Redline of Prior Rules

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

NOTICE OF FINAL RULEMAKING

Pursuant to the authority set forth in § 202(a)(1) of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3502.02(a)(1) (2012 Repl.)) ("Act" or "Rental Housing Act"), the Rental Housing Commission ("Commission") hereby gives notice of the adoption of the following amendments to Chapter 3 (Landlord and Tenant), Chapter 41 (Coverage and Registration), Chapter 42 (Rent Stabilization Program), and Chapter 43 (Evictions, Retaliation, and Tenant Rights) of Title 14 (Housing) of the District of Columbia Municipal Regulations ("DCMR").

The rules relate to § 3 of the Eviction Record Sealing Authority and Fairness in Renting Amendment Act of 2022, effective May 18, 2022 (D.C. Law 24-115; 69 D.C.R. 002683) ("ERSA-FIRA"). The ERSA-FIRA, in relevant part, amends § 501 and creates new § 510 of the Rental Housing Act (D.C. Official Code §§ 42-3505.01 & 42-3505.10). The amendments to § 501 of the Act place evictions for nonpayment of rent within the Act's scope by requiring notices to vacate before the filing of an action in court and modify the requirements for service of notices to vacate for all reasons. New § 510 of the Act establishes several requirements and prohibitions for housing providers that screen tenant applications based on consumer reports. The Commission is not promulgating rules related to new § 509 of the Act, the eviction record sealing provisions.

The rules also relate to the Fairness in Renting Clarification Amendment Act of 2023, effective November 28, 2023 (D.C. Law 25-65; 70 D.C.R. 013822) ("Clarification Act"). The Clarification Act further amends § 501 of the Act related to the $600 threshold for nonpayment of rent eviction cases, § 510 of the Act related to application fees, and § 904 of the Act (D.C. Official Code § 42-3509.04) related to the timing of notices of rent increases.

Four notices of proposed rulemaking were published in the D.C. Register related to these amendments: first, 69 D.C.R. 015208 (Dec. 9, 2022); second, 71 D.C.R. 003594 (Mar. 29, 2024); third, 71 D.C.R. 014576 (Nov. 29, 2024); and fourth, 72 D.C.R. 008058 (July 18, 2025). The reasoning set forth in the preamble of each of the proposed rulemakings is incorporated herein. The final rules below make only minor, technical corrections or clarifications to the fourth proposed rules, with no changes to the substantive rights of affected persons or to the procedures required by the rules.

The Commission received three sets of comments in response to the fourth notice of proposed rulemaking. For the reasons below, the Commission has made one clarification to the previously proposed rules and declines to make any further changes:

- **Complaints involving subtenants**: In § 4300.4(b)(3), the Commission proposed a rule clarifying that the statutory exception for "complaints involving subtenants" to the license and registration requirements to file an eviction case in the D.C. Superior Court applies only where the sublessor is a residential tenant who seeks to evict a subtenant. One comment suggested that the phrase "seeks to evict" should be

clarified to better explain that the exception applies only when a complaint for possession is being filed by such a sublessor. The Commission agrees and has modified the final rule accordingly.

- **Means of serving notice to vacate**: One comment suggested that the proposed rules in § 4300.25 regarding the allowable ways to serve a tenant with notice to vacate—personal delivery or posting with mailing—do not reflect modern practicalities and should be expanded to include various electronic means of communication. Whatever advantages or disadvantages electronic service might have, the Commission previously explained that the language and structure of the ERSA-FIRA show that the Council intended to apply the same standards used for service of a summons to the D.C. Superior Court, D.C. Official Code § 16-1502. That statute and case law applying it do not permit electronic service, and therefore the Commission does not read the Rental Housing Act as allowing for it either.

- **Timing of Rent Administrator filing**: One comment suggested that the requirement in § 4300.8 to file a certification of the means of service used for a notice to vacate with the Rent Administrator at the same time as filing a copy of the notice should be eliminated or the time for the certification extended. The comment focuses on the practices of process servers, who often delay in sending landlords affidavits of service after serving tenants notice. This requirement is not new in the proposed rules. *See* 68 D.C.R. 012634 (Dec. 3, 2021) (omnibus rulemaking). It is not apparent to the Commission why paid process servers cannot complete both the tenant service and government filing requirements of the rules. Nor is it clear why a process server cannot report the means by which a tenant was served back to a housing provider, with an affidavit or otherwise, within five business days. Housing providers who chose to employ process servers should ensure that they are aware of all applicable regulations and able to complete service accordingly.

