

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

ENGROSSED

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

LLS NO. 23-0607.01 Brita Darling x2241

HOUSE BILL 23-1099

HOUSE SPONSORSHIP

Vigil and Weissman, Velasco

SENATE SPONSORSHIP

Fields and Exum,

House Committees
Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING TENANT SCREENING DOCUMENTATION FOR RESIDENTIAL**
102 **LEASES.**

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 requires a landlord to accept from a prospective tenant a portable tenant screening report (screening report). A screening report must have been prepared by a consumer reporting agency (agency) within the previous 30 days at the prospective tenant's request and expense and include certain information about the prospective tenant.

If a prospective tenant provides a screening report, the landlord

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

HOUSE
Amended 2nd Reading
February 24, 2023

shall not charge the prospective tenant either an application fee or a fee for the landlord to access or use the screening report.

Prior to collecting any tenant information that would generate an application fee, a landlord shall advise a prospective tenant that the landlord accepts screening reports and is prohibited from charging an application fee or other fee to a prospective tenant who provides a screening report.

If a prospective tenant's rental application is denied, and the landlord charged the prospective tenant an application fee to obtain a consumer report, the landlord shall provide a copy of the consumer report to the prospective tenant, along with a notice of the prospective tenant's right to dispute the accuracy of the consumer report. If the prospective tenant did not pay an application fee for the landlord to obtain a consumer report, the landlord's notice of denial must include either a copy of the consumer report or the agency's contact information and notice of the prospective tenant's right to receive a free copy of the consumer report and to dispute the accuracy of the consumer report.

The bill authorizes the attorney general's office to independently initiate and bring an action to enforce the "Rental Application Fairness Act".

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

2 **SECTION 1.** In Colorado Revised Statutes, 38-12-902, **amend**
3 (1) and (4); and **add** (1.3), (1.7), and (2.5) as follows:

4 **38-12-902. Definitions.** As used in this part 9, unless the context
5 otherwise requires:

6 (1) ~~"Dwelling unit" means a structure or the part of a structure that~~
7 ~~is used as a home, residence, or sleeping place~~ "CONSUMER REPORT" HAS
8 THE MEANING SET FORTH IN SECTION 5-18-103 (3).

9 (1.3) "CONSUMER REPORTING AGENCY" HAS THE MEANING SET
10 FORTH IN SECTION 5-18-103 (4).

11 (1.7) "DWELLING UNIT" MEANS A STRUCTURE OR THE PART OF A
12 STRUCTURE THAT IS USED AS A HOME, RESIDENCE, OR SLEEPING PLACE.

13 (2.5) "PORTABLE TENANT SCREENING REPORT" OR "SCREENING
14 REPORT" MEANS A CONSUMER REPORT PREPARED AT THE REQUEST OF A

1 PROSPECTIVE TENANT THAT INCLUDES INFORMATION PROVIDED BY A
2 CONSUMER REPORTING AGENCY, WHICH REPORT INCLUDES THE
3 FOLLOWING INFORMATION ABOUT A PROSPECTIVE TENANT AND THE DATE
4 THROUGH WHICH THE INFORMATION CONTAINED IN THE REPORT IS
5 CURRENT:

- 6 (a) NAME;
- 7 (b) CONTACT INFORMATION;
- 8 (c) VERIFICATION OF EMPLOYMENT AND INCOME;
- 9 (d) LAST-KNOWN ADDRESS;
- 10 (e) FOR EACH JURISDICTION INDICATED IN THE CONSUMER REPORT
11 AS A PRIOR RESIDENCE OF THE PROSPECTIVE TENANT, REGARDLESS OF
12 WHETHER THE RESIDENCE IS REPORTED BY THE PROSPECTIVE TENANT OR
13 BY THE CONSUMER REPORTING AGENCY PREPARING THE CONSUMER
14 REPORT:

