

Senate File 2106 - Introduced

SENATE FILE 2106
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A BILL FOR

1 An Act relating to residential rental property price fixing, and
2 providing civil penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. **562C.1 Short title.**

2 This chapter shall be known and may be cited as the "Iowa
3 *Residential Rent Fairness and Anticollusion Act*".

4 Sec. 2. NEW SECTION. **562C.2 Definitions.**

5 As used in this chapter, unless the context otherwise
6 requires:

7 1. "*Algorithmic rent-setting system*" means software, machine
8 learning, artificial intelligence, or any other automated tool
9 used by a landlord to set, recommend, or adjust rent levels or
10 occupancy levels for residential rental property, based in whole
11 or in part on nonpublic competitor data, without independent
12 individualized human review or decision making.

13 2. "*Landlord*" means any person that owns, leases, subleases,
14 or otherwise controls five or more residential rental properties
15 in the state, or that manages or operates residential rental
16 properties on behalf of the person.

17 3. "*Nonpublic competitor data*" means data regarding rent
18 levels, lease terms, occupancy rates, or other proprietary
19 information of other landlords or rental properties that is not
20 publicly disclosed or available.

21 4. "*Price fixing*" means any agreement, arrangement, or
22 understanding among two or more landlords or agents of the
23 landlords that does any of the following:

24 a. Fixes, stabilizes, raises, or maintains the level of rent
25 charged for residential rental property.

26 b. Limits or restricts competition by controlling rent
27 setting or terms of tenancy.

28 c. Uses shared nonpublic competitor data, algorithmic tools,
29 or software to coordinate rent levels or occupancy terms across
30 multiple landlords.

31 5. "*Provider of an algorithmic rent-setting system*" means
32 a person who designs, develops, markets, sells, licenses, or
33 operates an algorithmic rent-setting system.

34 6. "*Rent*" means all payments or charges, however designated,
35 that a landlord demands or receives from a tenant in return for

1 occupancy of a residential rental property, including any fees,
2 parking, utilities, or other services tied to the tenancy.

3 7. "*Residential rental property*" means a parcel of land or a
4 building or portion thereof occupied or intended for occupancy as
5 a home, mobile home, residence, or sleeping place by a person,
6 and offered or used for rent in the state.

7 8. "*Tenant*" means the same as defined in section 562A.6 or
8 562B.7.

9 Sec. 3. NEW SECTION. **562C.3 Price fixing — prohibited**
10 **acts.**

11 1. Any landlord, or any person acting on behalf of a
12 landlord, shall not enter into or engage in any price fixing with
13 another landlord regarding rent for residential rental property.

14 2. A landlord shall not use an algorithmic rent-setting
15 system that relies on nonpublic competitor data or coordinates
16 pricing with other landlords to set or adjust rent or occupancy
17 levels for residential rental property.

18 3. A provider of an algorithmic rent-setting system shall not
19 do any of the following:

20 a. Provide an algorithmic rent-setting system that uses or
21 incorporates nonpublic competitor data in a manner that fixes,
22 stabilizes, raises, or maintains the level of rent or occupancy
23 for residential property.

24 b. Provide an algorithmic rent-setting system that the
25 provider of an algorithmic rent-setting system knew or reasonably
26 should have known would be used for price fixing.

27 c. Enter into any agreement with two or more landlords to
28 limit or restrain competition in setting rent or terms of tenancy
29 using the algorithmic rent-setting system.

30 Sec. 4. NEW SECTION. **562C.4 Enforcement.**

31 1. The attorney general, or any county attorney or city
32 attorney in this state may bring a civil action for a violation
33 of this chapter. Upon finding that a landlord or a provider of
34 an algorithmic rent-setting system violated this chapter, a court
35 may order any of the following:

1 a. Civil penalties of up to five thousand dollars per rental
2 unit per month for each month a violation continues, or such
3 higher amount as determined by rulemaking, to be deposited into
4 the general fund of the state.

5 b. Injunctive relief as necessary to enforce compliance with
6 this chapter.

7 c. Restitution to aggrieved tenants who paid rent in excess
8 of what would have been charged in a competitive market absent
9 the violation.

10 d. Reasonable attorney fees and costs to the attorney
11 general, county attorney, or city attorney, as applicable.

12 2. A tenant harmed by a violation of this chapter may bring a
13 civil action, and upon finding that a landlord or a provider of
14 an algorithmic rent-setting system violated this chapter, a court
15 may order the following:

16 a. Injunctive relief as necessary to enforce compliance with
17 this chapter.

18 b. Damages.

19 c. Reasonable attorney fees.

20 3. An action brought under this section may be commenced
21 within two years of a violation, and not afterward.