- **Waiver of registration requirement**: One comment suggested that the proposed rule in § 4300.4(b)(2) contravenes the Act. The Act provides that a judge may waive the requirement that a housing provider have a basic business license before filing a claim for possession in certain circumstances where outside factors have blocked the housing provider from getting the license. D.C. Official Code §§ 16-1501(c)(2) & 42-3505.01(q). The proposed rule expressly allows the waiver of the requirement to register the rental unit with the Rental Accommodations Division, but only to the extent that the registration was prevented by the lack of a business license. *See* D.C. Official Code § 42-3502.05(f)(3)(B) (requiring business license information on registration form). Although waiver of the registration requirement is not enumerated in the statute, the Commission views it as a necessary implication.

  For example, if a housing provider, previously unlicensed and unregistered, was prevented from obtaining a license by tenant refusal to allow an inspection, the license requirement maybe waived. But the Rental Accommodations Division must reject any registration that does not include proof of a license. The housing provider would fail the registration requirement, but the tenant should not be able to defeat an eviction case because of their refusal to allow an inspection. However, the rule

does not make the registration requirement waivable independent of the license waiver. For example, if a housing provider was licensed but unregistered and the license later expired, the registration requirement would not be waivable, whether or not the license could be waived, because the registration could have been obtained earlier and registrations do not expire.

These final rules will take effect upon their publication in the D.C. Register.

Title 14, HOUSING, of the DCMR is amended as follows:

Chapter 3, LANDLORD AND TENANT, is amended as follows:

Section 301, IMPLIED WARRANTY AND OTHER REMEDIES, is amended as follows:

New subsections 301.3 and 301.4 are added to read as follows:

301.3 A landlord, its agent, or other person entitled to receive rent for a habitation shall not charge a fee to a prospective tenant before move-in, a tenant during a tenancy, or a former tenant after move-out for services required of the landlord to maintain the habitation in a condition consistent with the implied warranty provided by § 301.1, including Title 12 of the District of Columbia Municipal Regulations, or any substantially similar subsequent regulations.

301.4 A landlord, its agent, or other person entitled to receive rent for a habitation shall not charge a tenant or former tenant a fee, or withhold monies from a security deposit in accordance with § 309.1(2), for professional cleaning or for other expenses incurred due to damage to the habitation resulting from ordinary wear and tear, as defined in D.C. Official Code § 42-3502.17(c)(3).

Chapter 41, COVERAGE AND REGISTRATION, is amended as follows:

Section 4111, DISCLOSURES TO PROSPECTIVE AND CURRENT TENANTS, is amended as follows:

Subsection 4111.5 is amended to read as follows:

4111.5 At the time a prospective tenant files an application to lease any rental unit covered by the Act, or, if no application is required, prior to the execution of or agreement to a lease or rental agreement, the housing provider shall provide the tenant with:

(a) A completed copy of the form described in § 4111.3; ~~and~~

(b) A copy of each record or document listed in § 4111.2; provided, that where petitions, forms, or other applications require supporting documentation such as financial statements, the supporting documentation need not be provided so long as it is made available as required by § 4111.4; and

(c) Written documentation of all information required by § 4307.2 as to whether and how the housing provider will conduct any tenant screening, which shall be provided either directly to the tenant or by posting in accordance with § 4307.3.

Chapter 42, RENT STABILIZATION PROGRAM, is amended as follows:

Section 4205, IMPLEMENTATION AND NOTICE OF RENT ADJUSTMENTS, is amended as follows:

The lead-in language of paragraph 4205.4(a) is amended to read as follows:

(a) The housing provider shall provide the tenant of the rental unit not less than ~~thirty (30)~~ sixty (60) days advance written notice of the rent increase, by service in accordance with § 4200.16, on a Notice to Tenant of Rent Adjustment form published by the Rent Administrator, in which the following items shall be included:

Section 4206, ANNUAL RENT ADJUSTMENTS OF GENERAL APPLICABILITY, is amended as follows:

The lead-in language of subsection 4206.3 is amended to read as follows:

