GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Housing and Community Development

Bill 24-119 "Eviction Protections and Tenant Screening Amendment Act of 2021"

Testimony of

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Director

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Before the

Committee on Housing and Executive Administration

Council of the District of Columbia

The Honorable Anita Bonds, Chairperson

Virtual Hearing via Zoom

10:00 AM

Good afternoon, Chairperson Bonds and members of the Committee on Housing and Executive Administration. I am Polly Donaldson, Director of the Department of Housing and Community Development (DHCD). I am pleased to appear before you to testify on B24-119, the "Eviction Protections and Tenant Screening Amendment Act of 2021."

As I noted last week, testifying before you on B24-96, the "Eviction Record Sealing Authority Amendment Act of 2021" and B24-0106, the "Fair Tenant Screening Act of 2021," DHCD houses the Rent Administrator and the Housing Regulation Administration (HRA) as part of its mission to produce and preserve affordable housing for low- and moderate-income residents and revitalize underserved neighborhoods in the District of Columbia. The Rent Administrator is responsible for administering the Rental Housing Act of 1985 (DC Law 6-10) as amended, which is codified at DC Official Code § 42-3501.01 and what follows.

DHCD's interest in updating and clarifying the District tenant protections is not limited to administering the Rental Housing Act. DHCD also supports Community Based Organizations using federal Community Development Block Grant (CDBG) funds to provide tenants with housing counseling. The goal of affordable housing production and preservation activities funded with the Housing Production Trust Fund and myriad other sources at the core of DHCD's mission is to stabilize families housing and protect them from eviction and displacement. During the COVID-19 public health emergency, my team has worked hard to bring emergency rent assistance to those who need it, and I want to take a moment to say that the culmination of these efforts along with our partners at the Department of Human Services and the Department of Energy and Environment is the *Stronger Together by Assisting You DC* (Stay DC) program. Starting last week, this program

has begun making payments, clearing rental and utility arrearages, and making future payments to remove the threat of eviction for thousands of District households. The program has enough resources to help every eligible household today, and I encourage everyone who is struggling to pay rent or utilities to visit stay.dc.gov or call 833-4-STAYDC (833-478-2932). Thus, along with our formal role in the eviction process, which would be expanded by this bill, DHCD has significant mission and program interests in reducing evictions so tenants, property owners, and District of Columbia citizens reap the benefits of increased housing stability and a well-functioning rental housing market as the District of Columbia moves into its recovery.

I now turn to the bill before you. The "Eviction Protections and Tenant Screening Amendment Act of 2021" amends the Rental Housing Act. It also includes some elements of the two bills I testified on last week. For example, similar to the Eviction Sealing Act, it would require a housing provider to hold a current rental license to pursue an eviction. It also mirrors the Fair Tenant Screening Act by regulating the application screening process that housing providers use and prohibiting them from rejecting a tenant's application due to a past eviction action that was not decided in favor of the housing provider or one that occurred 3 or more years before the current application.

The bill also amends the Rental Housing Act to require that before requesting any information from a prospective tenant as a part of tenant screening, a housing provider notify the prospective tenant of the types of information that will be accessed to conduct a tenant screening that may result in denial of the application. It also prohibits the use of credit scores in making leasing decisions and if information within a credit or consumer report is to be used as part of the screening the information that will be considered has to be detailed. The tenant

must also be provided the name and contact information of the credit or consumer reporting agency and the tenant's right to obtain a free copy of the credit or consumer report in the event of a denial or other adverse action.

If a landlord denies the tenant's application or approves it with extra and less advantageous conditions, the bill also requires a written notice from the housing provider detailing the specific grounds for the rejection and a statement informing the prospective tenant of his or her right to dispute the accuracy of any information upon which the housing provider relied in making his or her determination.

The bill also prohibits the housing provider from seeking to regain possession of a rental unit through the courts for nonpayment of rent in any amount less than $600. While housing providers will not be able to seek an eviction, housing providers are explicitly allowed to seek the amount owed through the courts.

While many of its objectives appear similar to those of the two bills I testified on last week, this bill takes a less prescriptive and less detailed approach. Of particular note, this bill does not rely on extending additional Human Rights Act protections to tenants.

This pared down approach makes the bill appear more straightforward than those considered last week. However, as I testified then, achieving the goals of all three of these bills in an appropriate and balanced manner is a task that needs to take careful measure of the District's existing laws, regulations, and institutions. In this case, for example, there do not appear to be any timeframes associated with when a housing provider must provide notice of an adverse action or how long a tenant has to appeal the decision, though the bill does specify that a housing provider has 30 business days to respond to the appeal. Also missing is any detail

on how the written adverse action notice must be delivered, for example is regular mail sufficient or must receipt by each party be certified or otherwise verifiable?

The value of such an open-ended process is unclear in a bill that is otherwise clear that a housing provider is allowed to rent the unit to another preferred tenant even as this back and forth plays out and there is no relief for the prospective tenant as the penalty for a "knowing" violation is limited to a $1000 civil penalty paid to the District. It is DHCD's experience that processes such as the one proposed here, which is complicated, lacks important definition and public oversight, with little consequence, result in significant frustration and ill will on the part of tenants and housing providers alike.

I'd also like to recommend that for a complaint for possession to be filed with Superior Court, a housing provider should be required to be registered with the Rent Administrator *as well as* hold a valid rental license with the Department of Consumer and Regulatory Affairs.

Conclusion

At DHCD we find much to like in all three bills discussed at this hearing and the one last week. We do ask, however, that general notice and other provisions relating to the regular business of tenants and landlords appear in the Rental Housing Act. Also, as I testified above and last week, there are many details and technical corrections that should be addressed so that these changes provide the greatest benefit to District residents and businesses. I propose that your staff work with the my staff, including the Rent Administrator, on all three of these bills together to craft a single bill that updates the eviction and application protections of District renters in a way that maximizes transparency, is fair to both tenants and housing providers, and efficient administratively.

Thank you, Chairperson Bonds and the members of the committee for the opportunity to testify today. This concludes my testimony and I would now be happy to answer any questions you may have.