applicant or tenant as if the applicant or tenant had

1 neutral credit information or shall exclude the credit
2 information, whichever is more favorable to the applicant or
3 tenant.

4 Section 3. This act shall take effect July 1, 2004.

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7 SENATE SUMMARY

8 Revises the definition of landlord. Limits the use of
9 credit reports and credit scores by landlords when
10 renting a residential dwelling unit. Directs a landlord
11 to inform an applicant or tenant that a credit report or
12 score is being requested for rental purposes. Directs a
13 landlord who makes an adverse decision based upon a
14 credit report to give a copy of the report to the
15 applicant or tenant or give the applicant or tenant the
16 name, address, and telephone number of the consumer
17 reporting agency that prepared the credit report. Directs
18 a landlord to notify an applicant or tenant to explain
19 the reasons for an adverse decision. Prohibits a landlord
20 from making an adverse decision solely because of
21 information contained in a credit report. Provides
22 criteria for the proper use of a credit report. Requires
23 a landlord to provide a means of appeal for an applicant
24 or tenant whose credit report or credit score is unduly
25 influenced by certain circumstances.
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