4206.3 Prior to ~~March~~ February 1 of each year, to be effective on May 1 of the same year, the Commission shall certify and publish in the *D.C. Register*:

Section 4214, TENANT PETITIONS, is amended as follows:

Subparagraph 4214.4(g) is amended to read as follows:

(g) A rent increase was implemented without notice or with less than ~~thirty (30)~~ sixty (60) days' notice of the increase to the tenant, or the notice was otherwise not in compliance with § 4205.4;

Chapter 43, EVICTIONS, RETALIATION, AND TENANT RIGHTS, is amended as follows:

Section 4300, GROUNDS FOR EVICTION, is amended as follows:

The caption of section 4300 is amended to read as follows:

4300 NONPAYMENT OF RENT AND OTHER GROUNDS FOR EVICTION GENERALLY

Existing subsections 4300.1 through 4300.5 are amended to read as follows:

4300.1 Except as provided by § 4300.2, a tenant of any rental unit covered by the Act, as provided in § 4100.3, shall not be evicted from the rental unit except for:

(a) ~~For any reason listed in § 4300.2; or~~ Nonpayment of rent, pursuant to § 501(a-1) of the Act (D.C. Official Code § 42-3505.01(a-1)), after the service of a notice that complies with this section and the opportunity to pay all rent lawfully owed;

(b) A violation of an obligation of tenancy, pursuant to § 501(b) of the Act (D.C. Official Code § 42-3505.01(b)), after service of a notice that complies with § 4301 and the opportunity to correct the violation; or

(~~b~~c) The following reasons, ~~A~~after the service of a notice that complies with §~~§ 4301 or~~ 4302~~, for the following reasons as described in § 501 of the Act (D.C. Official Code § 42-3505.01) and this section~~:

~~(1) For violation of an obligation of tenancy, pursuant to § 501(b) of the Act (D.C. Official Code § 42-3505.01(b));~~

(~~2~~1) For ~~P~~performance of an illegal act on the premises, pursuant to § 501(c) of the Act (D.C. Official Code § 42-3505.01(c));

(~~3~~2) For ~~P~~personal use and occupancy by the owner of the rental unit, pursuant to § 501(d) of the Act (D.C. Official Code § 42-3505.01(e));

(~~4~~3) For ~~P~~personal use and occupancy of a purchaser of the rental unit, pursuant to § 501(e) of the Act (D.C. Official Code § 42-3505.01(e));

(~~5~~4) For ~~U~~unsafe alterations or renovations, pursuant to § 501(f) of the Act (D.C. Official Code § 42-3505.01(f));

(~~6~~5) For ~~D~~demolition of the housing accommodation, pursuant to § 501(g) of the Act (D.C. Official Code § 42-3505.01(g));

(~~7~~6) For ~~S~~substantial rehabilitation, pursuant to §§ 214 and 501(h) of the Act (D.C. Official Code §§ 42-3502.14 & 42-3505.01(h));

(~~8~~7) For ~~D~~discontinuation of housing use and occupancy, pursuant to § 501(i) of the Act (D.C. Official Code § 42-3505.01(i)); or

(~~9~~8) For ~~C~~closure of a building by order of the Department of Buildings, pursuant to § 501(n) of the Act (D.C. Official Code § 42-3505.01(n)) and § 103 of this title or § 108 of the District of Columbia Property Maintenance Code (12-G DCMR § 108).

4300.2 Nothing in this section, § 4301, or § 4302 shall apply to the eviction of a tenant:

~~(a) For the nonpayment of rent;~~

(~~b~~a) In an action brought in accordance with the Residential Drug-related Evictions Re-enactment Act of 2000 (D.C. Law 13-172; D.C. Official Code §§ 42-3601 *et seq.*); or

(~~c~~b) For the purpose of converting the rental unit or housing accommodation to condominium or cooperative housing use, which is subject to the requirements of the Conversion of Rental Housing to Condominium or Cooperative Status Act of 1980 (D.C. Law 3-86; D.C. Official Code §§ 42-3402.01 *et seq.*) and § 4705 of this title.

4300.3 The expiration of the term of a lease for a rental unit covered by the Act shall not, by itself, entitle a housing provider to evict a tenant from the rental unit.

