

HB24-1099: Defendant Filing Fees in Evictions

Sponsors: Reps. Lindsay & Soper, Sens. Buckner & Pelton

CFI position: FOR

Madame Chair and members of the Committee,

My name is Sophie Shea, and I am a tax policy analyst at the Colorado Fiscal Institute. At CFI we work to make Colorado a state where fiscal and economic policies promote equity and widespread economic prosperity.

I am submitting written testimony in support of HB 24-1099.

Facing eviction is incredibly stressful, particularly for working families and Coloradans with low or fixed incomes, and the Eviction Defense Filing Fee is an unnecessary burden to place on tenants, who are facing high moving costs and a competitive housing market if they are not able to remain in their current home.

CFI analyzes fiscal and economic policies based on whether they are efficient, effective, and equitable. Fees like this, which defendants often do not have the ability to pay, particularly if they have fallen on personal financial hardship, are not a reliable source of revenue for courts. Assessing fees like this is not sound fiscal policy, and it is also not sound economic policy.

Removing unnecessary burdens that deter renters from responding to an eviction filing is a meaningful step towards empowering renters across Colorado to defend themselves from unjust eviction, while also eliminating an inequitable court fee that acts as a barrier to renters facing displacement.

Currently, tenants are able to apply for a fee waiver, which requires the defendant to provide copies of their last three months of bank statements, three months of paystubs, and monthly expenses. This places an onerous burden on both tenants and the court clerks processing the gratuitous paperwork. Requiring tenants facing eviction to apply for a fee waiver is inefficient because tenants in this situation almost ubiquitously are in a position of financial stress, and this fee and the waiver process is an obstacle that only serves to exacerbate the hardships of facing eviction.

Housing is necessary for Coloradans to be able to thrive. Protecting and advancing renters' rights to stable housing is essential for economic mobility, community-building, and public health and safety.

I ask that you please vote "Yes" on HB 24-1099. Thank you for your attention.

- This doesn't change the eviction filing fee for landlords — in fact, if the eviction filing fee is HIGHER for landlords, evictions actually go down.
- Fees are not based on ability to pay — and therefore a disproportionate burden to renters, who are more likely to be less equipped to pay. The average income for a landlord in Colorado is \$83,000 — compared to the median renter income of \$49,000.
- Fees that are not based on ability to pay have bigger impacts on people who are lower income. Everyone should be able to respond to legal proceedings regardless of their income.

If landlords have to pay this fee, why shouldn't tenants?

- This fee has been shown to be a meaningful barrier that prevents renters from having their day in court, which is their right. Fees that are not based on one's ability to pay create a system where being low income removes your right to defend yourself in court.
- CFI believes that all fees should be based on your ability to pay. If the fee that landlords have to pay to evict a tenant was a meaningful barrier to lower-income landlords enforcing the terms of a contract, that would also be something that CFI would be concerned about.

There is already a solution to this — you can waive the fee.

- For a lot of lower-income tenants, and especially single parents, having to track down and submit 6 different supporting documents in a timely manner in the middle of an eviction makes this fee waiver process ineffective.

What would a fee system based on ability to pay look like?

There is a lot of research being done in this space, by national and state partners alike. But a fee system based on ability to pay could look like:

- The burden to inquire and assess someone's ability to pay would be on the court, not the individual
- There are policy recommendations around assuming that a person does not have an ability to pay, based on certain qualifications like: if they are a recipient of any needs-based public assistance, if they are developmentally or physically disabled, if they are a minor, if they've experienced homelessness in the last 12 months, if they are eligible for a public defender.

https://finesandfeesjusticecenter.org/content/uploads/2020/11/FFJC_Policy_Guidance_Ability_to_Pay_Payment_Plan_Community_Service_Final_2.pdf