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Office of Governor Steve Sisolak

June 11, 2021

The Honorable Barbara K. Cegavske
Secretary of State
101 N. Carson Street, Suite 3
Carson City, Nevada 89701

Re: Senate Bill 254 of the 81st Legislative Session

Dear Secretary Cegavske:

I am forwarding to you, for filing within the time limit set forth in the Nevada Constitution and without my approval, Senate Bill 254 (SB 254), which is titled as follows:

> AN ACT relating to discriminatory practices; revising various provisions relating to discrimination in housing; providing civil penalties and other remedies for certain violations; authorizing the Nevada Equal Rights Commission to enter into certain agreements with the United States Department of Housing and Urban Development for the Commission to investigate and enforce laws relating to fair housing as a certified agency under federal law; providing that certain conduct relating to seeking an applicant or tenant's arrest record, conviction record or record of criminal history constitutes an unlawful discriminatory practice in housing; and providing other matters properly relating thereto.

SB 254 attempts to address two different issues. First, SB 254 would amend Nevada's housing discrimination laws to align with federal housing discrimination laws. This would allow the Nevada Equal Rights Commission (NERC) to partner with the federal Housing and Urban Development (HUD) agency to investigate housing discrimination complaints. Second, SB 254 attempts to limit the use of criminal background checks and criminal history as a reason for a landlord to refuse to rent a dwelling unit to an applicant. The intent of this part of the bill is to reduce recidivism and help people reintegrate into society by helping them obtain stable housing.

The first change in the bill expands the authority and responsibilities of NERC to assist it in pursuing housing discrimination complaints. While this change is good intentioned, in reality the effect will potentially deprive Nevadans of superior, cost-free fair housing enforcement that is currently available to them via HUD and the United State Department of Justice, Civil Rights Division.

While the bill would ultimately allow NERC to be certified as "substantially equivalent" by HUD and become eligible for federal funding, it would also place upon NERC and the Nevada Attorney General's Office the administrative requirements, burdens and legal costs that the Federal government has demonstrated to be able to successfully handle.

While HUD would cover the costs of NERC's handling of cases now handled by HUD under its Fair Housing Assistance Program (FHAP), the FHAP program will not cover the significant legal costs of the Attorney General's Office associated with prosecuting cases. With the ongoing evictions and rental housing market challenges created by the COVID-19 pandemic, now is not the time to disrupt a process that is federally funded and effective for tenants.

The second concern with SB 254 is the also well-intentioned provisions that propose to limit a landlord's ability to refuse leasing to applicants with certain criminal records. Unfortunately, any potential benefits of these provisions are outweighed by the highly problematic sections that would force landlords to rent their property to applicants with serious criminal records.

SB 254 prohibits a landlord from refusing to lease to an applicant with a criminal record, except in cases where the applicant was convicted of certain violent or sexual offenses or arson. While these exceptions are helpful, the bill would still require landlords to rent to people with convictions for other serious crimes, including drug dealing, burglary, theft, fraud, and others.

The exception for arson is very narrow. Under this bill, a landlord can only refuse to lease to a person convicted of first-degree arson if the conviction occurred within the last year. "First degree arson" means maliciously setting fire to a dwelling or to an occupied car or other vehicle. *See* NRS 205.010. This is a very serious offense that can result in numerous deaths and cause untold property damage. Forcing landlords to rent to such arsonists would create an unacceptable danger to other tenants.

Additionally, SB 254 is drafted in a way that it is unlikely to achieve its intended purpose. The criminal background check portions of the bill only apply to the rental of a residence in a building that contains five or more dwelling units and that is owned by a natural person. In other words, it completely exempts corporate landlords, regardless of whether their buildings contain 1 or 500 dwelling units. It is doubtful that dwellings with five or more units that are owned by a natural person represent a significant part of the housing market. It also exempts single-family home landlords. Thus, it appears that SB 254 would not apply to the vast majority of rentals and is therefore unlikely to make a significant difference in whether people with criminal convictions can obtain housing. Furthermore, the landlord applicability section would be confusing for a tenant or a landlord to decipher what properties the bill applies to and it potentially creates a housing equity problem.

As discussed above, SB 254 imposes substantial restrictions on a landlord's ability to choose who rents their property. These restrictions are specifically placed on individual landlords only. These individuals would be required to navigate complex new rules, and - for each applicant - they must attempt to determine whether a conviction, including convictions from other states, meets one of the exceptions. Running afoul of the proposed law could result in the individual landlord being held liable for damages, civil penalties, and attorney's fees. It is not fair to place these burdens only on individual landlords who provide a relatively small number of dwellings, while completely exempting corporate landlords from the same standards. The statutory language in SB 254 leaves too much room for legal challenges to landlords who simply picked a different applicant or denied the applicant for a different reason.

Although I understand the noble purposes behind SB 254, the bill is drafted in such a way that it could impose substantial liability on individual landlords and yet not achieve one of its major goals.

For these reasons, I veto this bill and return it without my signature or approval.

Respectfully submitted,

Governor Steve Sisolak
State of Nevada

cc: The Honorable Nicole Cannizzaro, Majority Leader of the Senate
The Honorable Jason Frierson, Speaker of the Assembly