4300.4 No action or proceeding to evict a tenant shall be filed by a housing provider:

(a) Until the expiration of the time required for the grounds for eviction being sought by the applicable subsections of § 501(a-1) through (i) of the Act (D.C. Official Code § 42-3505.01(a-1)-(i)) and unless stated in a notice served in accordance with this section, § 4301, or § 4302; and

(b) Unless the subject rental unit is registered in accordance with § 4101 of this title and the housing provider has a current, valid business license in accordance with § 200 of this title and D.C. Official Code § 47-2851.03(a)(6)(B); provided, that:

(1) The license requirement may be waived by the court if the housing provider can demonstrate that they were unable to obtain or renew a current rental housing license due to extenuating circumstances, including a medical emergency, agency delay, or a circumstance in

which a tenant or occupant denies permission for a required pre-license inspection or required repairs;

(2) The registration requirement may be waived by the court if the license requirement has been waived under paragraph (1) and the lack of a license prevented the housing provider from meeting the registration requirement in § 4102.5 of this title; and

(3) The license and registration requirements of this paragraph shall not apply to complaints involving subtenants only if the action is filed by a sublessor who is a residential tenant against a subtenant.

4300.5 A notice that a housing provider intends to file a claim for possession of a rental unit because of the nonpayment of rent pursuant to § 501(a-1) of the Act (D.C. Official Code § 42-3505.01(a-1) ("Notice of Intent to File a Claim") shall not be served on a tenant if the amount of unpaid, past due rent is less than six hundred dollars ($600).

4300.6 A housing provider shall not file an action in court to evict a tenant for nonpayment of rent until at least thirty (30) days after the date of service of a Notice of Intent to File a Claim that complies with § 4300.7.

4300.7 In order to be valid, a Notice of Intent to File a Claim shall state:

(a) The total amount of rent owed as of the date of the notice;

(b) The date of the rent charges and payments, if any, for the period of delinquency, in a ledger included in or attached to the notice;

(c) That the housing provider may file a case in court to evict the tenant thirty (30) days after the service of the notice if the balance of unpaid rent remains $600 or more;

(d) That the housing provider may not file a case in court to evict the tenant if the balance of unpaid rent is less than $600, but may otherwise notify the tenant of the debt;

(e) That the tenant has the right to defend against an eviction in court and only the court can order the tenant's eviction;

(f) That, after a claim for possession based on non-payment of rent is filed in court, the tenant has the right to remain in the rental unit if the tenancy is redeemable and the total balance of unpaid rent is paid in full before the court orders the tenant's eviction; and

(g) That further help or free legal services may be available by contacting the Office of the Tenant Advocate at (202) 719-6560 or the Landlord Tenant Legal Assistance Network at (202) 780-2575.

4300.~~5~~8 Any notice served on a tenant for any reason other than the nonpayment of rent shall also be filed with the Rent Administrator, in accordance with § 3901, no later than five (5) business days after service on the tenant and shall include a certification of how the tenant was served in accordance with § 4300.25 (personal service, substitute service, or posting). The Rent Administrator shall review each notice promptly and may:

(a) Issue an order disapproving the notice if he or she finds that the notice is defective on its face or in conjunction with any supporting documentation; ~~or~~

(b) Issue a show cause order in accordance with § 3926 if he or she finds substantial grounds to believe that a possible violation of the Act or this chapter has occurred; or

(c) Take no action; provided, that inaction shall not constitute a determination regarding the validity of a notice.

Existing subsections 4300.6 through 4300.18 are renumbered as subsections 4300.9 through 4300.21.

New subsections 4300.22, 4300.23, 4300.24, 4300.25, and 4300.26 are added to read as follows:

4300.22 Any notice required to be served on a tenant under this section, § 4301, or § 4302 shall be written in:

(a) Both English and Spanish; and

(b) The tenant's primary language if the housing provider knows or reasonably should know that the tenant's primary language is one that is required pursuant to D.C. Official Code § 2-1933(a).

4300.23 The Commission shall publish an annual notice of languages that it determines are required for the purposes of § 4300.22(b) in the D.C. Register and on its website prior to February 1 of each year, based on the most current then-available data indicating that at least 500 individuals in the District of Columbia who are limited-English proficient or not English proficient and primarily speak a particular language.

