A BILL FOR AN ACT

CONCERNING THE RENTAL APPLICATION PROCESS FOR PROSPECTIVE 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:
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.

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

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

PART 9

RENTAL APPLICATION FAIRNESS ACT

38-12-901. Short title. The short title of this part 9 is the "Rental Application Fairness Act".

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

(1) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place.

(2) "Landlord" means the owner, manager, lessor, or
SUBLESSOR OF A DWELLING UNIT.

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

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

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

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

38-12-903. Rental application fee - limitations. (1) A LANDLORD SHALL 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. THE LANDLORD'S COSTS MAY BE BASED ON:

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

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

(2) A LANDLORD SHALL 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:
(a) THE SAME DWELLING UNIT; OR

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

3 (a) A LANDLORD SHALL 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 AN ITEMIZATION OF THE LANDLORD'S ACTUAL EXPENSES INCURRED. IF A LANDLORD CHARGES AN AMOUNT BASED ON THE AVERAGE COST OF PROCESSING THE RENTAL APPLICATION, THE LANDLORD SHALL INCLUDE INFORMATION REGARDING HOW THAT AVERAGE RENTAL APPLICATION FEE IS DETERMINED.

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

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

38-12-904. Consideration of rental applications - limitations - denial notice. (1) 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 SEVEN YEARS IMMEDIATELY
PRECEDING THE DATE OF THE APPLICATION.

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

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

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

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