

CONCURRENCE IN SENATE AMENDMENTS

AB 2747 (Haney)

As Amended August 20, 2024

Majority vote

SUMMARY

Requires specified landlords to offer each tenant obligated on a lease the option of having the tenant's positive rental payment information reported to at least one nationwide consumer reporting agency.

Major Provisions

- 1) Requires a landlord to offer the tenant obligated on the lease the option of having the tenant's rental payment information reported to at least one consumer reporting agency that meets one of the following criteria:
 - a) Regularly engages in the practice of assembling and maintaining public record and credit account information for the purpose of furnishing consumer reports to third parties bearing on a consumer's credit worthiness, credit standing, or credit capacity, public record information, and specified credit account information regarding consumers residing nationwide; or
 - b) Regularly engages in the practice of assembling or evaluating consumer credit information or other consumer information for the purpose of furnishing consumer reports to third parties *and* resells or otherwise furnishes rental payment information to a nationwide consumer reporting agency, as described in a).
- 2) Requires that a tenant's election to have rent reported to a consumer credit agency be in writing.
- 3) Requires that the offer of rent reporting include a written election of rent reporting that contains specified elements, including information about the terms of the reporting agreement, the rights of the tenant to opt in or out of reporting, and instructions for participation.
- 4) Permits the landlord to make the offer of rent reporting to the tenant by first-class United States mail or email.
- 5) Establishes that if the offer of rent reporting is made by first-class United States mail, the landlord must provide the tenant with a self-addressed, stamped envelope with which to return the written election of rent reporting.
- 6) Allows a tenant to submit their completed written election of rent reporting at any time after they receive the offer of rent reporting from the landlord.
- 7) Requires the landlord to provide additional copies of the written election of rent reporting form at any time, if requested by the tenant.
- 8) Requires that, for leases entered into, on, and after April 1, 2025, the offer of rent reporting be made at the time of the lease agreement and at least once annually thereafter. Requires, for

leases outstanding as of January 1, 2025, the offer of rent reporting be made no later than April 1, 2025, and at least once annually thereafter.

- 9) Authorizes, if a tenant elects to have rental payments reported to a consumer reporting agency, the landlord to require the tenant to pay a fee not to exceed the lesser of the actual cost to the landlord to provide the service or \$10 per month. Prohibits the landlord from reporting the payment or nonpayment of this fee by the tenant to a consumer reporting agency.
- 10) Prohibits the landlord from using a tenant's failure to pay the fee in 9) as cause for termination of the tenancy.
- 11) Prohibits a landlord from deducting the fee in 9) from an amount paid for the tenant's monthly rent.
- 12) Prohibits the landlord from deducting any unpaid fee from the tenant's security deposit.
- 13) Authorizes the landlord to stop reporting the tenant's rental payments if the fee remains unpaid for 30 days or more.
- 14) Prohibits a tenant who fails to pay the fee for a period of longer than 30 days from being allowed to elect rent reporting again for a period of at least six months from the date on which the fee first became due.
- 15) Authorizes a tenant who elects to have positive rent reported to subsequently file a written request with their landlord to stop that reporting and requires the landlord to comply with this request.
- 16) Prohibits a tenant who elects to stop reporting from being allowed to elect rent reporting again for a period of at least six months from the date of the tenant's written request to stop reporting.
- 17) Exempts any landlord of a residential rental building that contains 15 or fewer dwelling units from the requirements of this bill, unless that landlord owns more than one residential rental building and is either a real estate investment trust, a corporation, or a limited liability company with at least one member corporation.

Senate Amendments

Clarify that the measure applies to positive rent reporting and that a landlord may not deduct the fee from rent.

COMMENTS

Many Californians who do not possess a robust credit history do have a history of paying rent on time. But that information does not show up on their credit reports and does not help their credit scores. This measure attempts to solve that problem by giving tenants the opportunity to have their positive rental payment information reported to consumer reporting agencies, adding to their credit history.

How does positive rent reporting work? Positive rent reporting involves reporting on-time, complete rent payments to credit bureaus to help tenants build their credit scores. Typically, in the absence of such a program, rent payments are not included in credit reports unless a tenant defaults on rent and it goes to collections. This differs from mortgage holders who do have on-time loan payments included in their credit scores. Positive rent reporting enables tenants to proactively showcase their responsible payment history, potentially boosting their creditworthiness. 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.

In order to address concerns that the administrative cost of reporting was being placed solely on the landlord, this bill would authorize a landlord to charge a fee to a tenant who elects to have the tenant's rental payments reported. Because the positive rent reporting services currently in the marketplace carry a low monthly fee, if any at all, the fee a landlord can collect with this measure is limited to the actual cost to the landlord to provide the service or \$10 per month, whichever is less. It is anticipated that landlords will be able to recoup all or nearly all the fees they may be charged by third-party servicers through the fee that they are authorized to charge the tenant for participating in the rental payment reporting program. And to the extent there is no cost incurred at all, this measure may not be used to extract any additional fees from a renter.

How does this bill work? The measure adopts the general framework of SB 1157 (Bradford, Chapter 204, Statutes of 2020): an opt-in, exempting small landlords, and permitting recovery of actual costs not to exceed \$10/month. Like SB 1157, it proposes a framework for compliance for tenant and landlord alike. It differs from SB 1157 in that it extends to all tenants--not just those in subsidized affordable housing units, and enables positive credit reporting only. Importantly, it includes safeguards such as eviction protection, so that non-payment for this opt-in results in the termination of a tenant's enrollment in the program, and not an overly punitive and unintended consequence, such as eviction.

