
UNFINISHED BUSINESS

Bill No: SB 1157
Author: Bradford (D), et al.
Amended: 7/28/20
Vote: 21

SENATE JUDICIARY COMMITTEE: 7-0, 5/22/20

AYES: Jackson, Durazo, Lena Gonzalez, Monning, Stern, Umberg, Wieckowski

NO VOTE RECORDED: Borgeas, Jones

SENATE FLOOR: 29-4, 6/11/20

AYES: Allen, Archuleta, Atkins, Beall, Bradford, Caballero, Dodd, Durazo,
Galgiani, Glazer, Lena Gonzalez, Grove, Hertzberg, Hill, Hueso, Jackson,
Leyva, McGuire, Mitchell, Monning, Pan, Portantino, Roth, Rubio, Skinner,
Stern, Umberg, Wieckowski, Wiener

NOES: Borgeas, Moorlach, Morrell, Nielsen

NO VOTE RECORDED: Bates, Chang, Dahle, Hurtado, Jones, Melendez, Wilk

ASSEMBLY FLOOR: 57-6, 8/24/20 - See last page for vote

SUBJECT: Tenancy: credit reporting: lower income households

SOURCE: Credit Builders Alliance
Mission Asset Fund
Prosperity Now Fund

DIGEST: This bill requires, beginning July 1, 2021, and until July 1, 2025, any landlord of an assisted housing development, except as specified, to offer the tenant or tenants obligated on the lease of each unit in that assisted housing development the option of having the tenant's rental payments reported to a consumer reporting agency, as provided, and authorizes a landlord to require the tenant to pay a fee not to exceed the lesser of the actual cost to the landlord to provide the reporting service or \$10 per month.

Assembly Amendments (1) exempt from this bill a landlord of an assisted housing development that contains 15 or fewer dwelling units, unless the landlord owns

more than one assisted housing development, regardless of the number of units in each assisted housing development, and the landlord is one of the following: a real estate investment trust, a corporation, or a limited liability company in which at least one member is a corporation; (2) require the offer of rent reporting to include a written election of rent reporting that contains certain things; (3) provide that the payment or nonpayment of the fee cannot be reported to a consumer reporting agency; and (4) specify that if a tenant fails to pay a fee required by the landlord to report rent the failure of payment cannot be cause for termination of the tenancy, the unpaid fee cannot be deducted from the tenant's security deposit, the landlord may stop reporting the tenant's rental payments if the fee remains unpaid for 30 days or more, and the tenant cannot elect rent reporting again for a period of six months from the date on which the fee first became due.

ANALYSIS: Existing law defines an “assisted housing development” as a multifamily rental housing development that receives governmental assistance under specified federal laws and programs, such as the Below-Market-Interest-Rate Program under Section 221(d)(3) of the National Housing Act (12 U.S.C. § 1715 l(d)(3) and (5)), and specified state laws and local programs, such as local housing trust funds, as referred to in paragraph (3) of subdivision (a) of Section 50843 of the Health and Safety Code. (Gov. Code § 65863.10(a)(3).)

This bill:

- 1) Requires, beginning July 1, 2021, any landlord of an assisted housing development to offer the tenant or tenants obligated on the lease of each unit in that housing development the option of having the tenant's rental payments reported to at least one nationwide consumer reporting agency or other consumer reporting agency, as provided.
- 2) Exempts a landlord of an assisted housing development that contains 15 or fewer dwelling units from these provisions, unless the landlord owns more than one assisted housing development, regardless of the number of units in each assisted housing development, and the landlord is one of the following: (a) a real estate investment trust, (b) a corporation, or (c) a limited liability company in which at least one member is a corporation.
- 3) Requires the offer of rent reporting, for leases entered into on and after July 1, 2021, to be made at the time of the lease agreement and at least once annually thereafter, and, for leases outstanding as of July 1, 2021, made no later than October 1, 2021, and at least once annually thereafter.