4300.24 In determining whether a housing provider reasonably should have known that a tenant primarily speaks a language covered by § 4300.22(b), it shall be relevant to a finder of fact, among all other relevant facts, whether:

(a) The tenant made specific requests for interpretation or translation of documents into a covered language;

(b) The tenant, a person assisting the tenant with communications, or an electronic device used by the tenant clearly indicated that the tenant was using a covered language to communicate; or

(c) The housing provider made, and whether the tenant in question responded to, good faith efforts to determine the primary languages spoken by its tenants generally, which may include:

(1) Signed written leases or lease addendums provided in covered languages; or

(2) The distribution of "I speak" cards as published by the Office of Human Rights or similar materials.

4300.25 For the purposes of this section, § 4301, and § 4302, service of a required notice upon any person (other than the Rent Administrator) shall be completed:

(a) By delivering a copy of the notice to the tenant personally, or, if the tenant has left the District of Columbia or cannot be found, by leaving a copy with some person above the age of sixteen (16) years residing on or in possession of the subject rental unit; or

(b) If, after diligent and conscientious efforts, service cannot be completed under paragraph (a), by both:

(1) Posting a copy of the notice on the premises of the rental unit where it may be conveniently read and capturing timestamped, photographic evidence of the posting for the housing provider's records; and

(2) Mailing a copy of the notice to the tenant by first class U.S. mail, postage prepaid, to the rental unit, addressed in the name of the tenant or, if unknown, the name of the person occupying the rental unit, within three (3) calendar days of the posting.

4300.26 For the purposes of § 4300.25, "diligent and conscientious efforts" may include at least two separate attempts at personal service conducted at two different times of day, if each attempt is made at a location and time where the housing provider reasonably believes that the tenant is likely to be found. If the housing provider has reason to know that the tenant will not be found at the rental unit, then such attempts at personal service must be made after reasonable efforts to use readily available information to locate the tenant. Such attempts at personal service shall not be

required if the housing provider knows of particular circumstances that would make any attempt futile.

Section 4301, NOTICES TO CORRECT VIOLATION OF TENANCY OR TO VACATE, is amended as follows:

Subsection 4301.4 is amended to read as follows:

4301.4 A Notice to Correct or Vacate shall state:

(a) The factual basis for the housing provider's belief that the tenant is violating an obligation of tenancy, in sufficient detail to allow a reasonable person in the circumstances to know what allegedly occurred, including specific reference to the provision of the lease or Housing Regulations that create the obligation and to § 501(b) of the Act (D.C. Official Code § 42-3505.01(b));

(b) The specific action(s) the tenant needs to take to correct the violation, in sufficient detail to allow a reasonable person in the circumstances to know how to comply with the directive(s);

(c) That the housing provider may file an action in court to evict the tenant if the violation has not been corrected thirty (30) days after the service of the Notice to Correct or Vacate; and

~~(d) The registration or exemption number for the rental unit or housing accommodation, as provided by the Rent Administrator in accordance with §§ 4102.10 and 4102.11 and, if the rental unit or housing accommodation is exempt from the Rent Stabilization Program, the basis for the exemption; and~~

(~~e~~d) That a copy of the Notice to Correct or Vacate will be filed with the Rent Administrator, including the address and telephone number of the Rental Accommodations Division.

Section 4302, NOTICES TO VACATE FOR OTHER REASONS, is amended as follows:

Subsection 4302.1 is amended to read as follows:

4302.1 In order to be valid, a notice to vacate for any reason listed in §§ 501(c) through (i) of the Act (D.C. Official Code § 42-3505.01(c)-(i)) ("Notice to Vacate") shall state:

(a) The factual basis the housing provider relies on, in sufficient detail to allow a reasonable person in the circumstances to know what allegedly occurred or the planned use or changes to the premises, and the specific subsection of § 501 of the Act (D.C. Official Code § 42-3505.01) that the eviction is based on;

(b) That the housing provider may file an action in court to evict the tenant if the tenant does not vacate within the time provided by § 4302.2 after the service of the notice; and

~~(c) The registration or exemption number for the housing accommodation, as provided by the Rent Administrator in accordance with §§ 4102.10 and 4102.11 and, if the rental unit or housing accommodation is exempt from the Rent Stabilization Program, the basis for the exemption; and~~

(~~d~~c) That a copy of the Notice to Vacate is being filed with the Rent Administrator, including the address and telephone number of the Rental Accommodations Division.

