

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 18-0012.01 Yelana Love x2295

HOUSE BILL 18-1127

HOUSE SPONSORSHIP

Jackson and Kennedy, Weissman

SENATE SPONSORSHIP

Fenberg,

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.

HOUSE
Amended 2nd Reading
February 22, 2018

the grounds upon which a rental application may be denied before accepting an application or collecting an application fee; and

- ! Requires a landlord to provide a prospective tenant with an adverse action notice if the landlord takes adverse action on a prospective tenant after reviewing the prospective tenant's rental application.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 8 to article
3 12 of title 38 as follows:

4 **PART 8**

5 **RENTAL APPLICATION FAIRNESS ACT**

6 **38-12-801. Short title.** THE SHORT TITLE OF THIS PART 8 IS THE
7 "RENTAL APPLICATION FAIRNESS ACT".

8 **38-12-802. Definitions.** AS USED IN THIS PART 8, UNLESS THE
9 CONTEXT OTHERWISE REQUIRES:

10

11 (1) "DWELLING UNIT" MEANS A STRUCTURE OR THE PART OF A
12 STRUCTURE THAT IS USED AS A HOME, RESIDENCE, OR SLEEPING PLACE.

13 (2) "LANDLORD" MEANS THE OWNER, MANAGER, LESSOR, OR
14 SUBLESSOR OF A DWELLING UNIT.

15 (3) "RENTAL AGREEMENT" MEANS ANY AGREEMENT, WRITTEN OR
16 ORAL, BETWEEN A LANDLORD AND A TENANT EMBODYING THE TERMS AND
17 CONDITIONS CONCERNING THE USE AND OCCUPANCY OF A DWELLING UNIT.

18 (4) "RENTAL APPLICATION" MEANS ANY INFORMATION, WRITTEN
19 OR ORAL, SUBMITTED TO A LANDLORD BY A PROSPECTIVE TENANT FOR THE
20 PURPOSE OF ENTERING INTO A RENTAL AGREEMENT.

21 (5) "RENTAL APPLICATION FEE" MEANS ANY SUM OF MONEY,
22 HOWEVER DENOMINATED, CHARGED, OR ACCEPTED BY A LANDLORD FROM

1 A PROSPECTIVE TENANT IN CONNECTION WITH THE PROSPECTIVE TENANT'S
2 SUBMISSION OF A RENTAL APPLICATION.

3 (6) "TENANT" MEANS A PERSON ENTITLED UNDER A RENTAL
4 AGREEMENT TO OCCUPY A DWELLING UNIT TO THE EXCLUSION OF OTHERS.

5 **38-12-803. Rental application fee - limitations - requirements**
6 **of reasonableness and uniformity.** (1) A LANDLORD SHALL NOT

7 CHARGE A PROSPECTIVE TENANT A RENTAL APPLICATION FEE UNLESS THE
8 LANDLORD USES THE FEE TO COVER THE LANDLORD'S COSTS IN
9 PROCESSING THE RENTAL APPLICATION. THE LANDLORD'S COSTS MAY BE
10 BASED ON THE ACTUAL AMOUNT THE LANDLORD INCURS IN PROCESSING
11 THE RENTAL APPLICATION OR THE AVERAGE AMOUNT THAT THE LANDLORD
12 CHARGES EACH PROSPECTIVE TENANT BASED ON THE AVERAGE COSTS
13 INCURRED IN PROCESSING RENTAL APPLICATIONS.

14 (2) A LANDLORD SHALL NOT CHARGE ONE PROSPECTIVE TENANT
15 A RENTAL APPLICATION FEE THAT IS DIFFERENT FROM THE RENTAL
16 APPLICATION FEE CHARGED TO ANOTHER PROSPECTIVE TENANT WHO
17 APPLIES TO RENT:

18 (a) THE SAME DWELLING UNIT; OR

19 (b) IF THE LANDLORD OFFERS MORE THAN ONE DWELLING UNIT FOR
20 RENT AT THE SAME TIME, ANY OTHER DWELLING UNIT OFFERED BY THE
21 LANDLORD.

22 (3) THE LANDLORD SHALL PROVIDE ANY PERSON WHO HAS PAID A
23 RENTAL APPLICATION FEE WITH EITHER A DISCLOSURE OF THE LANDLORD'S
24 ANTICIPATED EXPENSES FOR WHICH THE FEE WILL BE USED OR A RECEIPT
25 THAT ITEMIZES THE LANDLORD'S ACTUAL EXPENSES INCURRED. IF THE
26 LANDLORD CHARGES AN AMOUNT BASED ON THE AVERAGE COST OF
27 PROCESSING THE RENTAL APPLICATION, THEN THE LANDLORD SHALL

1 INCLUDE INFORMATION REGARDING HOW THAT AVERAGE RENTAL
2 APPLICATION FEE IS DETERMINED. THE LANDLORD MAY PROVIDE THE
3 PERSON WITH AN ELECTRONIC RECEIPT UNLESS THE PERSON REQUESTS A
4 PAPER RECEIPT, IN WHICH CASE THE LANDLORD SHALL PROVIDE THE
5 PERSON WITH A PAPER RECEIPT.

