

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0012.01 Yelana Love x2295

HOUSE BILL 18-1127

HOUSE SPONSORSHIP

Jackson and Kennedy, Weissman

SENATE SPONSORSHIP

(None),

House Committees

Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE RENTAL APPLICATION PROCESS FOR PROSPECTIVE
102 TENANTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill:

- ! Limits the fee to cover a landlord's costs for a personal reference check or for obtaining a consumer credit report or tenant screening report;
- ! Requires a landlord to provide each prospective tenant with written notice of the landlord's tenant selection criteria and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 (5) "RENTAL APPLICATION" MEANS ANY INFORMATION, WRITTEN
2 OR ORAL, SUBMITTED TO A LANDLORD BY A PROSPECTIVE TENANT FOR THE
3 PURPOSE OF ENTERING INTO A RENTAL AGREEMENT.

4 (6) "RENTAL APPLICATION FEE" MEANS ANY SUM OF MONEY,
5 HOWEVER DENOMINATED, CHARGED, OR ACCEPTED BY A LANDLORD FROM
6 A PROSPECTIVE TENANT IN CONNECTION WITH THE PROSPECTIVE TENANT'S
7 SUBMISSION OF A RENTAL APPLICATION.

8 (7) "TENANT" MEANS A PERSON ENTITLED UNDER A RENTAL
9 AGREEMENT TO OCCUPY A DWELLING UNIT TO THE EXCLUSION OF OTHERS.

10 **38-12-803. Rental application fee - limitations - requirements**

11 **of reasonableness and uniformity.** (1) A LANDLORD SHALL NOT
12 CHARGE A PROSPECTIVE TENANT A RENTAL APPLICATION FEE UNLESS THE
13 LANDLORD USES THE FEE TO COVER THE LANDLORD'S COSTS IN
14 PROCESSING THE RENTAL APPLICATION. THE LANDLORD'S COSTS MAY BE
15 BASED ON THE ACTUAL AMOUNT THE LANDLORD INCURS IN PROCESSING
16 THE RENTAL APPLICATION OR THE AVERAGE AMOUNT THAT THE LANDLORD
17 CHARGES EACH PROSPECTIVE TENANT BASED ON THE AVERAGE COSTS
18 INCURRED IN PROCESSING RENTAL APPLICATIONS.

19 (2) A LANDLORD SHALL NOT CHARGE ONE PROSPECTIVE TENANT
20 A RENTAL APPLICATION FEE THAT IS DIFFERENT FROM THE RENTAL
21 APPLICATION FEE CHARGED TO ANOTHER PROSPECTIVE TENANT WHO
22 APPLIES TO RENT:

23 (a) THE SAME DWELLING UNIT; OR

24 (b) IF THE LANDLORD OFFERS MORE THAN ONE DWELLING UNIT FOR
25 RENT AT THE SAME TIME, ANY OTHER DWELLING UNIT OFFERED BY THE
26 LANDLORD.

27 (3) THE LANDLORD SHALL PROVIDE ANY PERSON WHO HAS PAID A

1 RENTAL APPLICATION FEE WITH EITHER A DISCLOSURE OF THE LANDLORD'S
2 ANTICIPATED EXPENSES FOR WHICH THE FEE WILL BE USED OR A RECEIPT
3 THAT ITEMIZES THE LANDLORD'S ACTUAL EXPENSES INCURRED. IF THE
4 LANDLORD CHARGES AN AMOUNT BASED ON THE AVERAGE COST OF
5 PROCESSING THE RENTAL APPLICATION, THEN THE LANDLORD SHALL
6 INCLUDE INFORMATION REGARDING HOW THAT AVERAGE RENTAL
7 APPLICATION FEE IS DETERMINED. THE LANDLORD MAY PROVIDE THE
8 PERSON WITH AN ELECTRONIC RECEIPT UNLESS THE PERSON REQUESTS A
9 PAPER RECEIPT, IN WHICH CASE THE LANDLORD SHALL PROVIDE THE
10 PERSON WITH A PAPER RECEIPT.

11 **38-12-804. Rental applications - required disclosures to**
12 **prospective tenants - eligibility requirements - adverse action notice**
13 **- acknowledgment of receipt.** (1) (a) BEFORE ACCEPTING A RENTAL
14 APPLICATION OR COLLECTING A RENTAL APPLICATION FEE FROM A
15 PROSPECTIVE TENANT, A LANDLORD SHALL GIVE THE PROSPECTIVE TENANT
16 WRITTEN NOTICE OF THE LANDLORD'S TENANT SELECTION CRITERIA AND
17 THE GROUNDS ON WHICH A RENTAL APPLICATION MAY BE DENIED. IF ANY
18 OF THE FOLLOWING ARE GROUNDS FOR DENIAL, THEY MUST BE CLEARLY
19 STATED IN THE NOTICE:

20 (I) THE PROSPECTIVE TENANT'S:

21 (A) CRIMINAL HISTORY;

22 (B) RENTAL HISTORY;