22 Sec. 5. NEW SECTION. **56C.5 Affirmative defenses.**

23 1. It is an affirmative defense to any claim or action
24 alleging that a landlord or a provider of an algorithmic
25 rent-setting system violated this chapter, if all of the
26 following apply:

27 a. The landlord or provider of an algorithmic rent-setting
28 system set the rent independently and without knowledge of any
29 agreement, coordination, or shared nonpublic competitor data with
30 other landlords.

31 b. The landlord or provider of an algorithmic rent-setting
32 system did not rely on an algorithmic rent-setting system that
33 uses nonpublic competitor data to coordinate pricing.

34 c. The landlord or provider of an algorithmic rent-setting
35 system conducted due diligence to ensure that any algorithmic

1 rent-setting system used was not designed or intended to
2 facilitate coordination among landlords.

3 2. The burden of proof for the affirmative defense lies
4 with the landlord or the provider of an algorithmic rent-setting
5 system.

6 Sec. 6. NEW SECTION. **562C.6 Landlords — algorithmic**
7 **rent-setting system providers — recordkeeping.**

8 A landlord or a provider of an algorithmic rent-setting
9 system shall retain for five years records concerning the use
10 of rent-setting algorithms, data sources, decisions, and human
11 oversight of algorithmic rent-setting systems.

12 Sec. 7. NEW SECTION. **562C.7 Rules.**

13 The attorney general may adopt rules pursuant to chapter 17A
14 to administer this chapter, including standards for algorithmic
15 rent-setting systems, recordkeeping requirements, affirmative
16 defense compliance practices, and the form and content of notices
17 to tenants when rent adjustments are based on an algorithmic
18 rent-setting system, that include a summary statement of the
19 landlord's use of such system and the tenant's rights under this
20 chapter.

21 EXPLANATION

22 The inclusion of this explanation does not constitute agreement with
23 the explanation's substance by the members of the general assembly.

24 This bill relates to residential rental properties price
25 fixing.

26 The bill defines a "landlord" as any person that owns,
27 leases, subleases, or otherwise controls five or more residential
28 rental properties in the state, or any that manages or
29 operates residential rental properties on behalf of the person.
30 "Algorithmic rent-setting system" (algorithmic system) is defined
31 as software, machine learning, artificial intelligence, or other
32 automated tool used by a landlord to set, recommend, or
33 adjust rent levels or occupancy levels for residential rental
34 properties, based in whole or in part on nonpublic competitor
35 data without independent individualized human review or decision

1 making.

2 The bill prohibits any landlord, or any person acting on
3 behalf of a landlord, from entering into or engaging in any
4 price fixing with another landlord regarding rent for residential
5 rental property. The bill also prohibits a landlord from using
6 an algorithmic system that relies on nonpublic competitor data
7 or coordinates with other landlords to set or adjust rent or
8 occupancy levels for residential rental property. A provider of
9 an algorithmic system is prohibited from providing an algorithmic
10 system that uses or incorporates nonpublic competitor data in a
11 manner that fixes, stabilizes, raises, or maintains the level
12 of rent or occupancy for residential property; providing an
13 algorithmic system that the provider of the algorithmic system
14 knew or reasonably should have known would be used for price
15 fixing; and entering into any agreement with two or more
16 landlords to limit or restrain competition in setting rent or
17 terms of tenancy using the algorithmic system.

18 The bill provides that the attorney general, or a county
19 attorney or city attorney may bring a civil action for a
20 violation of the bill. Upon finding that a landlord or a
21 provider of an algorithmic system violated the bill, a court may
22 order civil penalties, to be deposited into the general fund of
23 the state, of up to \$5,000 per rental unit per month for each
24 month a violation continues, or a higher amount as determined
25 by rulemaking, injunctive relief, restitution, and reasonable
26 attorney fees and costs.

27 The bill provides that a tenant harmed by a violation of the
28 bill may bring a civil action. Upon finding that a landlord or a
29 provider of an algorithmic system violated the bill, a court may
30 order injunctive relief, damages, and reasonable attorney fees.

31 An action brought under the bill must be commenced within two
32 years of the violation, and not afterward.

33 The bill provides an affirmative defense to any claim or
34 action alleging that a landlord or a provider of an algorithmic
35 system violated the bill, if the landlord or a provider of an

1 algorithmic system: (1) set the rent independently and without
2 knowledge of any agreement, coordination, or shared nonpublic
3 competitor data with other landlords; (2) did not rely on
4 an algorithmic system that uses nonpublic competitor data to
5 coordinate pricing; and (3) conducted due diligence to ensure
6 that any algorithmic system used was not designed or intended to
7 facilitate coordination among landlords. The burden of proof for
8 the affirmative defense lies with the landlord or the provider of
9 an algorithmic system.

10 The bill requires a landlord or a provider of an algorithmic
11 system to retain for five years records concerning the use
12 of rent-setting algorithms, data sources, decisions, and human
13 oversight of algorithmic rent-setting systems.

14 The attorney general may adopt rules to administer the bill.

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