

**A-Engrossed**  
**Senate Bill 291**

Ordered by the Senate March 26  
Including Senate Amendments dated March 26

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Kate Brown for Office of the Governor)

**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.

*[Directs office of the Governor, in consultation with Racial Justice Council's Housing and Homelessness Committee, to study laws related to housing and to provide results to interim committees of Legislative Assembly no later than September 15, 2022.]*

*[Sunsets January 2, 2023.]*

*[Takes effect on 91st day following adjournment sine die.]*

**Requires landlords to adopt certain written screening criteria made available to applicants before accepting application. Limits criminal behavior landlord may consider in screening applicant. Requires landlord to conduct individualized assessment of applicant and specify any basis for denial.**

**A BILL FOR AN ACT**

Relating to housing; amending ORS 90.295, 90.303 and 90.304.

**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 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 may include*] **and** the reasonable value of any time spent by the landlord or the landlord's agents in otherwise obtaining information on applicants. *[In any case, The applicant screening charge must not be greater than the customary amount charged by tenant screening companies or consumer credit reporting agencies for a comparable level of screening.]*

(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;]*

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

2        *[(A) The amount of the applicant screening charge;]*

3        *[(B) The landlord's screening or admission criteria;]*

4        *[(C) The process that the landlord typically will follow in screening the applicant, including*  
5 *whether the landlord uses a tenant screening company, credit reports, public records or criminal re-*  
6 *ports or contacts employers, landlords or other references; and]*

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

9        *[(c) (a) Gives actual notice to the applicant of an estimate, made to the best of the landlord's*  
10 *ability at that time, of the approximate number of rental units of the type, and in the area, sought*  
11 *by the applicant that are, or within a reasonable future time will be, available to rent from that*  
12 *landlord. The estimate shall include the approximate number of applications previously accepted and*  
13 *remaining under consideration for those units. A good faith error by a landlord in making an esti-*  
14 *mate under this paragraph does not provide grounds for a claim under subsection [(8)(b)] (7)(b) of*  
15 *this section;*

16        *[(d) (b) Gives written notice to the applicant of the amount of rent the landlord will charge and*  
17 *the deposits the landlord will require, subject to change in the rent or deposits by agreement of the*  
18 *landlord and the tenant before entering into a rental agreement; and*

19        *[(e) (c) Gives written notice to the applicant whether the landlord requires tenants to obtain*  
20 *and maintain renter's liability insurance and, if so, the amount of insurance required.*

21        **(4) Regardless of whether a landlord requires payment of an applicant screening charge,**  
22 **prior to accepting the application and any payment the landlord must:**

23        **(a) Adopt written screening or admission criteria; and**

24        **(b) Give written notice to the applicant of:**

25        **(A) The amount of any applicant screening charge;**

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

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

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

32        **(E) Any right of the applicant to appeal a negative determination; and**

33        **(F) Any nondiscrimination policy as required by federal, state or local law plus any non-**  
34 **discrimination policy of the landlord, including that a landlord may not discriminate against**  
35 **an applicant because of the race, color, religion, sex, sexual orientation, national origin,**  
36 **marital status, familial status or source of income of the applicant.**

37        *[(4) Regardless of whether a landlord requires payment of an applicant screening charge, if a*  
38 *landlord denies an application for a rental agreement by an applicant and that denial is based in whole*  
39 *or in part on a tenant screening company or consumer credit reporting agency report on that applicant,*  
40 *the landlord shall give the applicant actual notice of that fact at the same time that the landlord notifies*  
41 *the applicant of the denial. Unless written notice of the name and address of the screening company*  
42 *or credit reporting agency has previously been given, the landlord shall promptly give written notice*  
43 *to the applicant of the name and address of the company or agency that provided the report upon which*  
44 *the denial is based.]*

45        *[(5) Except as provided in subsection (4) of this section, a landlord need not disclose the results*

1 of an applicant screening or report to an applicant, with respect to information that is not required to  
2 be disclosed under the federal Fair Credit Reporting Act. A landlord may give to an applicant a copy  
3 of that applicant's consumer report, as defined in the Fair Credit Reporting Act.]

4 [(6)] (5) Unless the applicant agrees otherwise in writing, a landlord may not require payment  
5 of an applicant screening charge when the landlord knows or should know that no rental units are  
6 available at that time or will be available within a reasonable future time.

7 [(7)] (6) A landlord that requires an applicant screening charge must refund the applicant  
8 screening charge to the applicant within a reasonable time if the landlord:

- 9 (a) Fills the vacant dwelling unit before screening the applicant; or  
10 (b) Does not screen the applicant for any reason.

11 [(8)(a)] (7)(a) An applicant may not recover an applicant screening charge from the landlord if  
12 the [tenant] **applicant** refuses an offer from the landlord to rent the dwelling unit.