There is added a new section 4307 to read as follows:

4307 TENANT APPLICATIONS AND SCREENING

4307.1 Any housing provider that requires an application or fees from a prospective tenant or otherwise engages in any tenant screening shall comply with § 510 of the Act (D.C. Official Code § 42-3505.10) and this section.

4307.2 Before requesting any information or fees from a prospective tenant as part of tenant screening, a housing provider shall notify the prospective tenant of the following:

(a) The amount and purpose of any application fee, mandatory fee, optional fee, security deposit, or other fee or deposit that will or may be charged to a tenant or prospective tenant, the timing of the charge, and whether each fee is refundable and under what conditions a refund, in whole or in part, will be issued, in accordance with all applicable law;

(b) The types of information that will be accessed to conduct a tenant screening;

(c) The specific criteria, if any, that will result in an automatic denial of the application;

(d) Any additional criteria that may result in the denial of the application;

(e) If a credit score or consumer report will be used for tenant screening, the name and contact information of the consumer reporting agency that will furnish the score or report;

(f) Either:

(1) The approximate number of rental units that become available for rent in the housing accommodation each calendar year, specifying the number of bedrooms and monthly rent; or

(2) If the number of rental units in subparagraph (1) cannot reasonably be estimated, the number of rental units in the housing accommodation that became available for rent in each calendar month of the housing provider's prior fiscal year;

(g) The number of days after receipt of a prospective tenant's application that the housing provider will respond with an approval or denial decision;

(h) That the prospective tenant has a right:

(A) To obtain a free copy of any credit score or consumer report obtained by the housing provider in the event of a denial of the application or other adverse action, in accordance with § 4307.14(b);

(B) To dispute whether any information that may form the basis for an adverse action is inaccurate, incorrectly attributed to the prospective tenant, or prohibited by §§ 4307.10, 4307.11, or 4307.13;

(C) To receive a response from the housing provider regarding any disputed information, in accordance with § 4307.15; and

(D) To dispute inaccurate or incomplete information with and have the dispute investigated by the consumer reporting agency under the Fair Credit Reporting Act, as described at https://consumerfinance.gov/learnmore;

(i) That the prospective tenant has a right to a refund of any application fee in accordance with § 4307.6 if it is not used by the housing provider; and

(j) That the prospective tenant may file either a complaint with the Office of Human Rights or a civil action in the Superior Court of the District of Columbia if he or she believes the housing provider has violated § 510 of the Act (D.C. Official Code § 42-3505.10).

4307.3 A prospective tenant shall be notified of the information listed in § 4307.2 in writing provided either directly to the prospective tenant or by posting the information in a manner reasonably likely to be found and read by a prospective tenant, including, for example, an office where rental applications are received, on a website describing the housing accommodation, or in an advertisement for the rental unit.

4307.4 The Commission shall publish, before February 1 of each calendar year, the application fee limit for that calendar year, computed in accordance with § 4307.5.

4307.5 A housing provider shall not charge an application fee more than the product of:

(a) Fifty dollars ($50); multiplied by

(b) The quotient of:

(1) The CPI-U for the calendar year preceding the submission of the application; divided by

(2) The CPI-U for year 2022, which was 295.792.

4307.6 If a housing provider receives an application fee from an applicant and does not conduct any tenant screening of that applicant for any reason, the housing provider shall refund the application fee to the applicant within fourteen (14) days of receiving the fee.

4307.7 A housing provider shall not charge an application fee to a prospective tenant who, thirty (30) days or less before submitting an application, applied for another rental unit owned or operated by the same housing provider, paid an application fee, and the housing provider conducted any tenant screening, unless additional tenant screening procedures are required for the later application.

4307.8 A housing provider shall not charge a prospective tenant any fee except an application fee prior to the execution of a lease with the tenant; provided, that a holding deposit may be required, unless the prospective tenant will pay rent with a governmental-funded voucher, in which case the housing provider may not require a holding deposit.

4307.9 A housing provider may require a tenant to pay a replacement fee if the tenant is permitted to find a replacement tenant, assign the lease to another tenant, or sublet to another tenant; provided, that the amount of the replacement fee shall not exceed the allowable amount of an application fee under §§ 4307.4 or 4307.5.

