

CHAPTER 151

PROPERTY

HOUSE BILL 23-1099

BY REPRESENTATIVE(S) Vigil and Weissman, Velasco, Amabile, Bacon, Boesenecker, Brown, deGruy Kennedy, Dickson, English, Epps, Froelich, Garcia, Gonzales-Gutierrez, Hamrick, Jodeh, Joseph, Kipp, Lindsay, Mabrey, Marshall, Michaelson Jenet, Parenti, Ricks, Sharbini, Sirota, Story, Titone, Willford, Herod, Woodrow;
also SENATOR(S) Fields and Exum, Buckner, Coleman, Cutter, Gonzales, Hinrichsen, Moreno, Priola, Rodriguez.

AN ACT**CONCERNING TENANT SCREENING DOCUMENTATION FOR RESIDENTIAL LEASES.**

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

SECTION 1. In Colorado Revised Statutes, 38-12-902, **amend** (1) and (4); and **add** (1.3), (1.7), and (2.5) as follows:

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~~ "CONSUMER REPORT" HAS THE MEANING SET FORTH IN SECTION 5-18-103 (3).

(1.3) "CONSUMER REPORTING AGENCY" HAS THE MEANING SET FORTH IN SECTION 5-18-103 (4).

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

(2.5) "PORTABLE TENANT SCREENING REPORT" OR "SCREENING REPORT" MEANS A CONSUMER REPORT PREPARED AT THE REQUEST OF A PROSPECTIVE TENANT THAT INCLUDES INFORMATION PROVIDED BY A CONSUMER REPORTING AGENCY, WHICH REPORT INCLUDES THE FOLLOWING INFORMATION ABOUT A PROSPECTIVE TENANT AND THE DATE THROUGH WHICH THE INFORMATION CONTAINED IN THE REPORT IS CURRENT:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

- (a) NAME;
- (b) CONTACT INFORMATION;
- (c) VERIFICATION OF EMPLOYMENT AND INCOME;
- (d) LAST-KNOWN ADDRESS;

(e) FOR EACH JURISDICTION INDICATED IN THE CONSUMER REPORT AS A PRIOR RESIDENCE OF THE PROSPECTIVE TENANT, REGARDLESS OF WHETHER THE RESIDENCE IS REPORTED BY THE PROSPECTIVE TENANT OR BY THE CONSUMER REPORTING AGENCY PREPARING THE CONSUMER REPORT:

(I) A RENTAL AND CREDIT HISTORY REPORT FOR THE PROSPECTIVE TENANT THAT COMPLIES WITH SECTION 38-12-904 (1)(a) CONCERNING A LANDLORD'S CONSIDERATION OF A PROSPECTIVE TENANT'S RENTAL HISTORY; AND

(II) A CRIMINAL HISTORY RECORD CHECK FOR ALL FEDERAL, STATE, AND LOCAL CONVICTIONS OF THE PROSPECTIVE TENANT THAT COMPLIES WITH SECTION 38-12-904 (1)(b) CONCERNING A LANDLORD'S CONSIDERATION OF A PROSPECTIVE TENANT'S ARREST RECORDS.

(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. "RENTAL APPLICATION" INCLUDES A PORTABLE TENANT SCREENING REPORT.

SECTION 2. In Colorado Revised Statutes, 38-12-903, **amend** (2) as follows:

38-12-903. Rental application fee - limitations. (2) A landlord shall not charge a prospective tenant a rental application fee:

(a) That is in a different amount than a rental application fee charged to another prospective tenant who applies to rent:

~~(a)~~ (I) The same dwelling unit; or

~~(b)~~ (II) If the landlord offers more than one dwelling unit for rent at the same time, any other dwelling unit offered by the landlord; OR

(b) IF THE PROSPECTIVE TENANT PROVIDES TO THE LANDLORD A PORTABLE TENANT SCREENING REPORT PURSUANT TO SECTION 38-12-904 (1.5).