6 **38-12-804. Rental applications - required disclosures to**
7 **prospective tenants - eligibility requirements - adverse action notice**

8 **- acknowledgment of receipt.** (1) BEFORE ACCEPTING A RENTAL
9 APPLICATION OR COLLECTING A RENTAL APPLICATION FEE FROM A
10 PROSPECTIVE TENANT, A LANDLORD SHALL GIVE THE PROSPECTIVE TENANT
11 WRITTEN NOTICE OF THE LANDLORD'S TENANT SELECTION CRITERIA AND
12 THE GROUNDS ON WHICH A RENTAL APPLICATION MAY BE DENIED. IF ANY
13 OF THE FOLLOWING ARE GROUNDS FOR DENIAL, THEY MUST BE CLEARLY
14 STATED IN THE NOTICE:

- 15 (a) THE PROSPECTIVE TENANT'S:
 - 16 (I) CRIMINAL HISTORY;
 - 17 (II) RENTAL HISTORY;
 - 18 (III) CREDIT HISTORY; OR
 - 19 (IV) CURRENT INCOME;
- 20 (b) FAILURE TO PROVIDE ACCURATE OR COMPLETE INFORMATION
21 IN THE RENTAL APPLICATION; OR
- 22 (c) FAILURE TO PAY THE RENTAL APPLICATION FEE IN THE AMOUNT
23 SPECIFIED IN THE NOTICE.

24 (2) IF THE LANDLORD USES RENTAL HISTORY OR CREDIT HISTORY
25 AS CRITERIA IN CONSIDERATION OF AN APPLICATION, THE LANDLORD
26 SHALL NEITHER INQUIRE INTO NOR CONSIDER ANY RENTAL HISTORY OR
27 CREDIT HISTORY BEYOND SEVEN YEARS IMMEDIATELY PRECEDING THE

1 DATE OF THE APPLICATION.

2 (3) IF THE LANDLORD TAKES AN ADVERSE ACTION BASED ON THE
3 GROUNDS SPECIFIED IN SUBSECTION (1) OF THIS SECTION, THE LANDLORD
4 SHALL PROVIDE A WRITTEN NOTICE OF THE ADVERSE ACTION TO THE
5 PROSPECTIVE TENANT THAT STATES THE REASONS FOR THE ADVERSE
6 ACTION. IF THE SPECIFIC SCREENING CRITERIA CANNOT BE DIRECTLY CITED
7 BECAUSE OF THE USE OF A PROPRIETARY SCREENING SYSTEM, THE
8 LANDLORD SHALL INSTEAD PROVIDE THE PROSPECTIVE TENANT A COPY OF
9 THE REPORT FROM THE SCREENING COMPANY THAT USES THE
10 PROPRIETARY SCREENING SYSTEM. THE LANDLORD MAY PROVIDE THE
11 PROSPECTIVE TENANT WITH AN ELECTRONIC VERSION OF THE ADVERSE
12 ACTION NOTICE REQUIRED IN THIS SUBSECTION (3) UNLESS THE
13 PROSPECTIVE TENANT REQUESTS A PAPER ADVERSE ACTION NOTICE, IN
14 WHICH CASE THE LANDLORD SHALL PROVIDE THE PERSON WITH A PAPER
15 ADVERSE ACTION NOTICE.

16 **38-12-805. Violations - penalties.** A LANDLORD WHO VIOLATES
17 ANY PROVISION OF THIS PART 8 IS LIABLE TO THE PERSON WHO IS CHARGED
18 A RENTAL APPLICATION FEE FOR TWO TIMES THE AMOUNT OF THE RENTAL
19 APPLICATION FEE, PLUS COURT COSTS AND REASONABLE ATTORNEY FEES.

20 **SECTION 2. Act subject to petition - effective date -**
21 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
22 the expiration of the ninety-day period after final adjournment of the
23 general assembly (August 8, 2018, if adjournment sine die is on May 9,
24 2018); except that, if a referendum petition is filed pursuant to section 1
25 (3) of article V of the state constitution against this act or an item, section,
26 or part of this act within such period, then the act, item, section, or part
27 will not take effect unless approved by the people at the general election

1 to be held in November 2018 and, in such case, will take effect on the
2 date of the official declaration of the vote thereon by the governor.

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