4307.10 A housing provider shall not, as part of any tenant screening, inquire about, require a prospective tenant to disclose or reveal, or base an adverse action on, in whole or in part, whether a previous housing provider has filed a claim to recover possession against the tenant if the action:

(a) Did not result in a judgment for possession in favor of the housing provider; or

(b) Was filed more than three (3) years before the date of the application.

4307.11 A housing provider shall not, as part of any tenant screening, inquire about, require a prospective tenant to disclose or reveal, or base an adverse action on, in whole or in part, on whether a previous housing provider has filed any claim alleging a breach of lease against the tenant that:

(a) Stemmed from an incident that the prospective tenant demonstrates may constitute a defense to an action for possession under § 501(c-1) of the Act (D.C. Official Code § 42-3505.01(c-1)) or a federal law pertaining to

domestic violence, dating violence, sexual assault, or stalking, including records of civil or criminal protection orders sought or obtained by the prospective tenant or of criminal matters in which the prospective tenant is a witness;

(b) Stemmed from an incident in which the prospective tenant was a victim of a crime in the rental unit for which the lease was allegedly breached;

(c) Was related to a disability of the prospective tenant or a member of the prospective tenant's household at the time; or

(d) Occurred more than three (3) years before the date of the application.

4307.12 A housing provider shall not be found to have violated §§ 4307.10 or 4307.11 solely by reason of having received, without specifically requesting, any information described in those subsections in a consumer report; provided, that if such information was received, the housing provider shall bear the burden in a case under § 4307.17 to demonstrate that the adverse action was not taken, in whole or in part, based on that information, which may include that the housing provider relied on incomplete or inaccurate information received from the consumer reporting agency or that the housing provider could not have reasonably known that the information received related to prohibited criteria.

4307.13 A housing provider shall not, as part of any tenant screening, base an adverse action solely on a prospective tenant's credit score or lack thereof; provided, that it shall not be a violation of this subsection for a housing provider to rely on information, other than a credit score or information described in §§ 4307.10 and 4307.11, that has been disclosed in a credit or consumer report and that is directly relevant to the fitness of a prospective tenant.

4307.14 If a housing provider takes an adverse action on a prospective tenant's application based on information received through tenant screening, the housing provider shall, no later than the response date provided to the tenant in accordance with § 4307.2(g), give a written notice of the adverse action to the prospective tenant, which shall include:

(a) The specific basis or bases for the adverse action;

(b) A copy or summary, free of charge, of any information obtained from a third party that formed any basis for the adverse action;

(c) A statement informing the prospective tenant of his or her rights to dispute any basis of the adverse action by notifying the housing provider that any information forming a basis for the adverse action was inaccurate, incorrectly attributed to the prospective tenant, or prohibited by §§ 4307.10, 4307.11, or 4307.13; and

(d) A statement informing the prospective tenant of his or her right to file a complaint with the Office of Human Rights if he or she believes the housing provider has violated § 510 of the Act (D.C. Official Code § 42-3505.10).

4307.15 If a prospective tenant, after receiving notice of an adverse action by a housing provider based on tenant screening, disputes the basis of the adverse action in accordance with § 4307.14(c), the housing provider shall respond in writing, by mail, email, or personal delivery, within ten (10) days after receipt of the notice from the prospective tenant.

4307.16 Nothing in §§ 4307.10, 4307.11, or 4307.13 shall be construed to prohibit a housing provider from:

(a) Considering debts owed to a housing authority;

(b) Considering any other criteria established in federal law; or

(c) Leasing a rental unit to other prospective tenants.

4307.17 A prospective tenant who believes that a housing provider has violated § 510 of the Act (D.C. Official Code § 42-3505.10) may either:

(a) File a complaint with the Office of Human Rights to seek the imposition of fines, half of which shall be awarded to the prospective tenant and half of which shall be deposited into the General Fund of the District of Columbia; or

(b) Bring a civil action in the Superior Court within one (1) year of the alleged violation to seek damages, attorney's fees, and equitable relief.

Section 4399, DEFINITIONS, is amended as follows:

Subsection 4399.2 is amended to read as follows:

4399.2 In addition to § 4399.1, the following terms shall have the meanings set forth below:

Adverse action –

(a) Denial of a prospective tenant's rental application; or

(b) Approval of a prospective tenant's rental application, subject to terms or conditions different and less-favorable to the prospective tenant than those included in any written notice, statement, or advertisement for the rental unit, including written communication

sent directly from the housing provider to the prospective tenant, including:

(1) Requiring a co-signer on the lease;

(2) Requiring a deposit that would not be required for another applicant;

(3) Requiring a larger deposit than would be required for another applicant; or

(4) Demanding more rent than would be charged to another applicant.