SECTION 3. In Colorado Revised Statutes, 38-12-904, **amend** (2)(a); and **add** (1.5) as follows:

38-12-904. Consideration of rental applications - limitations - portable tenant screening report - notice to prospective tenants - denial notice. (1.5) (a) EXCEPT AS PROVIDED IN SUBSECTION (1.5)(f) OF THIS SECTION, A LANDLORD SHALL ACCEPT A PORTABLE TENANT SCREENING REPORT FROM A PROSPECTIVE TENANT.

(b) A LANDLORD RECEIVING A PORTABLE TENANT SCREENING REPORT MAY REQUIRE:

(I) THAT THE SCREENING REPORT WAS COMPLETED WITHIN THE PREVIOUS THIRTY DAYS;

(II) THAT THE SCREENING REPORT IS MADE DIRECTLY AVAILABLE TO THE LANDLORD BY THE CONSUMER REPORTING AGENCY FOR USE IN THE RENTAL APPLICATION PROCESS OR PROVIDED THROUGH A THIRD-PARTY WEBSITE THAT REGULARLY ENGAGES IN THE BUSINESS OF PROVIDING CONSUMER REPORTS AND COMPLIES WITH ALL STATE AND FEDERAL LAWS PERTAINING TO USE AND DISCLOSURE OF INFORMATION CONTAINED IN A CONSUMER REPORT BY A CONSUMER REPORTING AGENCY;

(III) THAT THE SCREENING REPORT IS MADE AVAILABLE TO THE LANDLORD AT NO COST TO ACCESS OR USE IN THE RENTAL APPLICATION PROCESS; AND

(IV) A STATEMENT FROM THE PROSPECTIVE TENANT THAT THERE HAS NOT BEEN A MATERIAL CHANGE IN THE INFORMATION IN THE SCREENING REPORT, INCLUDING THE PROSPECTIVE TENANT'S NAME, ADDRESS, BANKRUPTCY STATUS, CRIMINAL HISTORY, OR EVICTION HISTORY, SINCE THE REPORT WAS GENERATED.

(c) A LANDLORD SHALL NOT CHARGE A PROSPECTIVE TENANT A FEE TO ACCESS OR USE THE SCREENING REPORT.

(d) PRIOR TO TAKING ANY ACTION RELATING TO TENANT SCREENING FOR WHICH A LANDLORD WOULD EXPECT TO COLLECT AN APPLICATION FEE, A LANDLORD SHALL ADVISE A PROSPECTIVE TENANT OF THE FOLLOWING, USING SUBSTANTIALLY SIMILAR LANGUAGE:

1. THE PROSPECTIVE TENANT HAS THE RIGHT TO PROVIDE TO THE LANDLORD A PORTABLE TENANT SCREENING REPORT, AS DEFINED IN SECTION 38-12-902 (2.5), COLORADO REVISED STATUTES; AND

2. IF THE PROSPECTIVE TENANT PROVIDES THE LANDLORD WITH A PORTABLE TENANT SCREENING REPORT, THE LANDLORD IS PROHIBITED FROM:
CHARGING THE PROSPECTIVE TENANT A RENTAL APPLICATION FEE; OR
CHARGING THE PROSPECTIVE TENANT A FEE FOR THE LANDLORD TO ACCESS OR USE THE PORTABLE TENANT SCREENING REPORT.

(e) A LANDLORD SHALL PROVIDE THE ADVISEMENT REQUIRED IN SUBSECTION (1.5)(d) OF THIS SECTION IN A LOCATION AND USING A METHOD REASONABLY LIKELY TO REACH PROSPECTIVE TENANTS, INCLUDING:

(I) IN ADVERTISEMENTS AND OTHER PUBLIC NOTICES OF THE DWELLING UNIT'S AVAILABILITY, DISPLAYED IN AT LEAST TWELVE-POINT, BOLD-FACED TYPE UNLESS THE SIZE, FORMAT, OR DISPLAY REQUIREMENTS OF THE ADVERTISEMENT OR OTHER PUBLIC NOTICE MAKE THIS REQUIREMENT IMPRACTICABLE, IN WHICH CASE THE FONT AND SIZE OF THE ADVISEMENT MUST MATCH THE REST OF THE ADVERTISEMENT OR OTHER PUBLIC NOTICE;

