



Legislation Details (With Text)

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Attachments: 1. Summary of Int. No. 1250, 2. August 16, 2016 - Stated Meeting Agenda with Links to Files

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Int. No. 1250

By Council Members Kallos, the Public Advocate (Ms. James), Cohen, Rosenthal, Palma, Gentile and Chin (by request of the Manhattan Borough President)

A Local Law to amend the administrative code of the city of New York, in relation to licensing tenant screening bureaus

Be it enacted by the Council as follows:

Section 1. Chapter 2 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 34 to read as follows:

Subchapter 34

Tenant Screening Bureaus

- § 20-547 Definitions.
- § 20-548 License required.
- § 20-549 License term; fees.
- § 20-550 Applications.
- § 20-551 Required and prohibited practices.
- § 20-552 Powers and duties of the commissioner.
- § 20-553 Civil penalties.
- § 20-554 Private right of action.

§ 20-547 Definitions. For purposes of this subchapter, the following terms have the following meanings:

File. The term “file” when used in connection with information about any tenant or prospective tenant means all of the information about the tenant or prospective tenant that is recorded and retained by a tenant screening bureau, regardless of how the information is stored.

Housing court proceeding. The term “housing court proceeding” means a judicial or administrative proceeding that is related to residential tenancy, rent or eviction, regardless of the forum in which such proceeding is initiated and regardless of whether such proceeding is initiated by a landlord or a tenant.

Tenant screening. The term “tenant screening” means seeking, obtaining or using a tenant screening report about a prospective tenant for the purpose of assessing whether to make a rental offer to or to accept such an offer from a prospective tenant for residential real property located in the city.

Tenant screening bureau. The term “tenant screening bureau” means a person that, for a fee, regularly engages in the business of assembling or evaluating information about individuals for the purpose of furnishing tenant screening reports to third parties where such reports are used or are intended to be used in connection with the rental of residential real property located in the city. Such term does not include a person who obtains a tenant screening report and provides such report or information contained in such report to a subsidiary or affiliate of such person.

Tenant screening report. The term “tenant screening report” means any written, oral or other communication that purports to contain information about a housing court proceeding involving tenant or prospective tenant who is the subject of the report and that is used or expected to be used in whole or in part for the purpose of serving as a factor in determining a tenant’s or a prospective tenant’s suitability for housing.

§ 20-548 License required. No person may act as a tenant screening bureau without first having obtained a license in accordance with this subchapter.

§ 20-549 License term; fees. a. A license issued pursuant to this subchapter shall be valid for two years unless sooner suspended or revoked.

b. The fee for a license or a renewal thereof is \$75.

§ 20-550 Applications. a. A person applying for a license or a renewal thereof under this subchapter shall file an application in such form and detail as the commissioner shall prescribe and shall pay the fee required by this subchapter.

b. The commissioner shall require each person applying for a license under this subchapter to provide the following information:

1. The name, address, telephone number and e-mail address of the applicant;

2. If the applicant is a nonresident of the city, the name, address, telephone number and e-mail address of a registered agent in the city upon whom process or other notification may be served or a designation of the commissioner for such purpose; and

3. Any other information that the commissioner deems relevant.

§ 20-551 Required and prohibited practices. a. For each housing court proceeding that it refers to, a tenant screening report shall include all of the following information:

1. The names of all petitioners in the housing court proceeding;

2. The names of all respondents in the housing court proceeding;

3. The name and address of the forum where the housing court proceeding was filed;

4. The claims alleged in the petition;

5. In the case of a holdover proceeding, the specific claim or allegation made by the petitioner as grounds for the proceeding;

6. Whether the rent for the unit that was the subject of the housing court proceeding was regulated by law, as alleged in the petition;

7. Whether any respondent filed an answer in the housing court proceeding and, if so, the nature of any defenses asserted in such answer;

8. The outcome, if any, of the housing court proceeding, such as whether the proceeding was settled, discontinued, dismissed or withdrawn or resulted in a possessory judgment for landlord or tenant or in a money judgment for landlord or tenant;

9. If a rent claim made in the housing court proceeding was reduced or abated, either by agreement of the parties or by court order, the amount of such reduction or abatement;

10. The date when information about the housing court proceeding will be permanently removed from the file of the subject of such proceeding; and

11. The most current status of the housing court proceeding.

b. No tenant screening bureau may furnish a tenant screening report containing any information about a housing court proceeding:

1. If such proceeding is the subject of an expungement order issued by any court of competent jurisdiction;

2. If such report does not contain all of the information about such housing court proceeding required by subdivision a of this section; or

3. If such report contains information that the tenant screening bureau knows or should know is inaccurate.

§ 20-552 Powers and duties of the commissioner. a. The commissioner shall promulgate such rules as are necessary to implement and enforce this subchapter.

b. The commissioner has the power to enforce this subchapter, to investigate any violation thereof, and to investigate the business, business practices and business methods of any tenant screening bureau if the commissioner determines that such investigation is warranted. A tenant screening bureau that receives a request for information from the commissioner shall supply the requested information promptly in a manner provided by rule.

c. The commissioner may compel the attendance of witnesses and the production of documents in accordance with the provisions of chapter 1 of this title.

d. The commissioner may seek to enjoin a violation of this subchapter and may suspend the issuance of any tenant screening report in order to enforce this subchapter.

§ 20-553 Civil penalties. a. A person who, after notice and a hearing, is found to have furnished another with a tenant screening report that violates this subchapter is subject to a civil penalty of \$500 for each such tenant screening report furnished.

b. A person who, after notice and a hearing, is found to have acted as a tenant screening bureau without a license in violation of section 20-548 is subject to a civil penalty of not less than \$1,000 and not more than \$5,000.

c. If a person is found to have committed repeated, multiple or persistent violations of any provision of this subchapter, such person may be responsible for all or part of the cost of the department's investigation.

d. Each penalty or cost specified in this section is in addition to any other applicable penalty or cost specified in this section or in other law.

§ 20-554 Private right of action. a. A tenant or prospective tenant who has been injured by a violation of this subchapter, except a violation of the requirement to obtain a license, may institute in such tenant's or prospective tenant's own name (i) an action to enjoin such unlawful act or practice, (ii) an action to recover the greater of such person's actual damages or \$500 or (iii) both such actions.

b. In an action for damages under this section, a court may award punitive damages if such court finds that the defendant willfully violated this subchapter.

c. In any action under this section, a court shall award reasonable attorney's fees and costs to a prevailing plaintiff.

d. The issuance of a tenant screening report that the tenant screening bureau knew or should have known contained inaccurate information or otherwise violated this subchapter constitutes an injury for purposes of this subdivision. This subdivision does not limit the types of other injuries that are legally cognizable under this section.

e. A tenant or prospective tenant who institutes an action pursuant to this section shall provide notice of such action to the commissioner. The corporation counsel may intervene in any such action on behalf of the city.

f. In any action brought by a resident, former resident or prospective resident of the city involving the reporting of a housing

court proceeding, a party who is found during the course of such action to have violated subchapter III of chapter 41 of title 15 of the United States code or article 25 of the general business law shall file a copy of such finding with the commissioner within 60 days of such finding.

§ 2. This local law takes effect 180 days after it becomes law.

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