Application Fee – the total of all costs of fees that a prospective tenant is required to pay to a housing provider at the time of application or at any time prior to signing a lease as a prerequisite to evaluating or approving a prospective tenant's application for rental housing, including processing, reviewing, or screening the prospective tenant's application, but not including holding deposits.

Consumer report – in accordance with § 603(d) of the Fair Credit Reporting Act (15 U.S.C. § 1681a(d)), in relevant part:

(a) In general: any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for rental housing purposes.

(b) Exclusions: the term "consumer report" does not include:

(1) Any:

(A) Report containing information solely as to transactions or experiences between the consumer and the person making the report;

(B) Communications of that information among persons related by common ownership or affiliated by corporate control; or

(C) Communication of other information among persons related by common ownership or affiliated by

corporate control, if it is clearly and conspicuously disclosed to the consumer that the information may be communicated among such persons and the consumer is given the opportunity, before the time that the information is initially communicated, to direct that such information not be communicated among such persons;

(2) Any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device;

(3) Any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his or her decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made, and such person makes the disclosures to the consumer required under § 615 of the Fair Credit Reporting Act (15 U.S.C. § 1681m).

Consumer reporting agency – in accordance with § 603(f) of the Fair Credit Reporting Act (15 U.S.C. § 1681a(f)), any person that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

CPI-U – the average of the bi-monthly publications of the Consumer Price Index for All Urban Consumers for All Items for the Washington-Arlington-Alexandria, DC-MD-VA-WV, Core Based Statistical Area during the twelve (12) month period ending on November 30 of a given year, as published by the United States Department of Labor, Bureau of Labor Statistics.

Credit score – in accordance with § 609(f)(2)(A) of the Fair Credit Reporting Act (15 U.S.C. § 1681g(f)(2)(A)), in relevant part, a numerical value or a categorization derived from a statistical tool or modeling system used by a person who makes or arranges a loan to predict the likelihood of certain credit behaviors, including default (and the numerical value or the categorization derived from such analysis may also be referred to as a "risk predictor" or "risk score").

Holding deposit – the amount a housing provider requires a prospective tenant to pay after a housing provider approves a tenant's application, which temporarily makes a unit unavailable to other prospective tenants and which

if a tenant accepts a unit becomes part of the prospective tenant's first month's rent or security deposit.

Multifamily housing accommodation – a housing accommodation covered by the Act, as provided in § 4100.3, consisting of two (2) or more rental units that is owned or operated by a single housing provider.

Tenant organization – a tenant association, the tenants of a housing accommodation acting jointly as provided by § 410 of the Tenant Opportunity to Purchase Act of 1980 (D.C. Law 3-86; D.C. Official Code § 42-3404.10) ("TOPA"), a tenant organization as provided in § 411 of TOPA (D.C. Official Code § 42-3404.11), or any other continuing agreement between the tenants of two (2) or more rental units covered by the Act to support the exercise of any legal rights as tenants.

Tenant organizer – a person, who may or may not be a tenant, who assists tenants of a multifamily housing accommodation in establishing and operating a tenant organization, and who is not an employee, representative, or other agent of the housing provider, or of a prospective housing provider or owner of the property.

Tenant screening – any process used by a housing provider to evaluate the fitness of a prospective tenant.

Qualified third party – any of the following persons acting in their official capacity:

(1) A sworn officer of the Metropolitan Police Department of the District of Columbia, in accordance with D.C. Official Code § 4-1301.02(15);

(2) A sworn officer of the District of Columbia Housing Authority Office of Public Safety;

(3) A health professional licensed under or permitted by District of Columbia law to practice a health occupation in the District of Columbia in accordance with D.C. Official Code § 3-1201.01(8); or

(4) A domestic violence counselor who is an employee, contractor, or volunteer of a domestic violence program, in accordance with D.C. Official Code § 14-310(2).

New subsection 4399.3 is added to read as follows:

4399.3 The provisions of § 3816 of Chapter 38 of this title shall be applicable to the calculation of any time periods provided by this chapter.