

House Bill 3974

Sponsored by Representative GAMBIA, Senator GORSEK, Representatives CHAICHI, MUNOZ, Senator PHAM K; Representative MARSH, Senators CAMPOS, MANNING JR, PATTERSON

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: This Act caps screening fees paid by residential tenants. (Flesch Readability Score: 66.1). Limits the applicant screening charge a residential landlord may collect to \$20. Extends certain screening requirements to include landlords who do not collect an applicant screening charge. Allows landlords to alternatively accept third-party screening reports provided by an applicant.

A BILL FOR AN ACT

Relating to residential applicant screening charges; 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) **Except as provided under subsection (2) of this section**, a landlord may **not** require payment of an applicant screening charge [*solely to cover the costs of*] **and may not require an applicant to purchase a specific screening report, product or service for the purpose of** obtaining information about an applicant [*as the landlord processes*] **or processing** 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. Promptly after each screening conducted by a tenant screening company or consumer credit reporting agency for the landlord, the landlord shall provide the applicant with confirmation of the screening, including a copy of a receipt from the company or agency.

(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)(a) The amount of any applicant screening charge [*must*] **may** not be greater than the **lesser of:**

(A) **The** landlord's average actual cost of screening applicants [*or*];

(B) The customary amount charged by tenant screening companies or consumer credit reporting agencies for a comparable level of screening[.]; **or**

(C) **\$20.**

(b) **Nothing in this section:**

(A) **Limits the amount that a tenant screening company, consumer credit reporting agency or other landlord's agent may charge a landlord for tenant screening services;**

(B) **Prohibits or limits a third party from charging an individual to provide the individual with a screening report, product or service that:**

(i) **Includes information typically provided by a tenant screening company or consumer**

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.

1 **credit reporting agency for the evaluation of a tenant; and**

2 **(ii) The individual may deliver to multiple potential landlords as an application or part**
 3 **of an application; or**

4 **(C) Prohibits a landlord from accepting a screening report, product or service from an**
 5 **applicant as described in subparagraph (B) of this paragraph, provided that the landlord:**

6 **(i) Does not collect an applicant screening charge from an applicant to accept or review**
 7 **the screening report, product or service without regard to whether the landlord must pay a**
 8 **fee to the third party to receive or access the report, product or service; and**

9 **(ii) Offers an applicant an alternative to providing a third-party screening report, product**
 10 **or service via a screening process provided by the landlord under this section.**

11 **(c) As used in this subsection, “actual costs” [may include] includes** the cost of using a tenant
 12 screening company or a consumer credit reporting agency and the reasonable value of any time
 13 spent by the landlord or the landlord’s agents in otherwise obtaining information on applicants.

14 **(3) A landlord may not [require payment of an applicant screening charge unless prior to accepting**
 15 **the payment] apply any screening criteria to an application unless prior to applying the criteria**
 16 **the landlord:**

17 **(a) Adopts written screening or admission criteria;**

18 **(b) Gives written notice to the applicant of:**

19 **(A) The amount of the applicant screening charge or any third-party screening report,**
 20 **product or service accepted by the landlord;**

21 **(B) The landlord’s screening or admission criteria;**

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

25 **(D) The applicant’s rights to dispute the accuracy of any information provided to the landlord**
 26 **by a **tenant** screening company or **consumer** credit reporting agency;**

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

28 **(F) Any nondiscrimination policy as required by federal, state or local law plus any nondis-**
 29 **crimination policy of the landlord, including that a landlord may not discriminate against an appli-**
 30 **cant because of the race, color, religion, sex, sexual orientation, gender identity, national origin,**
 31 **marital status, familial status or source of income of the applicant;**

32 **(G) The amount of rent the landlord will charge and the deposits the landlord will require,**
 33 **subject to change in the rent or deposits by agreement of the landlord and the tenant before enter-**
 34 **ing into a rental agreement;**

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

37 **(I) The applicant’s right to a refund of the **applicant** screening charge under subsection (5) of**
 38 **this section and right to recover damages under subsection (6)(b) of this section; and**

39 **(c) Gives actual notice to the applicant of an estimate, made to the best of the landlord’s ability**
 40 **at that time, of the approximate number of rental units of the type, and in the area, sought by the**
 41 **applicant that are, or within a reasonable future time will be, available to rent from that landlord.**
 42 **The estimate shall include the approximate number of applications previously accepted and remain-**
 43 **ing under consideration for those units. A good faith error by a landlord in making an estimate**
 44 **under this paragraph does not provide grounds for a claim under subsection (6)(b) of this section.**

45 **(4) Unless the applicant agrees otherwise in writing, a landlord may not require payment of an**

1 applicant screening charge when the landlord knows or should know that no rental units are avail-
2 able at that time or will be available within a reasonable future time.

3 (5) A landlord that requires an applicant screening charge must refund the applicant screening
4 charge to the applicant within 30 days if the landlord:

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

6 (b) Has not conducted or ordered any screening of the applicant before the applicant withdraws
7 the application in writing.

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

10 (b) The applicant may recover from the landlord twice the amount of any applicant screening
11 charge paid, plus \$250, if:

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

14 (B) The landlord does not conduct a screening of the applicant for any reason and fails to refund
15 an applicant screening charge to the applicant within 30 days.

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