

SENATE, No. 3141

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED NOVEMBER 5, 2020

Sponsored by:
Senator SHIRLEY K. TURNER
District 15 (Hunterdon and Mercer)

SYNOPSIS

Establishes guidelines for creditworthiness determinations concerning affordable housing programs.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** establishing creditworthiness guidelines for affordable
2 housing and supplementing Title 46 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. The Legislature finds and declares that:

8 a. The current shortage of affordable housing in this State has
9 forced many low- and moderate-income New Jersey residents to
10 live in market rate housing they cannot afford but must occupy
11 rather than face homelessness.

12 b. After paying the rent, these struggling families and
13 individuals are frequently left with less money than needed to meet
14 other basic household obligations. Late or partial payments, as well
15 as missed payments made up in subsequent months, are often the
16 result.

17 c. These undesirable but unavoidable decisions negatively
18 affect the households' credit reports and inevitably lead to lower-
19 credit scores.

20 d. Access to housing with affordable rents would remedy a
21 major cause of the financial difficulties experienced by lower-
22 income persons, leave them with more income to meet their basic
23 expenses, and help them to restore their credit standing.

24 e. Households fortunate enough to obtain tenant-based housing
25 subsidies, or access to cost-controlled housing units, generally after
26 years spent on waiting lists, are often rejected by prospective
27 landlords based upon inadequate credit assessments.

28 f. These assessments fail to take into account the totality of the
29 circumstances that confronted the particular family or individual in
30 question, fail to recognize that the credit issues are generated by the
31 very problem that affordable housing would resolve, disregard the
32 limited choices available to affected households, and discount their
33 best efforts to deal with them.

34 g. It is in the interest of the public to ensure that low- and
35 moderate-income persons are not unfairly denied the opportunity to
36 obtain housing they can afford and desperately need.

37 h. It is also in the public interest to establish, in relation to
38 housing subsidy and affordable housing programs, fair and just
39 standards and guidelines for credit evaluation and the use of credit
40 scores, credit reports, and related assessments of creditworthiness or
41 fitness to be a tenant.

42
43 2. For the purposes of P.L. , c. (C.) (pending before
44 the Legislature as this bill), "credit or other risk score or
45 assessment" means a number or other form of rating that is derived
46 from an algorithm, computer application, model, or other process
47 that is based in whole or in part on credit information, court records
48 or similar data, and which purports to characterize or categorize a

1 person's creditworthiness, fitness to be a tenant, or other position or
2 status. The term includes but is not limited to FICO or other credit
3 scores, tenant scores, insurance scores or other enumerations. The
4 term also includes the use of generic events or occurrences, such as
5 a filing or discharge in bankruptcy, or being a named party in a
6 court proceeding, as justification for denying a person credit or
7 admission to an apartment or other rental dwelling.

8
9 3. On or after the effective date of P.L. , c. (C.)
10 (pending before the Legislature as this bill), credit or other risk
11 scores or assessments calculated or disseminated by any entity shall
12 not be used in any manner to evaluate the creditworthiness of:

- 13 a. the holder of a State or federal tenant-based housing subsidy;
14 or
15 b. an applicant seeking to rent a dwelling unit restricted to
16 occupancy by low or moderate income households.

17
18 4. The right to occupy a rental dwelling unit by a tenant
19 possessing a federal or State housing voucher or other tenant-based
20 government subsidy shall not be denied based on an assertion of
21 lack of creditworthiness, unless the following condition is
22 affirmatively met:

- 23 a. The tenant has, within the previous three years and while in
24 receipt of a rental subsidy, failed on two or more occasions to pay
25 the unsubsidized tenant share of the monthly rent in accordance
26 with the rental agreement. Rent discharged in a bankruptcy
27 proceeding shall not be considered unpaid for the purposes of this
28 section.

- 29 b. Notwithstanding the provisions of subsection a. of this
30 section, the specific facts and circumstances surrounding the
31 failures to pay rent shall be reviewed and evaluated, including, but
32 not limited to, disputes as to the amounts of rent due, the accuracy
33 of the calculations determining the tenant's share of the rent, and
34 other relevant factors as they may be present. If a tenant had a bona
35 fide reason for the failures to pay and subsequently paid all
36 outstanding amounts owed as the tenant's share, then a positive
37 determination of creditworthiness shall be made in such a case.

38
39 5. The following standards shall govern any evaluation of the
40 creditworthiness of an applicant for the rental of any dwelling unit
41 intended to be affordable to low or moderate income households
42 pursuant to any federal or State affordable housing or subsidy
43 program, including the "Fair Housing Act,"
44 P.L.1985, c.222 (C.52:27D-301 et al.), unless standards more
45 favorable to the applicant are mandated by other federal or State
46 laws or regulations:

- 47 a. If the applicant is a holder of a federal or State tenant-based
48 housing voucher, a credit or other risk score or assessment

1 calculated or disseminated by any entity concerning the applicant
2 shall not be considered.

