

PROPOSED
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1670
(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 44, chapter 9, Arizona Revised Statutes, is
3 amended by adding article 27, to read:

4 ARTICLE 27. PRICE REGULATIONS

5 44-1383. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "ALGORITHM" MEANS A COMPUTATIONAL PROCESS THAT USES A SET OF
8 RULES TO DEFINE A SEQUENCE OF OPERATIONS.

9 2. "ALGORITHMIC DEVICE":

10 (a) MEANS A COMPUTATIONAL PROCESS, MACHINE PROGRAM OR SOFTWARE
11 THAT USES ONE OR MORE ALGORITHMS, INCLUDING A COMPUTATIONAL PROCESS
12 DERIVED FROM MACHINE LEARNING OR OTHER ARTIFICIAL INTELLIGENCE TECHNIQUES,
13 THAT PROCESSES OR CALCULATES NONPUBLIC COMPETITOR DATA TO ADVISE A
14 LANDLORD ON HOW MUCH RENT TO CHARGE.

15 (b) DOES NOT INCLUDE A REPORT PUBLISHED PERIODICALLY BY A TRADE
16 ASSOCIATION THAT RECEIVES RENTER DATA IN AN AGGREGATED AND ANONYMOUS
17 MANNER. FOR THE PURPOSES OF THIS SUBDIVISION, PERIODIC REPORT DOES NOT
18 INCLUDE REPORTS PUBLISHED THAT ARE PUBLISHED MORE THAN ONE TIME PER MONTH.

19 3. "COORDINATING FUNCTION" MEANS THE ABILITY TO:

20 (a) COLLECT THE FOLLOWING INFORMATION FROM TWO OR MORE PERSONS:

21 (i) HISTORICAL PRICES.

22 (ii) CONTEMPORARY PRICES.

23 (iii) SUPPLY LEVELS.

24 (iv) CONTRACT TERMINATION.

25 (v) RENEWAL DATES FROM TWO OR MORE PERSONS.

26 (b) ANALYZE OR PROCESS INFORMATION PROVIDED IN SUBDIVISION OF THIS
27 PARAGRAPH BY USING A SYSTEM, SOFTWARE OR PROCESS THAT COMPUTES INFORMATION
28 OR USES INFORMATION TO TRAIN AN ALGORITHM.

29 (c) RECOMMEND ANY OF THE FOLLOWING:

30 (i) PRICES.

31 (ii) SUPPLY.

32 (iii) OUTPUT.

33 (iv) CONTRACT RENEWAL TERMS.

34 (v) OTHER CONTRACTUAL OR COMMERCIAL TERMS.

35 4. "COORDINATOR" MEANS A PERSON THAT SELLS, LICENSES THE USE OF OR
36 OPERATES AND SELLS THE OUTPUT THAT IS GENERATED FROM AN ALGORITHMIC DEVICE
37 THAT PERFORMS A COORDINATING FUNCTION FOR A RESIDENTIAL RENTAL PROPERTY
38 LANDLORD.

39 5. "DWELLING UNIT" HAS THE SAME MEANING PRESCRIBED IN SECTION
40 33-1310.

- 1 6. "LANDLORD" HAS THE SAME MEANING PRESCRIBED IN SECTION 33-1310 OR
2 33-1409.
- 3 7. "NONPUBLIC COMPETITOR DATA":
- 4 (a) MEANS INFORMATION THAT IS NOT WIDELY AVAILABLE OR EASILY
5 ACCESSIBLE TO THE PUBLIC.
- 6 (b) INCLUDES ANY OF THE FOLLOWING:
- 7 (i) ACTUAL RENTAL PRICES.
- 8 (ii) ORIGINAL RENTAL PRICE OFFERS.
- 9 (iii) REBATES AND DISCOUNTS OFFERED AND ACCEPTED.
- 10 (iv) ADDITIONAL CHARGES FOR AMENITIES OR ANY OTHER FEES THAT MAY BE
11 ASSESSED.
- 12 (v) RENTAL AVAILABILITY.
- 13 (vi) OCCUPANCY RATES.
- 14 (vii) LEASE START AND END DATES.
- 15 (viii) ANY OTHER SIMILAR DATA REGARDLESS OF WHETHER THE INFORMATION
16 IS RELATED TO A SPECIFIC COMPETITOR OR ANONYMIZED.
- 17 (ix) INFORMATION THAT IS PROVIDED BY ANOTHER PERSON THAT COMPETES
18 IN THE SAME MARKET OR RELATED MARKET.
- 19 8. "RENT" MEANS PAYMENTS MADE TO A LANDLORD OR THE LANDLORD'S
20 DESIGNED AGENT IN FULL CONSIDERATION FOR THE RENTED PREMISES.
- 21 9. "RENTAL AGREEMENT" MEANS ANY ORAL OR WRITTEN AGREEMENT BETWEEN A
22 LANDLORD AND A TENANT FOR THE USE AND OCCUPANCY OF RESIDENTIAL RENTAL
23 PROPERTY.
- 24 10. "RESIDENTIAL RENTAL PROPERTY":
- 25 (a) HAS THE SAME MEANING PRESCRIBED IN SECTION 33-1901.
- 26 (b) INCLUDES ANY OF THE FOLLOWING:
- 27 (i) DWELLING UNITS.
- 28 (ii) MOBILE HOME SPACES.
- 29 (iii) RECREATIONAL VEHICLE SPACES.
- 30 11. "TENANT" MEANS THE PERSON ENTERING INTO A RENTAL AGREEMENT WITH
31 A LANDLORD.
- 32 44-1383.01. Algorithmic device use prohibited; attorney
33 general; enforcement; applicability
- 34 A. A COORDINATOR OR A LANDLORD OF RESIDENTIAL RENTAL PROPERTY MAY
35 NOT USE AN ALGORITHMIC DEVICE THAT USES NONPUBLIC COMPETITOR DATA TO
36 PERFORM A COORDINATING FUNCTION OF RESIDENTIAL RENTAL PROPERTY TO:
- 37 1. FACILITATE AN AGREEMENT BETWEEN TWO OR MORE LANDLORDS TO NOT
38 COMPETE FOR RESIDENTIAL AGREEMENTS.
- 39 2. SET OR ADJUST ANY OF THE FOLLOWING:
- 40 (a) RENTAL PRICES.
- 41 (b) RENEWAL TERMS.
- 42 (c) OCCUPANCY LEVELS.
- 43 (d) ANY OTHER TERM OR CONDITION THAT AFFECTS RESIDENTIAL RENTAL
44 PROPERTY.
- 45 B. THE USE OF AN ALGORITHMIC DEVICE IN VIOLATION OF THIS SECTION
46 CREATES A REBUTTABLE PRESUMPTION OF A CONTRACT OR CONSPIRACY TO RESTRAIN
47 TRADE OR COMMERCE:
- 48 1. AS AGAINST A COORDINATOR WHEN:

1 (a) THE COORDINATOR KNEW OR HAD REASON TO KNOW THAT ONE OR MORE OF
2 THE COORDINATOR'S CUSTOMERS COMPETED AS LANDLORDS IN THE SAME OR RELATED
3 MARKET AND INTENDED THAT THE ALGORITHMIC DEVICE OR THE ALGORITHMIC
4 DEVICE'S OUTPUT BE USED IN THAT MARKET.

5 (b) TWO OR MORE OF THE COORDINATOR'S CUSTOMERS ACTUALLY COMPETED AS
6 LANDLORDS IN THE SAME OR RELATED MARKET AND USED THE ALGORITHMIC DEVICE OR
7 THE ALGORITHMIC DEVICE'S OUTPUT.

8 2. AS AGAINST A LANDLORD, WHEN TWO OR MORE LANDLORDS USED THE SAME
9 ALGORITHMIC DEVICE OR THE ALGORITHMIC DEVICE'S OUTPUT WITHIN THE SAME OR
10 RELATED MARKET.

11 C. A PRESUMPTION PURSUANT TO SUBSECTION B OF THIS SECTION IS
12 REBUTTABLE BY CLEAR AND CONVINCING EVIDENCE ON A SHOWING THAT THE
13 COORDINATOR OR LANDLORD LACKED KNOWLEDGE AND COULD NOT HAVE REASONABLY
14 KNOWN THAT THE ALGORITHMIC DEVICE USED NONPUBLIC COMPETITOR DATA.

15 D. AN ACT OR PRACTICE IN VIOLATION OF THIS ARTICLE IS AN UNLAWFUL
16 PRACTICE UNDER SECTION 44-1522. THE ATTORNEY GENERAL MAY INVESTIGATE AND
17 TAKE APPROPRIATE ACTION AS PRESCRIBED BY CHAPTER 10, ARTICLE 7 OF THIS
18 TITLE.

19 E. THE PROVISIONS OF THIS ARTICLE ARE CUMULATIVE AND IN ADDITION TO
20 ALL OTHER RIGHTS, REMEDIES AND PENALTIES THAT MAY EXIST AT LAW OR IN
21 EQUITY.

22 F. THIS SECTION APPLIES TO:

23 1. A LANDLORD THAT HAS ANY COMBINATION OF FIVE OR MORE DWELLING
24 UNITS, MOBILE HOME SPACES OR RECREATIONAL VEHICLE SPACES THAT ARE RENTED
25 OR OFFERED FOR RENT AT ANY ONE TIME.

26 2. A COORDINATOR THAT EITHER SELLS OR LICENSES THE USE OF OR
27 OPERATES AND SELLS THE OUTPUT FROM AN ALGORITHMIC DEVICE TO ANY LANDLORD.

28 G. THIS ARTICLE DOES NOT APPLY TO:

29 1. THE USE OF AN ALGORITHMIC DEVICE THAT IS EXCLUSIVELY USED IN A
30 FEDERAL, STATE OR LOCAL GOVERNMENT SPONSORED HOUSING PROGRAM.

31 2. PUBLIC HOUSING PURSUANT TO TITLE 36, CHAPTER 12.

32 3. A LANDLORD WITH NOT MORE THAN FOUR OF ANY OF THE FOLLOWING:

33 (a) DWELLING UNITS.

34 (b) MOBILE HOME SPACES.

35 (c) RECREATIONAL VEHICLE SPACES.

36 4. A DORMITORY OR OTHER RESIDENTIAL PROPERTY THAT IS OWNED BY A
37 PUBLIC OR PRIVATE EDUCATIONAL OR TRAINING INSTITUTION.

38 5. OCCUPANCY BY A MEMBER OF A FRATERNAL OR SOCIAL ORGANIZATION.

39 6. TRANSIENT OCCUPANCY IN A HOTEL, MOTEL OR RECREATIONAL LODGING."

40 Amend title to conform

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