

SB254 Conceptual Amendment

Proposed by Senator Neal

(1) Amend the provision set forth in the flushline of section 33, subsection 2 to provide that a person who inquires into or conducts a background check in accordance with subsection 2 is authorized to refuse to rent or lease, refuse to negotiate for the rental or lease of, or otherwise make unavailable a dwelling on the basis of an arrest record, conviction record or record of criminal history for an offense set forth in subsection 2, only to the extent authorized by federal law.

Under the current version of section 33, subsection 2 of the bill, a person may inquire into or conduct a background check to determine whether an applicant has an arrest record, conviction record or record of criminal history that includes certain specified offenses. On the basis of such a record for the specified offenses, the person may refuse to rent or lease to, refuse to negotiate the rental or lease of, or otherwise make unavailable a dwelling to the person who is the subject of the record. This amendment would provide that these actions may be taken only to the extent authorized by federal law so that if the refusal to rent or lease, negotiate the rental or lease of, or otherwise make unavailable a dwelling would violate federal law, a person would not be authorized to take these actions under state law.

(2) Amend the definition of “source of income” set forth in section 33.5 of the bill so that, for the purposes of the prohibition on discrimination based on “source of income” the term “source of income” is not limited to income from a federal law passed for the purposes of providing relief for COVID-19. Instead, the definition of “source of income” would include such federal funds as just one example of a source of income. Specifically, revise the definition to mean except as specifically excluded, housing assistance or benefits paid by any federal, state or local governmental entity, before June 30, 2022 including, without limitation, any rental assistance funds provided on or before June 30, 2022 pursuant to a federal law passed for the purposes of providing relief for the COVID-19 pandemic. This definition of source of income specifically excludes Section 8 housing assistance or benefits.

Nothing in this section requires a landlord to qualify the subject property to accept federal, state, or local funding, or to create a duty on the landlord to perform any kind of reporting or to use a particular form of rental agreement.

Amend section 33.5, subsection 3 of the bill to provide that if a landlord requires that a prospective or current tenant have a certain minimum level of income, the standard for assessing eligibility must be based only on the portion of the rent to be paid by the tenant, taking into account the value of any federal, state, or local rental assistance or housing subsidy.

Section 33.5, subsection 3 of the bill provides that a person who makes available a dwelling for sale or rent is not prohibited from taking into consideration the sufficiency or sustainability of the income or credit rating of the applicant or prospective buyer in a commercially reasonable manner. The

amendment will maintain this provision so that a person who makes a dwelling available for sale or rent may take into consideration the sufficiency or sustainability of the income or credit rating of the applicant or prospective buyer so long as these factors are applied in a commercially reasonable manner.

(3) Remove section 45, subsection 3, so that the provisions of section 33.5 prohibiting discrimination based on the source of income do not expire on June 30, 2022 and will continue in operation beyond that date.