3 b. If the dwelling unit involved is one for which the rent will be
4 limited to a percentage of the tenant's income, and adjusted to
5 maintain that percentage should the tenant's income change, then
6 the applicant shall not be denied admission based upon a lack of
7 creditworthiness unless the applicant has, within the previous three
8 years and while in receipt of a rental subsidy, failed on two or more
9 occasions to pay the unsubsidized tenant share of the monthly rent
10 in accordance with the rental agreement. Rent discharged in a
11 bankruptcy proceeding shall not be considered unpaid for the
12 purposes of this section.

13 c. Notwithstanding the provisions of subsection b. of this
14 section, the specific facts and circumstances surrounding the
15 failures to pay rent shall be reviewed and evaluated, including, but
16 not limited to, disputes as to the amounts of rent due, the accuracy
17 of the calculations determining the tenant's share of the rent, and
18 other relevant factors as they may be present. If a tenant had a bona
19 fide reason for the failures to pay and subsequently paid all
20 outstanding amounts owed as the tenant's share, then a positive
21 determination of creditworthiness shall be made in such a case.

22
23 6. In determining a prospective tenant's ability to pay the rent
24 concerning all other housing which is intended for low or moderate
25 income households:

26 a. The initial and most important consideration shall be an
27 applicant's current employment status and ability to pay the rent. If
28 the amount of rental payments is less than or equal to 38% of the
29 applicant's income, the applicant shall be considered eligible. An
30 even higher percentage of income may be permitted at the option of
31 the landlord, and shall be required in order to provide a reasonable
32 accommodation to a disabled applicant.

33 b. If an applicant is eligible pursuant to the provisions of
34 subsection a. of this section, the applicant's credit history shall be
35 evaluated with regard to the following factors: employment history
36 and wage history, especially the amount of household income in
37 relation to the cost of living in the region; rent or mortgage payment
38 history; and the extent to which the household attempted and was
39 able to develop a budget or payment plan that enabled it to meet
40 most of its expenses most of the time, keeping payments of
41 expenses as close to current as was reasonably possible, the
42 occurrence of unanticipated problems, and emergencies or other
43 factors that significantly affected the household's ability to adhere
44 to any such budget.

45 c. For the purposes of renting a low or moderate income
46 dwelling unit for which an applicant household is otherwise
47 eligible, there shall be a rebuttable presumption that an applicant
48 household is creditworthy if a member or members of the household

1 has a history of regular employment and, despite a household
2 income that in the past was below the self-sufficiency level as that
3 term is defined under section 3 of P.L.1992, c.43 (C.34:15D-3) and
4 inadequate to meet its basic needs, the household made a good faith
5 effort to meet its regular rent or mortgage obligations and other
6 household expenses, and was able to do so most of the time.

7
8 7. This act shall take effect immediately.

9
10
11 STATEMENT

12
13 This bill establishes guidelines for determining creditworthiness
14 of applicants seeking to rent affordable housing units. The critical
15 shortage of affordable housing in New Jersey has forced many low-
16 and moderate-income households to reside in market-rate housing
17 they cannot afford but must occupy to avoid homelessness. As a
18 result, individuals in this State are coping with damaged credit.

19 The bill requires that credit scores and other risk scores or
20 assessments issued by entities that provide such products not be
21 taken into account when determining the creditworthiness of an
22 applicant who is the holder of a State or federal tenant-based
23 housing subsidy or who is seeking to rent a dwelling unit restricted
24 to occupancy by low or moderate income households.

25 The bill further provides that negative credit history for such
26 applicants will only be permitted to be used against such applicants
27 if the following conditions are present: the tenant has, within the
28 previous three years and while in receipt of a rental subsidy, failed
29 on two or more occasions to pay the unsubsidized tenant share of
30 the monthly rent in accordance with a rental agreement. After a
31 review of the circumstances, a tenant having a bona fide reason for
32 late rental payments may still be deemed creditworthy under the
33 bill. In determining the ability to pay of prospective tenants, the
34 bill provides guidelines that emphasize that the most important
35 consideration is an applicant's current employment status and ability
36 to pay the rent. If the amount of these payments is less than or
37 equal to 38% of the applicant's income, the applicant shall be
38 presumed eligible. An even higher percentage of income may be
39 permitted at the option of the seller or the landlord, and shall be
40 required in order to provide a reasonable accommodation to a
41 disabled applicant.