15 (I) A RENTAL AND CREDIT HISTORY REPORT FOR THE PROSPECTIVE
16 TENANT THAT COMPLIES WITH SECTION 38-12-904 (1)(a) CONCERNING A
17 LANDLORD'S CONSIDERATION OF A PROSPECTIVE TENANT'S RENTAL
18 HISTORY; AND

19 (II) A CRIMINAL HISTORY RECORD CHECK FOR ALL FEDERAL,
20 STATE, AND LOCAL CONVICTIONS OF THE PROSPECTIVE TENANT THAT
21 COMPLIES WITH SECTION 38-12-904 (1)(b) CONCERNING A LANDLORD'S
22 CONSIDERATION OF A PROSPECTIVE TENANT'S ARREST RECORDS.

23 (4) "Rental application" means any information, written or oral,
24 submitted to a landlord by a prospective tenant for the purpose of entering
25 into a rental agreement. "RENTAL APPLICATION" INCLUDES A PORTABLE
26 TENANT SCREENING REPORT.

27 **SECTION 2.** In Colorado Revised Statutes, 38-12-903, **amend**

1 (2) as follows:

2 **38-12-903. Rental application fee - limitations.** (2) A landlord
3 shall not charge a prospective tenant a rental application fee:

4 (a) That is in a different amount than a rental application fee
5 charged to another prospective tenant who applies to rent:

6 ~~(a)~~ (I) The same dwelling unit; or

7 ~~(b)~~ (II) If the landlord offers more than one dwelling unit for rent
8 at the same time, any other dwelling unit offered by the landlord; OR

9 (b) IF THE PROSPECTIVE TENANT PROVIDES TO THE LANDLORD A
10 PORTABLE TENANT SCREENING REPORT PURSUANT TO SECTION 38-12-904
11 (1.5).

12 **SECTION 3.** In Colorado Revised Statutes, 38-12-904, **amend**
13 (2)(a); and **add** (1.5) as follows:

14 **38-12-904. Consideration of rental applications - limitations**
15 **- portable tenant screening report - notice to prospective tenants -**
16 **denial notice.** (1.5) (a) ~~EXCEPT AS PROVIDED IN SUBSECTION (1.5)(f) OF~~
17 ~~THIS SECTION, A~~ LANDLORD SHALL ACCEPT A PORTABLE TENANT
18 SCREENING REPORT FROM A PROSPECTIVE TENANT.

19 (b) A LANDLORD RECEIVING A PORTABLE TENANT SCREENING
20 REPORT MAY REQUIRE:

21 (I) THAT THE SCREENING REPORT WAS COMPLETED WITHIN THE
22 PREVIOUS THIRTY DAYS;

23 (II) THAT THE SCREENING REPORT IS MADE DIRECTLY AVAILABLE
24 TO THE LANDLORD BY THE CONSUMER REPORTING AGENCY FOR USE IN THE
25 RENTAL APPLICATION PROCESS OR PROVIDED THROUGH A THIRD-PARTY
26 WEBSITE THAT REGULARLY ENGAGES IN THE BUSINESS OF PROVIDING
27 CONSUMER REPORTS AND COMPLIES WITH ALL STATE AND FEDERAL LAWS

1 PERTAINING TO USE AND DISCLOSURE OF INFORMATION CONTAINED IN A
2 CONSUMER REPORT BY A CONSUMER REPORTING AGENCY;

3 (III) THAT THE SCREENING REPORT IS MADE AVAILABLE TO THE
4 LANDLORD AT NO COST TO ACCESS OR USE IN THE RENTAL APPLICATION
5 PROCESS; AND

6 (IV) A STATEMENT FROM THE PROSPECTIVE TENANT THAT THERE
7 HAS NOT BEEN A MATERIAL CHANGE IN THE INFORMATION IN THE
8 SCREENING REPORT, INCLUDING THE PROSPECTIVE TENANT'S NAME,
9 ADDRESS, BANKRUPTCY STATUS, CRIMINAL HISTORY, OR EVICTION
10 HISTORY, SINCE THE REPORT WAS GENERATED.

