

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 19-0582.01 Richard Sweetman x4333

HOUSE BILL 19-1106

HOUSE SPONSORSHIP

Titone and Gonzales-Gutierrez, Benavidez, Buckner, Coleman, Duran, Galindo, Herod, Jackson, Jaquez Lewis, Kennedy, Lontine, McLachlan, Singer, Sirota, Valdez A., Weissman

SENATE SPONSORSHIP

Pettersen,

House Committees
Business Affairs & Labor

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 states that a landlord may not charge a prospective tenant a rental application fee unless the landlord uses the entire amount of the fee to cover the landlord's costs in processing the rental application. A landlord also may not charge a prospective tenant a rental application fee that is in a different amount than a rental application fee charged to another prospective tenant who applies to rent:

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 SUBLESSOR OF A DWELLING UNIT.

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

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

8 (5) "RENTAL APPLICATION FEE" MEANS ANY SUM OF MONEY,
9 HOWEVER DENOMINATED, THAT IS CHARGED OR ACCEPTED BY A
10 LANDLORD FROM A PROSPECTIVE TENANT IN CONNECTION WITH THE
11 PROSPECTIVE TENANT'S SUBMISSION OF A RENTAL APPLICATION.

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

14 **38-12-903. Rental application fee - limitations.** (1) A
15 LANDLORD SHALL NOT CHARGE A PROSPECTIVE TENANT A RENTAL
16 APPLICATION FEE UNLESS THE LANDLORD USES THE ENTIRE AMOUNT OF
17 THE FEE TO COVER THE LANDLORD'S COSTS IN PROCESSING THE RENTAL
18 APPLICATION. THE LANDLORD'S COSTS MAY BE BASED ON:

19 (a) THE ACTUAL EXPENSE THE LANDLORD INCURS IN PROCESSING
20 THE RENTAL APPLICATION; OR

21 (b) THE AVERAGE EXPENSE THE LANDLORD INCURS PER
22 PROSPECTIVE TENANT IN THE COURSE OF PROCESSING MULTIPLE RENTAL
23 APPLICATIONS.

24 (2) A LANDLORD SHALL NOT CHARGE A PROSPECTIVE TENANT A
25 RENTAL APPLICATION FEE THAT IS IN A DIFFERENT AMOUNT THAN A
26 RENTAL APPLICATION FEE CHARGED TO ANOTHER PROSPECTIVE TENANT
27 WHO APPLIES TO RENT:

1 (a) THE SAME DWELLING UNIT; OR

2 (b) IF THE LANDLORD OFFERS MORE THAN ONE DWELLING UNIT FOR
3 RENT AT THE SAME TIME, ANY OTHER DWELLING UNIT OFFERED BY THE
4 LANDLORD.

5 (3)(a) A LANDLORD SHALL PROVIDE TO ANY PROSPECTIVE TENANT
6 WHO HAS PAID A RENTAL APPLICATION FEE EITHER A DISCLOSURE OF THE
7 LANDLORD'S ANTICIPATED EXPENSES FOR WHICH THE FEE WILL BE USED OR
8 AN ITEMIZATION OF THE LANDLORD'S ACTUAL EXPENSES INCURRED. IF A
9 LANDLORD CHARGES AN AMOUNT BASED ON THE AVERAGE COST OF
10 PROCESSING THE RENTAL APPLICATION, THE LANDLORD SHALL INCLUDE
11 INFORMATION REGARDING HOW THAT AVERAGE RENTAL APPLICATION FEE
12 IS DETERMINED.

13 (b) A LANDLORD SHALL PROVIDE EVERY PROSPECTIVE TENANT
14 WITH A RECEIPT FOR ANY APPLICATION FEE RECEIVED. THE LANDLORD
15 MAY PROVIDE A PROSPECTIVE TENANT AN ELECTRONIC RECEIPT UNLESS
16 THE PROSPECTIVE TENANT REQUESTS A PAPER RECEIPT, IN WHICH CASE
17 THE LANDLORD SHALL PROVIDE THE PROSPECTIVE TENANT A PAPER
18 RECEIPT.

19 (4) A LANDLORD WHO RECEIVES A RENTAL APPLICATION FEE FROM
20 A PROSPECTIVE TENANT AND DOES NOT USE THE ENTIRE AMOUNT OF THE
21 FEE TO COVER THE LANDLORD'S COSTS IN PROCESSING THE RENTAL
22 APPLICATION SHALL REMIT TO THE PROSPECTIVE TENANT THE REMAINING
23 AMOUNT OF THE FEE.

24 **38-12-904. Consideration of rental applications - limitations**
25 **- denial notice.** (1) IF A LANDLORD USES RENTAL HISTORY OR CREDIT
26 HISTORY AS CRITERIA IN CONSIDERATION OF AN APPLICATION, THE
27 LANDLORD SHALL NEITHER INQUIRE INTO NOR CONSIDER ANY RENTAL

1 HISTORY OR CREDIT HISTORY BEYOND SEVEN YEARS IMMEDIATELY
2 PRECEDING THE DATE OF THE APPLICATION.

3 (2) IF A LANDLORD DENIES A RENTAL APPLICATION, THE LANDLORD
4 SHALL PROVIDE THE PROSPECTIVE TENANT A WRITTEN NOTICE OF THE
5 DENIAL THAT STATES THE REASONS FOR THE DENIAL. IF THE SPECIFIC
6 SCREENING CRITERIA CANNOT BE DIRECTLY CITED BECAUSE OF THE USE OF
7 A PROPRIETARY SCREENING SYSTEM, THE LANDLORD SHALL INSTEAD
8 PROVIDE THE PROSPECTIVE TENANT WITH A COPY OF THE REPORT FROM
9 THE SCREENING COMPANY THAT USES THE PROPRIETARY SCREENING
10 SYSTEM. A LANDLORD MAY PROVIDE A PROSPECTIVE TENANT AN
11 ELECTRONIC VERSION OF THE DENIAL NOTICE REQUIRED IN THIS
12 SUBSECTION (2) UNLESS THE PROSPECTIVE TENANT REQUESTS A PAPER
13 DENIAL NOTICE, IN WHICH CASE THE LANDLORD SHALL PROVIDE THE
14 PROSPECTIVE TENANT A PAPER DENIAL NOTICE.

15 **38-12-905. Violations - penalties.** A LANDLORD WHO VIOLATES
16 ANY PROVISION OF THIS PART 9 IS LIABLE TO THE PERSON WHO IS CHARGED
17 A RENTAL APPLICATION FEE FOR TWICE THE AMOUNT OF THE RENTAL
18 APPLICATION FEE, PLUS COURT COSTS.

19 **SECTION 2. Act subject to petition - effective date -**
20 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
21 the expiration of the ninety-day period after final adjournment of the
22 general assembly (August 2, 2019, if adjournment sine die is on May 3,
23 2019); except that, if a referendum petition is filed pursuant to section 1
24 (3) of article V of the state constitution against this act or an item, section,
25 or part of this act within such period, then the act, item, section, or part
26 will not take effect unless approved by the people at the general election
27 to be held in November 2020 and, in such case, will take effect on the

- 1 date of the official declaration of the vote thereon by the governor.
- 2 (2) This act applies to rental applications submitted on or after the
- 3 applicable effective date of this act.