

D R A F T SUMMARY

Allows local governments to adopt maximum applicant screening charges. Exempts third party screening reports that are available to multiple landlords.

A BILL FOR AN ACT

Relating to applicant screening for residential tenants; amending ORS 90.295.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 90.295 is amended to read:

90.295. (1)(a) A landlord may require payment of an applicant screening charge solely to cover the costs of obtaining information about an applicant as the landlord processes the application for a rental agreement. This activity is known as screening and includes but is not limited to checking references and obtaining a consumer credit report or tenant screening report. The landlord must provide the applicant with a receipt for any applicant screening charge.

(b) A landlord may only require an applicant to pay a single applicant screening charge within any 60-day period, regardless of the number of rental units owned or managed by the landlord for which the applicant has applied to rent.

(2) The amount of any applicant screening charge must not be greater than **lower of:**

(a) A maximum screening charge established by a local ordinance.

(b) \$25

~~*(b) The landlord's average actual cost of screening applicants or the customary amount charged by tenant screening companies or consumer credit reporting agencies for a comparable level of screening. Actual costs may include the cost of using a tenant screening company or a consumer credit reporting agency and the reasonable value of any time spent by the landlord or the landlord's agents in otherwise obtaining information on applicants.*~~

(3) A landlord may not require payment of an applicant screening charge unless prior to accepting the payment the landlord:

(a) Adopts written screening or admission criteria;

(b) Gives written notice to the applicant of:

(A) The amount of the applicant screening charge;

(B) The landlord's screening or admission criteria;

(C) The process that the landlord typically will follow in screening the applicant, including whether the landlord uses a tenant screening company, credit reports, public records or criminal records or contacts employers, landlords or other references;

(D) The applicant's rights to dispute the accuracy of any information provided to the landlord by a screening company or credit reporting agency;

(E) A right to appeal a negative determination, if any right to appeal exists;

(F) Any nondiscrimination policy as required by federal, state or local law plus any nondiscrimination policy of the landlord, including that a landlord may not discriminate

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type

against an applicant because of the race, color, religion, sex, sexual orientation, **gender identity**, national origin, marital status, familial status or source of income of the applicant;

(G) The amount of rent the landlord will charge and the deposits the landlord will require, subject to change in the rent or deposits by agreement of the landlord and the tenant before entering into a rental agreement; and

(H) Whether the landlord requires tenants to obtain and maintain renter's liability insurance and, if so, the amount of insurance required; and

(c) Gives actual notice to the applicant of an estimate, made to the best of the landlord's ability at that time, of the approximate number of rental units of the type, and in the area, sought by the applicant that are, or within a reasonable future time will be, available to rent from that landlord. The estimate shall include the approximate number of applications previously accepted and remaining under consideration for those units. A good faith error by a landlord in making an estimate under this paragraph does not provide grounds for a claim under subsection

(6)(b) of this section.

(4) Unless the applicant agrees otherwise in writing, a landlord may not require payment of an applicant screening charge when the landlord knows or should know that no rental units are available at that time or will be available within a reasonable future time.

(5) A landlord that requires an applicant screening charge must refund the applicant screening charge to the applicant within a reasonable time if the landlord:

(a) Fills the vacant dwelling unit before screening the applicant; or

(b) Does not screen the applicant for any reason.

(6)(a) An applicant may not recover an applicant screening charge from the landlord if the applicant refuses an offer from the landlord to rent the dwelling unit.

(b) The applicant may recover from the landlord twice the amount of any applicant screening charge paid, plus \$150, if:

(A) The landlord fails to comply with this section with respect to the applicant's screening or screening charge; or

(B) The landlord does not conduct a screening of the applicant for any reason and fails to refund an applicant screening charge to the applicant within a reasonable time.

(7) Nothing in this section applies to a third party screening service through which an applicant may request or purchase a consumer credit report or other tenant screening report that the applicant or screening service can submit to multiple owners or landlords for evaluation

(8) A landlord's failure to comply with this section is an unlawful practice as defined in ORS 659A.001 and subject to a complaint under ORS 659A.820 to 659A.865 and enforcement by the Commissioner of the Bureau of Labor and Industries