11 (c) A LANDLORD SHALL NOT CHARGE A PROSPECTIVE TENANT A
12 FEE TO ACCESS OR USE THE SCREENING REPORT.

13 (d) PRIOR TO TAKING ANY ACTION RELATING TO TENANT
14 SCREENING FOR WHICH A LANDLORD WOULD EXPECT TO COLLECT AN
15 APPLICATION FEE, A LANDLORD SHALL ADVISE A PROSPECTIVE TENANT OF
16 THE FOLLOWING, USING SUBSTANTIALLY SIMILAR LANGUAGE:

17 1. THE PROSPECTIVE TENANT HAS THE RIGHT TO
18 PROVIDE TO THE LANDLORD A PORTABLE TENANT
19 SCREENING REPORT, AS DEFINED IN SECTION 38-12-902
20 (2.5), COLORADO REVISED STATUTES; AND

21 2. IF THE PROSPECTIVE TENANT PROVIDES THE
22 LANDLORD WITH A PORTABLE TENANT SCREENING REPORT,
23 THE LANDLORD IS PROHIBITED FROM:

24 CHARGING THE PROSPECTIVE TENANT A RENTAL
25 APPLICATION FEE; OR

26 CHARGING THE PROSPECTIVE TENANT A FEE FOR THE
27 LANDLORD TO ACCESS OR USE THE PORTABLE TENANT

1 SCREENING REPORT.

2 (e) A LANDLORD SHALL PROVIDE THE ADVISEMENT REQUIRED IN
3 SUBSECTION (1.5)(d) OF THIS SECTION IN A LOCATION AND USING A
4 METHOD REASONABLY LIKELY TO REACH PROSPECTIVE TENANTS,
5 INCLUDING:

6 (I) IN ADVERTISEMENTS AND OTHER PUBLIC NOTICES OF THE
7 DWELLING UNIT'S AVAILABILITY, DISPLAYED IN AT LEAST TWELVE-POINT,
8 BOLD-FACED TYPE UNLESS THE SIZE, FORMAT, OR DISPLAY REQUIREMENTS
9 OF THE ADVERTISEMENT OR OTHER PUBLIC NOTICE MAKE THIS
10 REQUIREMENT IMPRACTICABLE, IN WHICH CASE THE FONT AND SIZE OF THE
11 ADVISEMENT MUST MATCH THE REST OF THE ADVERTISEMENT OR OTHER
12 PUBLIC NOTICE;

13 (II) ON THE HOME PAGE OF A WEBSITE MAINTAINED BY THE
14 LANDLORD OR THE LANDLORD'S AGENT, INCLUDING A PROPERTY
15 MANAGEMENT COMPANY, DISPLAYED IN AT LEAST TWELVE-POINT,
16 BOLD-FACED TYPE;

17 (III) IN A PAPER OR AN ONLINE RENTAL APPLICATION FOR THE
18 DWELLING "UNIT, DISPLAYED IN AT LEAST TWELVE-POINT, BOLD-FACED
19 TYPE; OR

20 (IV) ORALLY, DIRECTLY TO A PROSPECTIVE TENANT, WITH A
21 WRITTEN CONFIRMATION OF RECEIPT BY THE PROSPECTIVE TENANT OF THE
22 ADVISEMENT.

23 (f) A LANDLORD IS EXEMPT FROM THE REQUIREMENTS SET FORTH
24 IN SUBSECTIONS (1.5)(a) TO (1.5)(c) OF THIS SECTION IF THE LANDLORD:


25 (I) DOES NOT ACCEPT MORE THAN ONE APPLICATION FEE AT A TIME
26 FOR A DWELLING UNIT OR, IF A DWELLING UNIT IS RENTED TO MORE THAN
27 ONE OCCUPANT, DOES NOT ACCEPT MORE THAN ONE APPLICATION FEE AT

1 A TIME FROM EACH PROSPECTIVE TENANT OR TENANT GROUP FOR THE
2 DWELLING UNIT; AND

3 (II) REFUNDS THE TOTAL AMOUNT OF THE APPLICATION FEE TO
4 EACH PROSPECTIVE TENANT WITHIN TWENTY CALENDAR DAYS AFTER
5 WRITTEN COMMUNICATION FROM EITHER THE LANDLORD OR LANDLORD'S
6 AGENT OR THE PROSPECTIVE TENANT DECLINING TO ENTER INTO A LEASE
7 AGREEMENT FOR THE DWELLING UNIT.

