

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

REVISED

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

LLS NO. 19-0582.01 Richard Sweetman x4333

HOUSE BILL 19-1106

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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.

SENATE
Amended 2nd Reading
March 21, 2019

HOUSE
3rd Reading Unamended
February 21, 2019

HOUSE
Amended 2nd Reading
February 20, 2019

- ! The same dwelling unit; or
- ! If the landlord offers more than one dwelling unit for rent at the same time, any other dwelling unit offered by the landlord.

The bill requires a landlord to provide to any prospective tenant who has paid a rental application fee either a disclosure of the landlord's anticipated expenses for which the fee will be used or a receipt that itemizes the landlord's actual expenses incurred.

The bill requires that, before accepting a rental application or collecting a rental application fee from a prospective tenant, a landlord shall give the prospective tenant written notice of the landlord's tenant selection criteria and the grounds upon which a rental application may be denied. If a landlord uses rental history or credit history as criteria in consideration of an application, the landlord shall neither inquire into nor consider any rental history or credit history beyond 7 years immediately preceding the date of the application.

If a landlord denies a rental application based on any of certain described grounds, the landlord shall provide the prospective tenant a written notice of the denial that states the reasons for the denial.

A landlord who violates any of the requirements created in the bill is liable to the person who is charged a rental application fee for twice the amount of the rental application fee, plus court costs and reasonable attorney fees.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 9 to article
3 12 of title 38 as follows:

4 **PART 9**

5 **RENTAL APPLICATION FAIRNESS ACT**

6 **38-12-901. Short title.** THE SHORT TITLE OF THIS PART 9 IS THE
7 "RENTAL APPLICATION FAIRNESS ACT".

8 **38-12-902. Definitions.** AS USED IN THIS PART 9, UNLESS THE
9 CONTEXT OTHERWISE REQUIRES:

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

12 (2) "LANDLORD" MEANS THE OWNER, MANAGER, LESSOR, OR

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 OR ANY
12 NONREFUNDABLE FEE THAT PRECEDES THE ONSET OF TENANCY. "RENTAL
13 APPLICATION FEE" DOES NOT INCLUDE A REFUNDABLE SECURITY DEPOSIT
14 OR ANY RENT THAT IS PAID BEFORE THE ONSET OF TENANCY.

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

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

22 (a) THE ACTUAL EXPENSE THE LANDLORD INCURS IN PROCESSING
23 THE RENTAL APPLICATION; OR

24 (b) THE AVERAGE EXPENSE THE LANDLORD INCURS PER
25 PROSPECTIVE TENANT IN THE COURSE OF PROCESSING MULTIPLE RENTAL
26 APPLICATIONS.

27 (2) A LANDLORD SHALL NOT CHARGE A PROSPECTIVE TENANT A

1 RENTAL APPLICATION FEE THAT IS IN A DIFFERENT AMOUNT THAN A
2 RENTAL APPLICATION FEE CHARGED TO ANOTHER PROSPECTIVE TENANT
3 WHO APPLIES TO RENT:

4 (a) THE SAME DWELLING UNIT; OR

5 (b) IF THE LANDLORD OFFERS MORE THAN ONE DWELLING UNIT FOR
6 RENT AT THE SAME TIME, ANY OTHER DWELLING UNIT OFFERED BY THE
7 LANDLORD.

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

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

22 (4) A LANDLORD WHO RECEIVES A RENTAL APPLICATION FEE FROM
23 A PROSPECTIVE TENANT AND DOES NOT USE THE ENTIRE AMOUNT OF THE
24 FEE TO COVER THE LANDLORD'S COSTS IN PROCESSING THE RENTAL
25 APPLICATION SHALL REMIT TO THE PROSPECTIVE TENANT THE REMAINING
26 AMOUNT OF THE FEE. THE LANDLORD SHALL MAKE A GOOD-FAITH EFFORT
27 TO REMIT SUCH AMOUNT WITHIN TWENTY CALENDAR DAYS AFTER

1 PROCESSING THE APPLICATION.

2 **38-12-904. Consideration of rental applications - limitations**

3 **- denial notice.** (1) (a) IF A LANDLORD USES RENTAL HISTORY OR CREDIT
4 HISTORY AS CRITERIA IN CONSIDERATION OF AN APPLICATION, THE
5 LANDLORD SHALL NOT CONSIDER ANY RENTAL HISTORY OR CREDIT
6 HISTORY BEYOND SEVEN YEARS IMMEDIATELY PRECEDING THE DATE OF
7 THE APPLICATION.