- 4) Authorizes a landlord to charge a fee to a tenant who elects to have the tenant's rental payments reported to a consumer reporting agency in an amount equal to the actual cost to the landlord to provide the service or \$10 per month, whichever is less.
- 5) Provides that if a tenant fails to pay the fee required by the landlord the failure of payment cannot be cause for termination of the tenancy, the unpaid fee cannot be deducted from the tenant's security deposit, and the landlord may stop reporting the tenant's rental payments if the fee remains unpaid for 30 days or more. Provides that the tenant cannot elect rent reporting again for a period of six months from the date on which the fee first became due. Provides that the payment or nonpayment of the fee cannot be reported to a consumer reporting agency.
- 6) Authorizes a tenant who elects to have the tenant's rental payments reported to a consumer reporting agency to subsequently file a written request with the tenant's landlord to stop that reporting; however, a tenant that does so will not be allowed to elect rent reporting again for a period of at least six months from the date of the tenant's written request.
- 7) Provides that a tenant who elects to have rent reported does not forfeit any rights under Sections 1941 to 1942, inclusive, of the Civil Code, and the deduction or withholding of rent as authorized by those sections will not constitute a late rental payment. A tenant invoking the right to deduct or withhold is required to notify the landlord of the deduction or withholding prior to the date rent is due.
- 8) Repeals these provisions on July 1, 2025.

Comments

1) Lack of credit history as a self-perpetuating barrier to economic mobility

Low-income Californians are often unbanked or underbanked, meaning that they have few if any fixed or formal financial accounts. As a result, they may have little or no established credit history. Having an established credit history is vital to accessing many consumer services and obtaining loans. Credit checks are frequently required for things like: renting an apartment, buying a house, obtaining basic utility services or a cell phone, getting a credit card, and borrowing money from a bank. Some employers even check an applicant's consumer credit record as part of the hiring process.

Some people are fortunate to be able to begin establishing a credit history early in their lives through things like convincing someone with good credit to co-sign on a loan or simply getting added to a parent's credit card account. For those who do not have these options, establishing a credit history can be enormously challenging because enrolling in services or obtaining loans that would establish a credit history often requires *having* a credit history. This catch-22 shuts many low-income individuals out of the formal economy, forcing them to make inflated deposits to obtain things like housing or utility services, steering them away from keeping money in interest-bearing accounts, and driving them into the hands of financial services with hefty fees and high interest rates, like pay-day lenders and check-cashing companies.

Statistics show that a lack of credit impacts a large segment of our population and disproportionately affects those with low income and communities of color. According to a Consumer Financial Protection Bureau report on the topic:

As of 2010, 26 million consumers in the United States were credit invisible, representing about 11 percent of the adult population. An additional 19 million consumers, or 8.3 percent of the adult population, had credit records that were treated as unscorable by a commercially-available credit scoring model. [...]

There is a strong relationship between income and having a scored credit record. Almost 30 percent of consumers in low-income neighborhoods are credit invisible and an additional 15 percent have unscored records. [...]

Blacks and Hispanics are more likely than Whites or Asians to be credit invisible or to have unscored credit records. About 15 percent of Blacks and Hispanics are credit invisible (compared to 9 percent of Whites and Asians) and an additional 13 percent of Blacks and 12 percent of Hispanics have unscored records (compared to 7 percent of Whites). These differences are observed across all age groups, suggesting that these differences materialize early in the adult lives of these consumers and persist thereafter.¹

A little over 45 percent of Californians rent their housing—the second highest in the nation after New York and 10 percent higher than the national average.² Most Californians who make on-time rent payments fail to receive any benefit to their credit scores for making those on-time payments even though failure to

¹ Brevoort, Grimm, and Kambara, *Data Point: Credit Invisibles* (May 2015) U.S. Consumer Financial Protection Bureau https://files.consumerfinance.gov/f/201505_cfpb_data-point-credit-invisibles.pdf (as of May 7, 2020) at p. 6.