8 (2) (a) (I) (A) If a landlord denies a rental application, the landlord
9 shall provide TO the prospective tenant a written notice of the denial that
10 states the reasons for the denial.

11 (B) IF THE PROSPECTIVE TENANT SUBMITS AN APPLICATION THAT
12 RESULTS IN A LANDLORD OBTAINING A CONSUMER REPORT RELATING TO
13 THE PROSPECTIVE TENANT, THE LANDLORD SHALL ALSO PROVIDE A COPY
14 OF THE CONSUMER REPORT RELATING TO THE PROSPECTIVE TENANT AND
15 AN ADVISEMENT OF THE PROSPECTIVE TENANT'S RIGHT TO DISPUTE THE
16 ACCURACY OF THE CONSUMER REPORT WITH THE CONSUMER REPORTING
17 AGENCY PURSUANT TO SECTION 5-18-106.

18 
19 (II) If the specific screening criteria cannot be directly cited
20 because of the use of a proprietary screening system, the landlord shall
21 instead provide the prospective tenant with a copy of the report from the
22 screening company that uses the proprietary screening system, WITH ONLY
23 THE PROPRIETARY INFORMATION REDACTED.

24 (III) A landlord may provide a prospective tenant an electronic
25 version of the denial notice required in this subsection (2) unless the
26 prospective tenant requests a paper denial notice, in which case the
27 landlord shall provide the prospective tenant a paper denial notice.

1 **SECTION 4.** In Colorado Revised Statutes, 38-12-905, **amend**
2 (1) and (3) as follows:

3 **38-12-905. Violations - liability - notice required - exception.**

4 (1) Except as described in subsection (3) of this section, a landlord who
5 violates any provision of this part 9 is liable to the ~~person who is charged~~
6 ~~a rental application fee for treble the amount of the rental application fee~~
7 PROSPECTIVE TENANT AGGRIEVED BY THE VIOLATION FOR TWO THOUSAND
8 FIVE HUNDRED DOLLARS, plus court costs and reasonable attorney fees.

9 (3) A landlord who corrects or cures a violation of this part 9 not
10 more than seven calendar days after receiving notice of the violation
11 SHALL PAY THE PROSPECTIVE TENANT AGGRIEVED BY THE VIOLATION A
12 PENALTY OF FIFTY DOLLARS BUT OTHERWISE is not liable for damages as
13 described in subsection (1) of this section.

14 **SECTION 5.** In Colorado Revised Statutes, 24-31-101, **amend**
15 (1)(i)(XVII) as follows:

16 **24-31-101. Powers and duties of attorney general.** (1) The
17 attorney general:

18 (i) May independently initiate and bring civil and criminal actions
19 to enforce state laws, including actions brought pursuant to:

20 (XVII) ~~Section 38-12-904 (1)(b)~~ THE "RENTAL APPLICATION
21 FAIRNESS ACT", PART 9 OF ARTICLE 12 OF TITLE 38.

22 **SECTION 6. Act subject to petition - effective date.** This act
23 takes effect at 12:01 a.m. on the day following the expiration of the
24 ninety-day period after final adjournment of the general assembly; except
25 that, if a referendum petition is filed pursuant to section 1 (3) of article V
26 of the state constitution against this act or an item, section, or part of this
27 act within such period, then the act, item, section, or part will not take

1 effect unless approved by the people at the general election to be held in
2 November 2024 and, in such case, will take effect on the date of the
3 official declaration of the vote thereon by the governor.