Why is only positive rent reporting included? Unlike "full-file" reporting, where all rental payments are reported regardless of whether they are on time, late, or missed, this measure requires landlords to offer only *positive* rent reporting. That means that the reports include only rent payments that the resident made and excludes missed payments (or ends reporting upon a missed payment). This is intentional. One common refrain regarding the effects of SB 1157's full-file reporting was how difficult it was to overcome residents' distrust of the initiative and communicating the tangible benefits of rent reporting. (*Understanding the Implementation of Rent Reporting Programs for Residents of Affordable Housing in California* (June 28, 2022. HUD Office of Policy and Research, <https://www.huduser.gov/portal/pdredge/pdr-edge-trending-062822.html>.) By reporting the positive payments only, the benefits to the resident are self-evident. Any unpaid rent that goes to collection will still be reported to the credit bureaus, as it is currently.

Small landlords excluded. The bill excludes landlords of residential rental buildings that contain 15 or fewer units, with exceptions. This exclusion does not hold if that landlord owns more than one assisted housing development *and* the landlord is a real estate investment trust, a corporation, or a limited liability company in which at least one member is a corporation. The goal of this exemption is to avoid placing an onerous burden on small-scale, non-corporate landlords who are likely to own these smaller properties.

According to the Author

Many renters spend a majority of their income on rent and prioritize their rent payments over all other expenses each month – but their on-time rent payments are never reflected on their credit scores, even when their missed rent payments are. This is an unfair practice that is further pushing millions of renters into cycles of debt and poor financial health. AB 2747 ensures that renters will benefit from paying their rent on time by requiring landlords to report all positive rent payments to a credit bureau agency, which will give renters a chance to see a direct financial benefit from choosing to rent and provide them a much needed path to building equity.

Arguments in Support

GLIDE, a social service provider in San Francisco's Tenderloin neighborhood and the Gubbio Project, explain their support of the measure:

A person's credit score is often used for many financial decisions – like buying a car, opening new credit cards, and securing housing through a mortgage or rental application. A low credit score is one of the main reasons most people get denied from housing since a low score can falsely indicate to a landlord that the applicant could fall behind on their rent payment. In 2020 California passed a law that allowed individuals living in state subsidized housing to opt into rent reporting (SB 1157, Bradford). While the law sunsets in 2025, the success of the policy is clear – on average renters in subsidized housing that opted into rent reporting have seen a 140 point increase in their credit scores....Credit scores are crucial to securing financial equity—whether that is through homeownership or a car loan. Banks often use credit scores to determine if a person can qualify for a mortgage and what the terms of their loan would be. Not reporting a tenant's rent payment to a credit bureau is making it harder for millions of people to eventually become homeowners.

To ensure rent reporting follows the standard practice for what is reported to a credit bureau agency, AB 2747 will require landlords to report all positive rent payments to a credit bureau at no charge to the tenant. Additionally, this bill allows tenants who are not interested in rent reporting to opt out of rent reporting and opt back in at any time.

Arguments in Opposition

The California Rental Housing Association, opposes the additional burden it believes this will impose on landlords:

Furthermore, most rental housing providers in California cannot just provide rental payment data to one of the credit bureaus. To do so would require completion of a complicated application and approval process, which most rental property owners in California would not be able to undertake particularly when more than 80% of rental property owners in California are independent, "mom and pop" owners.

Accordingly, in lieu of a direct reporting relationship with the credit bureaus, rental housing providers may, instead, work through a third party reporting entity such as Rent Bureau, a subsidiary of Experian. However, in order to enable rental payment reporting through these third-party providers, a rental housing provider would need to license a property management software product such as AppFolio or Yardi that are capable of interfacing with the third-party to facilitate rent payment reporting. These property management software systems are generally very expensive, generally costing thousands of dollars per year, and are not geared towards the smaller owner who owns fewer than 50 rental units.

In effect, this proposed AB 2747 would be problematic for the majority of rental housing providers in California, and would be both an administrative and financial burden by requiring the implementation of complicated property management software that is costly to license, and would also require a costly subscription to a third-party rent payment reporting service such as Rent Bureau.

FISCAL COMMENTS

None.

VOTES:

ASM JUDICIARY: 9-2-1

YES: Kalra, Ting, Bryan, Connolly, Haney, Maienschein, McKinnor, Pacheco, Reyes

NO: Dixon, Sanchez

ABS, ABST OR NV: Waldron

ASSEMBLY FLOOR: 59-13-8

YES: Addis, Aguiar-Curry, Alvarez, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Connolly, Mike Fong, Friedman, Garcia, Gipson, Grayson, Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Ortega, Pacheco, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

NO: Chen, Davies, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Lackey, Jim Patterson, Joe Patterson, Sanchez, Ta

ABS, ABST OR NV: Alanis, Arambula, Cervantes, Megan Dahle, Gabriel, Mathis, Stephanie Nguyen, Luz Rivas

SENATE FLOOR: 26-8-6

YES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Newman, Padilla, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wiener

NO: Dahle, Grove, Menjivar, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk

ABS, ABST OR NV: Alvarado-Gil, Durazo, Jones, Min, Portantino, Wahab

UPDATED

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CONSULTANT: Shiran Zohar / JUD. / (916) 319-2334

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