² Campbell, *Is it More Common to Rent or Own in Each State?* (Jan. 21, 2019) Move.org <https://www.move.org/states-with-highest-lowest-owner-occupied-homes/> (as of May 11, 2020).

pay one's rent has a negative impact on one's credit. This is because most landlords are not submitting their tenants' "full-file" (positive and negative) rental payment history to any of the major consumer reporting agencies (Equifax, Experian, or TransUnion; also referred to as credit bureaus). Several studies and pilot programs have shown that reporting the full rental history of low-income tenants to the major consumer reporting agencies will have a positive impact on most of those tenants' credit scorability and credit scores.

Credit Builders Alliance (CBA), one of the sponsors of this bill, and Citi Foundation conducted a pilot in collaboration with eight affordable housing providers nationwide, including one in California: the East Bay Asian Local Development Corporation. A total of 1,255 tenants opted to participate in the pilot. After two years, CBA analyzed the resulting impact on tenant credit and reached the following conclusions:

- All residents participating in the pilot who initially had no credit score had either a high nonprime or prime score with the inclusion of their rental payment history.
- A large majority (79 percent) of participants experienced an increase in credit score, with an average increase of 23 points.
- A small number of pilot participants (14 percent) experienced no change in their credit score after including the rental trade line, and an even smaller number (7 percent) experienced a decrease in credit score.³

General studies of the impact of rent payment reporting on credit conducted by the credit reporting agencies Experian, TransUnion, and RentTrack showed similarly positive results,⁴ though it should be noted that these companies have a financial incentive to encourage greater use of their services.

A study was commissioned by the U.S. Department of Housing and Urban Development that conducted a series of simulations using rental payment data from three public housing authorities (PHAs) in Seattle, Washington; Louisville, Kentucky; and Cook County, Illinois to assess the impact of

³ Chenven and Schulte, *The Power of Rent Reporting Pilot: A Credit Building Strategy* (2015) Credit Builders Alliance and Citi Foundation <https://creditbuildersalliance.org/wp-content/uploads/2019/06/CBA-Power-of-Rent-Reporting-Pilot-White-Paper.pdf> (as of May 1, 2020) at p. 5.

⁴ See, *Credit for Renting* (2014) Experian <http://www.experian.com/assets/rentbureau/white-papers/experian-rentbureau-credit-for-rent-analysis.pdf> (as of May 11, 2020)); *TransUnion Analysis Finds Reporting of Rental Payments Could Benefit Renters in Just One Month* (June 19, 2014) TransUnion <https://newsroom.transunion.com/transunion-analysis-finds-reporting-of-rental-payments-could-benefit-renters-in-just-one-month> (as of May 11, 2020; *RentTrack Study Shows Positive Impact of Rent Reporting* (Mar. 6, 2015) RentTrack <https://www.renttrack.com/blog/renttrack-six-month-review-rent-reporting-impact/> (as of May 11, 2020).

reporting full rental history of residents in the PHAs on their credit scores.⁵ The study did not actually report rent payments to credit agencies but simulated the reporting of rent payments. Key findings from the study include that the “addition of the full-file PHA rental payment data tended to dramatically reduce unscorability”⁶ and the “addition of the full-file PHA rental payment data both raised and lowered credit scores, with more score increases than decreases.”⁷

In light of the above described studies and pilot programs, this bill seeks to make California the first state in the nation to require landlords of assisted housing developments to offer tenants the option of having their rental payments reported to at least one of the major credit reporting agencies.

Unfortunately, tenants and landlords cannot report rental payments to the major consumer reporting agencies themselves; they must do so through a third-party servicer or via a subscription with a consumer reporting agency. There are several third-party servicers that will report a tenant’s rental payments to one or more of the major consumer reporting agencies but most charge fees to do so.⁸ In order to ensure that the administrative cost of reporting is not placed solely on the landlord, this bill authorizes a landlord to charge a fee to a tenant who elects to have the tenant’s rental payments reported in an amount equal to the actual cost to the landlord to provide the service or \$10 per month, whichever is less.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 8/24/20)

Credit Builders Alliance (co-source)

Mission Asset Fund (co-source)

Prosperity Now Fund (co-source)

Able Works

All Home

Barrio Action Youth and Family Center

Bay Area Local Initiatives Support Corporation

California Association for Micro Enterprise Opportunity

California Coalition for Rural Housing

⁵ Turner and Walker, *Potential Impacts of Credit Reporting on Public Housing Rental Payment Data* (Oct. 2019) Policy and Economic Research Council as commissioned by the U.S. Department of Housing and Urban Development <https://www.huduser.gov/portal/sites/default/files/pdf/Potential-Impacts-of-Credit-Reporting.pdf> (as of May 11, 2020).

