

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2020**

No. 101

Introduced by Council Members Levine, Kallos, Lander, Constantinides, Rosenthal, Ayala, Louis, Chin, Barron, Eugene, Rivera and Adams.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the use of certain credit information in the rental or leasing of affordable units by a developer

Be it enacted by the Council as follows:

Section 1. Title 26 of the administrative code of the city of New York is amended by adding a new chapter 29 to read as follows:

*CHAPTER 29
CONSUMER CREDIT HISTORY*

§ 26-2901 Definitions. As used in this chapter, the following terms have the following meanings:

Affordable unit. The term “affordable unit” means a dwelling unit, as such term is defined in the New York city building code, for which the rent is restricted to make such unit affordable for occupants thereof pursuant to the affordability requirements of a department program, or a federal or state program administered by the department, in which city financial assistance is provided. The term “affordable unit” does not include a dwelling unit that is reserved for occupancy by the superintendent of the building containing such unit or a dwelling unit for which city financial assistance is provided for a program authorized by section 4852 of title 42 of the United States code.

City financial assistance. The term “city financial assistance” means any loans, grants, tax credits, tax exemptions, tax abatements, subsidies, mortgages, debt forgiveness, land conveyances for less than appraised value, land value or other thing of value allocated, conveyed or expended by the city other than as-of-right assistance, tax abatements or benefits, including but not limited to, a tax exemption pursuant to section 420-c, 421-a or 489 of the real property tax law, or any assistance provided to a developer for the rental or leasing of affordable units, the amount of which is based on an evaluation of as-of-right assistance, tax abatement or benefits for which such developer would have been eligible.

Collection account. The term “collection account” means a debt sold or referred by a creditor to a third party, or to an internal collection department, for collection.

Consumer credit history. The term “consumer credit history” means a tenant’s creditworthiness, credit standing, credit capacity, or payment history, as indicated by: (i) a consumer credit report; or (ii) information a developer, or a representative of such developer, obtains directly from a tenant regarding (1) details about credit accounts, including the tenant’s number of credit accounts, late or missed payments, charged-off debts, items in collections, credit limit, prior credit report inquiries, or (2) bankruptcies, judgments or liens.

Consumer credit report. The term “consumer credit report” means any written or other communication of any information by a consumer reporting agency that bears on a consumer’s creditworthiness, credit standing, credit capacity or credit history.

Consumer debt judgment. The term “consumer debt judgment” means a judgment rendered by a court relating to a debt incurred primarily for a personal, family or household purpose, but does not include a judgment of foreclosure and sale on a residential mortgage.

Delinquent debt. The term “delinquent debt” means a collection account or consumer debt judgment, and does not include medical debt, student loan debt or any collection account or consumer debt judgment arising from medical debt or student loan debt.

Department. The term "department" means the department of housing preservation and development.

Developer. The term “developer” means an individual, sole proprietorship, partnership, joint venture, corporation or other entity that receives city financial assistance for the rental or leasing of affordable units, provided that such city financial assistance is expected to have a total present financial value of \$1,000,000 or more at the time of receipt of such assistance. Where assistance takes the form of leasing city property at below-market lease rates, the value of the assistance shall be determined based on the total difference between the lease rate and a fair market lease rate over the duration of the lease. Where assistance takes the form of loans or bond financing, the value of the assistance shall be determined based on the difference between the financing cost to a borrower and the cost to a similar borrower that does not receive financial assistance from the city.

Medical debt. The term “medical debt” means a debt arising from the receipt of medical services, products or devices.

Receives. The term “receives” means the execution of a written instrument that sets forth the provision of city financial assistance to a developer by the city.

Student loan debt. The term "student loan debt" means money borrowed for educational expenses and owed to a financial or lending institution.

§ 26-2902 Use of credit information. a. It shall be unlawful for a developer to use or consider any credit score, consumer debt judgment, collection account, student loan debt, or medical debt of a tenant or prospective tenant in the rental or lease of an affordable unit, except for delinquent debt of greater than \$12,000 in the aggregate, of a tenant or prospective tenant.

b. It shall be unlawful for a developer, in connection with the rental or lease of an affordable unit to any tenant or prospective tenant, to (i) use or consider any consumer credit history of any member of such tenant or prospective tenant's household other than the member of such tenant or prospective tenant's household designated by such household to represent such household in all matters pertaining to the rental or lease of such unit or (ii) fail to disclose, in writing, to such designee the process and criteria by which such designee's consumer credit history will be evaluated. Notwithstanding any provision herein to the contrary, for purposes of the rental or lease of an affordable unit in a rental development organized pursuant to article two of the private housing finance law, the person named on the waiting list for such rental development shall be the designee for any consumer credit history for such tenant or prospective tenant's household.

§ 3. This local law takes effect one year after it becomes law and shall only apply to the receipt of city financial assistance after such effective date, except that the department may take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on September 16, 2020 and returned unsigned by the Mayor on October 16, 2020.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 101 of 2020, Council Int. No. 1603-A of 2019) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEPHEN LOUIS, Acting Corporation Counsel.