8 (b) IF A LANDLORD USES CRIMINAL HISTORY AS A CRITERION IN
9 CONSIDERATION OF AN APPLICATION, THE LANDLORD SHALL NOT CONSIDER
10 AN ARREST RECORD OF A PROSPECTIVE TENANT FROM ANY TIME OR ANY
11 CONVICTION OF A PROSPECTIVE TENANT THAT OCCURRED MORE THAN FIVE
12 YEARS BEFORE THE DATE OF THE APPLICATION; EXCEPT THAT A LANDLORD
13 MAY CONSIDER ANY CRIMINAL CONVICTION RECORD OR DEFERRED
14 JUDGMENT RELATING TO:

15 (I) THE UNLAWFUL DISTRIBUTION, MANUFACTURING, DISPENSING,
16 OR SALE OF A MATERIAL, COMPOUND, MIXTURE, OR PREPARATION THAT
17 CONTAINS METHAMPHETAMINE, AS DESCRIBED IN SECTION 18-18-405;

18 (II) THE UNLAWFUL POSSESSION OF MATERIALS TO MAKE
19 METHAMPHETAMINE AND AMPHETAMINE, AS DESCRIBED IN SECTION
20 18-18-412.5;

21 (III) ANY OFFENSE THAT REQUIRED THE PROSPECTIVE TENANT
22 TO REGISTER AS A SEX OFFENDER PURSUANT TO SECTION 16-22-103; OR

23 (IV) ANY OFFENSE DESCRIBED IN PART 1 OR PART 6 OF ARTICLE 3
24 OF TITLE 18.

25 (2) (a) IF A LANDLORD DENIES A RENTAL APPLICATION, THE
26 LANDLORD SHALL PROVIDE THE PROSPECTIVE TENANT A WRITTEN NOTICE
27 OF THE DENIAL THAT STATES THE REASONS FOR THE DENIAL. IF THE

1 SPECIFIC SCREENING CRITERIA CANNOT BE DIRECTLY CITED BECAUSE OF
2 THE USE OF A PROPRIETARY SCREENING SYSTEM, THE LANDLORD SHALL
3 INSTEAD PROVIDE THE PROSPECTIVE TENANT WITH A COPY OF THE REPORT
4 FROM THE SCREENING COMPANY THAT USES THE PROPRIETARY SCREENING
5 SYSTEM. A LANDLORD MAY PROVIDE A PROSPECTIVE TENANT AN
6 ELECTRONIC VERSION OF THE DENIAL NOTICE REQUIRED IN THIS
7 SUBSECTION (2) UNLESS THE PROSPECTIVE TENANT REQUESTS A PAPER
8 DENIAL NOTICE, IN WHICH CASE THE LANDLORD SHALL PROVIDE THE
9 PROSPECTIVE TENANT A PAPER DENIAL NOTICE.

10 (b) A LANDLORD WHO IS REQUIRED TO PROVIDE A NOTICE OF
11 DENIAL TO A PROSPECTIVE TENANT AS DESCRIBED IN SUBSECTION (2)(a)
12 OF THIS SECTION SHALL MAKE A GOOD-FAITH EFFORT TO DO SO NOT MORE
13 THAN TWENTY CALENDAR DAYS AFTER MAKING THE DECISION TO DENY
14 THE PROSPECTIVE TENANT'S RENTAL APPLICATION.

15 **38-12-905. Violations - liability - notice required - exception.**

16 (1) EXCEPT AS DESCRIBED IN SUBSECTION (3) OF THIS SECTION, A
17 LANDLORD WHO VIOLATES ANY PROVISION OF THIS PART 9 IS LIABLE TO
18 THE PERSON WHO IS CHARGED A RENTAL APPLICATION FEE FOR TREBLE THE
19 AMOUNT OF THE RENTAL APPLICATION FEE, PLUS COURT COSTS AND
20 REASONABLE ATTORNEY FEES.

21 (2) A PERSON WHO INTENDS TO FILE AN ACTION PURSUANT TO
22 SUBSECTION (1) OF THIS SECTION SHALL NOTIFY THE LANDLORD OF
23 SUCH INTENTION NOT LESS THAN SEVEN CALENDAR DAYS BEFORE FILING
24 THE ACTION.

25 (3) A LANDLORD WHO CORRECTS OR CURES A VIOLATION OF THIS
26 PART 9 NOT MORE THAN SEVEN CALENDAR DAYS AFTER RECEIVING NOTICE
27 OF THE VIOLATION IS NOT LIABLE FOR DAMAGES AS DESCRIBED IN

1 SUBSECTION (1) OF THIS SECTION.

2 (4) A PERSON WHO PURPOSEFULLY AND IN BAD FAITH BRINGS A
3 MERITLESS CLAIM AGAINST A LANDLORD UNDER THIS PART 9 IS LIABLE FOR
4 THE LANDLORD'S COURT COSTS AND REASONABLE ATTORNEY FEES IN
5 DEFENDING THE CLAIM.

6 **SECTION 2. Act subject to petition - effective date -**
7 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
8 the expiration of the ninety-day period after final adjournment of the
9 general assembly (August 2, 2019, if adjournment sine die is on May 3,
10 2019); except that, if a referendum petition is filed pursuant to section 1
11 (3) of article V of the state constitution against this act or an item, section,
12 or part of this act within such period, then the act, item, section, or part
13 will not take effect unless approved by the people at the general election
14 to be held in November 2020 and, in such case, will take effect on the
15 date of the official declaration of the vote thereon by the governor.

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