⁶ *Id.* at 8.

⁷ *Id.* at 7.

⁸ *Id.*

Citizen Potawatomi Community Development Corporation
Community Financial Resources
Consumer Credit Counseling Services of Maryland
East Bay Asian Local Development Corporation
Haven Neighborhood Services
Highland Realty
Housing and Economic Rights Advocates
Justine Petersen Housing and Reinvestment Corporation
Mission Economic Development Agency
MyPath
National Coalition for Asian Pacific American Community Development
New Economics for Women
North County Lifeline
One Treasure Island
Opportunity Fund
Peninsula Family Service
Rubicon Programs
Soboba Tribal Credit Union
The Financial Clinic
Western Center on Law and Poverty
Working Solutions
World Institute on Disability

OPPOSITION: (Verified 8/24/20)

Affordable Housing Management Association of Northern California and Hawaii
Affordable Housing Management Association-Pacific Southwest
Apartment Association of Orange County
Apartment Association, California Southern Cities
East Bay Rental Housing Association

ARGUMENTS IN SUPPORT: Credit Builders Alliance, co-sponsor of this bill, writes in support:

Renters are more likely to have lower-income and lower-wealth than homeowners. In addition, renters are seven times more likely to have a minimal credit history that is deemed unscorable by the credit bureaus compared to homeowners. Many have limited opportunities to build credit history, which directly affects their ability to get and stay ahead in today's economy. Reporting rental payments to the major credit bureaus offers low-income

renters an opportunity to build credit as a financial asset without taking on additional debt. [. . .]

Rent reporting has high impact because it is place-based, simple, and scalable through housing providers. As a first-in-the nation bill that requires landlords who own or manage subsidized multi-family residential properties to offer their tenants the option of having their rent payments reported to a major credit bureau, SB 1157 could move the needle on helping Californians in an estimated 500,000 households establish or improve their credit scores.

ARGUMENTS IN OPPOSITION: In opposition to the bill, the Apartment Association of Orange County, East Bay Rental Housing Association, the Apartment Association, California Southern Cities, Affordable Housing Management Association of Northern California and Hawaii, and the Affordable Housing Management Association-Pacific Southwest write:

SB 1157 as it currently reads puts all options for reporting in the hands of the tenant, all liability for administrative costs associated with reporting are born by the landlord while he/she is left with no option to determine what that reporting entails, or to contribute to that process. This is offensive, not only to the notion and concept of fair dealings, but traditionally such an agreement does not comport with the concept of equal bargaining power.[. . .]

What SB 1157 proposes is also offensive to public policy, as the one required to provide remedy for an ill in this case assisted housing development landlords, generally receive no net benefit from the remedy they are required to provide. Most “assisted housing development” landlords provide an essential and in this climate, an invaluable function. To place any burden or constraint on their ability to provide such a service, by enacting a proposal that would require greater economic resources on their part would not be prove to be prudent.

ASSEMBLY FLOOR: 57-6, 8/24/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Chu, Cooley, Cooper, Daly, Diep, Eggman, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Levine, Limón, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Weber, Wood, Rendon

NOES: Bigelow, Brough, Chen, Megan Dahle, Fong, Lackey

NO VOTE RECORDED: Choi, Cunningham, Flora, Frazier, Gallagher, Gray,
Mathis, Mayes, Obernolte, Patterson, Petrie-Norris, Quirk-Silva, Rodriguez,
Voepel, Waldron, Wicks

Prepared by: Amanda Mattson / JUD. / (916) 651-4113
8/25/20 14:56:08

****** END ******