23 (C) CREDIT HISTORY; OR

24 (D) CURRENT INCOME;

25 (II) FAILURE TO PROVIDE ACCURATE OR COMPLETE INFORMATION
26 IN THE RENTAL APPLICATION; OR

27 (III) FAILURE TO PAY THE RENTAL APPLICATION FEE IN THE

1 AMOUNT SPECIFIED IN THE NOTICE.

2 (b) IF THE LANDLORD USES RENTAL HISTORY OR CREDIT HISTORY
3 AS CRITERIA IN CONSIDERATION OF AN APPLICATION, THE LANDLORD
4 SHALL NEITHER INQUIRE INTO NOR CONSIDER ANY HISTORY BEYOND FIVE
5 YEARS IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION.

6 (c) IF THE LANDLORD TAKES AN ADVERSE ACTION LISTED IN THE
7 ADVERSE ACTION NOTICE SPECIFIED IN THIS SUBSECTION (1)(c), THE
8 LANDLORD SHALL PROVIDE A WRITTEN NOTICE OF THE ADVERSE ACTION
9 TO THE PROSPECTIVE TENANT THAT STATES THE REASONS FOR THE
10 ADVERSE ACTION. THE LANDLORD MAY PROVIDE THE PROSPECTIVE
11 TENANT WITH AN ELECTRONIC VERSION OF THE ADVERSE ACTION NOTICE
12 REQUIRED IN THIS SUBSECTION (1)(c) UNLESS THE PROSPECTIVE TENANT
13 REQUESTS A PAPER ADVERSE ACTION NOTICE, IN WHICH CASE THE
14 LANDLORD SHALL PROVIDE THE PERSON WITH A PAPER ADVERSE ACTION
15 NOTICE. THE ADVERSE ACTION NOTICE MUST CONTAIN THE FOLLOWING
16 INFORMATION IN A SUBSTANTIALLY SIMILAR FORMAT:

17 ADVERSE ACTION NOTICE

18 (NAME OF PROSPECTIVE TENANT)

19 (ADDRESS OF PROSPECTIVE TENANT)

20 THIS NOTICE IS TO INFORM YOU THAT YOUR APPLICATION HAS BEEN:

21 _____ REJECTED

22 _____ APPROVED WITH CONDITIONS:

23 _____ RESIDENCY REQUIRES AN INCREASED DEPOSIT

24 _____ RESIDENCY REQUIRES A QUALIFIED GUARANTOR

25 _____ RESIDENCY REQUIRES LAST MONTH'S RENT

26 _____ RESIDENCY REQUIRES AN INCREASED MONTHLY RENT OF

27 \$ _____

1 ___ OTHER
2 ADVERSE ACTION ON YOUR APPLICATION WAS BASED ON THE FOLLOWING:
3 ___ INFORMATION CONTAINED IN A CONSUMER CREDIT REPORT
4 ___ THE CONSUMER CREDIT REPORT DID NOT CONTAIN SUFFICIENT
5 INFORMATION
6 ___ INFORMATION RECEIVED FROM PREVIOUS RENTAL HISTORY OR
7 REFERENCE
8 ___ INFORMATION RECEIVED IN A CRIMINAL RECORD
9 ___ INFORMATION RECEIVED IN A CIVIL RECORD
10 ___ INFORMATION RECEIVED FROM AN EMPLOYMENT VERIFICATION
11 (DATE)
12 (SIGNATURE OF LANDLORD)

13 (2) THE NOTICE MUST BE ACCOMPANIED BY AN ACKNOWLEDGMENT
14 OF RECEIPT, TO BE SIGNED BY THE PROSPECTIVE TENANT. THE LACK OF A
15 SIGNED ACKNOWLEDGMENT OF RECEIPT CREATES A REBUTTABLE
16 PRESUMPTION THAT THE PROSPECTIVE TENANT WAS NOT GIVEN A COPY OF
17 THE NOTICE.

18 **38-12-805. Violations - penalties.** A LANDLORD WHO VIOLATES
19 ANY PROVISION OF THIS PART 8 IS LIABLE TO THE PERSON WHO IS CHARGED
20 A RENTAL APPLICATION FEE FOR TWO TIMES THE AMOUNT OF THE RENTAL
21 APPLICATION FEE, PLUS COURT COSTS AND REASONABLE ATTORNEY FEES.

22 **SECTION 2. Act subject to petition - effective date -**
23 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
24 the expiration of the ninety-day period after final adjournment of the
25 general assembly (August 8, 2018, if adjournment sine die is on May 9,
26 2018); except that, if a referendum petition is filed pursuant to section 1
27 (3) of article V of the state constitution against this act or an item, section,

1 or part of this act within such period, then the act, item, section, or part
2 will not take effect unless approved by the people at the general election
3 to be held in November 2018 and, in such case, will take effect on the
4 date of the official declaration of the vote thereon by the governor.

5 (2) This act applies to rental applications submitted on or after the
6 applicable effective date of this act.