(II) ON THE HOME PAGE OF A WEBSITE MAINTAINED BY THE LANDLORD OR THE

LANDLORD'S AGENT, INCLUDING A PROPERTY MANAGEMENT COMPANY, DISPLAYED IN AT LEAST TWELVE-POINT, BOLD-FACED TYPE;

(III) IN A PAPER OR AN ONLINE RENTAL APPLICATION FOR THE DWELLING UNIT, DISPLAYED IN AT LEAST TWELVE-POINT, BOLD-FACED TYPE; OR

(IV) ORALLY, DIRECTLY TO A PROSPECTIVE TENANT, WITH A WRITTEN CONFIRMATION OF RECEIPT BY THE PROSPECTIVE TENANT OF THE ADVISEMENT.

(f) A LANDLORD IS EXEMPT FROM THE REQUIREMENTS SET FORTH IN SUBSECTIONS (1.5)(a) TO (1.5)(e) OF THIS SECTION IF THE LANDLORD:

(I) DOES NOT ACCEPT MORE THAN ONE APPLICATION FEE AT A TIME FOR A DWELLING UNIT OR, IF A DWELLING UNIT IS RENTED TO MORE THAN ONE OCCUPANT, DOES NOT ACCEPT MORE THAN ONE APPLICATION FEE AT A TIME FROM EACH PROSPECTIVE TENANT OR TENANT GROUP FOR THE DWELLING UNIT; AND

(II) REFUNDS THE TOTAL AMOUNT OF THE APPLICATION FEE TO EACH PROSPECTIVE TENANT WITHIN TWENTY CALENDAR DAYS AFTER WRITTEN COMMUNICATION FROM EITHER THE LANDLORD OR LANDLORD'S AGENT OR THE PROSPECTIVE TENANT DECLINING TO ENTER INTO A LEASE AGREEMENT FOR THE DWELLING UNIT.

(2) (a) (I) (A) If a landlord denies a rental application, the landlord shall provide to the prospective tenant a written notice of the denial that states the reasons for the denial.

(B) IF THE PROSPECTIVE TENANT SUBMITS AN APPLICATION THAT RESULTS IN A LANDLORD OBTAINING A CONSUMER REPORT RELATING TO THE PROSPECTIVE TENANT, THE LANDLORD SHALL ALSO PROVIDE A COPY OF THE CONSUMER REPORT RELATING TO THE PROSPECTIVE TENANT AND AN ADVISEMENT OF THE PROSPECTIVE TENANT'S RIGHT TO DISPUTE THE ACCURACY OF THE CONSUMER REPORT WITH THE CONSUMER REPORTING AGENCY PURSUANT TO SECTION 5-18-106.

(II) 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, WITH ONLY THE PROPRIETARY INFORMATION REDACTED.

(III) 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.

SECTION 4. In Colorado Revised Statutes, 38-12-905, **amend** (1) and (3) as follows:

38-12-905. Violations - liability - notice required - exception. (1) Except as described in subsection (3) of this section, a landlord who violates any provision of this part 9 is liable to the ~~person who is charged a rental application fee for treble the amount of the rental application fee~~ PROSPECTIVE TENANT AGGRIEVED BY THE

VIOLATION FOR TWO THOUSAND FIVE HUNDRED DOLLARS, plus court costs and reasonable attorney fees.

(3) A landlord who corrects or cures a violation of this part 9 not more than seven calendar days after receiving notice of the violation SHALL PAY THE PROSPECTIVE TENANT AGGRIEVED BY THE VIOLATION A PENALTY OF FIFTY DOLLARS BUT OTHERWISE is not liable for damages as described in subsection (1) of this section.

SECTION 5. In Colorado Revised Statutes, 24-31-101, **amend** (1)(i)(XVII) as follows:

24-31-101. Powers and duties of attorney general. (1) The attorney general:

(i) May independently initiate and bring civil and criminal actions to enforce state laws, including actions brought pursuant to:

(XVII) ~~Section 38-12-904(1)(b)~~ THE "RENTAL APPLICATION FAIRNESS ACT", PART 9 OF ARTICLE 12 OF TITLE 38.

SECTION 6. Act subject to petition - effective date. 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; 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 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 4, 2023