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

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

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

19 **SECTION 2.** ORS 90.303 is amended to read:

20 90.303. (1) When evaluating an applicant, a landlord may not consider [an] **a previous** action to  
21 recover possession pursuant to ORS 105.105 to 105.168 if the action:

22 (a) Was dismissed or resulted in a general judgment for the applicant before the applicant sub-  
23 mits the application.

24 (b) Resulted in a general judgment against the applicant that was entered five or more years  
25 before the applicant submits the application.

26 (2) When evaluating the applicant, a landlord may not consider a previous arrest of the appli-  
27 cant if [*the arrest did not result in a conviction. This subsection does not apply if the arrest has re-*  
28 *sulted in charges for criminal behavior as described in subsection (3) of this section that have not been*  
29 *dismissed at the time the applicant submits the application.*]:

30 (a) **The case against the applicant has been dismissed without conviction;**

31 (b) **The applicant is presently admitted into a diversion or deferral of judgment program**  
32 **including a program entered after conviction but prior to judgment; or**

33 (c) **The arrest was not for criminal behavior as described in subsection (3) of this section.**

34 (3) When evaluating the applicant, the landlord may not consider criminal conviction and  
35 charging history unless the conviction or pending charge is for conduct that **is currently illegal in**  
36 **this state and** is:

37 (a) A drug-related crime, but not including convictions based solely on the use or possession of  
38 marijuana;

39 (b) A person crime;

40 (c) A sex offense;

41 (d) A crime involving financial fraud, including identity theft and forgery; or

42 (e) Any other crime if the conduct for which the applicant was convicted or charged is of a  
43 nature that would adversely affect:

44 (A) Property of the landlord or a tenant; or

45 (B) The health, safety or right to peaceful enjoyment of the premises of residents, the landlord

1 or the landlord's agent.

2 (4) When evaluating an applicant, a landlord may not consider the possession of a medical  
3 marijuana card or status as a medical marijuana patient.

4 **SECTION 3.** ORS 90.304 is amended to read:

5 90.304. (1) If a landlord *[requires an applicant to pay an applicant screening charge and the ap-*  
6 *plication is denied, or if an applicant makes a written request following the landlord's denial of an*  
7 *application,]* **denies an application**, the landlord must, **within 14 days of the denial**, *[promptly]*  
8 provide the applicant with a written statement of one or more reasons for the denial.

9 (2) The landlord's statement of reasons for denial required by subsection (1) of this section may  
10 consist of a form with one or more reasons checked off. The reasons may include, but are not limited  
11 to, the following:

12 (a) Rental information, including:

13 (A) Negative or insufficient reports from references or other sources.

14 (B) An unacceptable or insufficient rental history, such as the lack of a reference from a prior  
15 landlord.

16 (C) A prior action for possession under ORS 105.105 to 105.168 that resulted in a general judg-  
17 ment for the plaintiff or an action for possession that has not yet resulted in dismissal or general  
18 judgment.

19 (D) Inability to verify information regarding a rental history.

20 (b) Criminal records, including:

21 (A) An unacceptable criminal history.

22 (B) Inability to verify information regarding criminal history.

23 (c) Financial information, including:

24 (A) Insufficient income.

25 (B) Negative information provided by a consumer credit reporting agency.

26 (C) Inability to verify information regarding credit history.

27 (d) Failure to meet other written screening or admission criteria.

28 (e) The dwelling unit has already been rented.

29 **(3) The statement of reasons for denial must include:**

30 (a) **The name and address of any tenant screening companies or consumer credit re-**  
31 **porting agencies that provided a report upon which the denial is based, if not previously**  
32 **disclosed to the applicant;**

33 (b) **Any supplemental evidence provided by the applicant that the landlord considered and**  
34 **an explanation of the reasons that the supplemental evidence did not adequately compensate**  
35 **for the factors that informed the landlord's decision to reject the application; and**

36 (c) **Any right of the applicant to appeal the determination.**

37 (4) **Except as provided in subsection (3)(a) of this section, a landlord need not disclose the**  
38 **results of an applicant screening or report to an applicant, with respect to information that**  
39 **is not required to be disclosed under the federal Fair Credit Reporting Act. A landlord may**  
40 **give to an applicant a copy of that applicant's consumer report, as defined in the Fair Credit**  
41 **Reporting Act.**

42 (5) **Before denying an application for housing on the basis of criminal history, a landlord**  
43 **must:**

44 (a) **Provide an opportunity for the applicant to submit supplemental evidence to explain,**  
45 **justify or negate the relevance of potentially negative information.**

1       **(b) Conduct an individualized assessment of the applicant, including any supplemental**  
2 **evidence, taking into consideration:**

3       **(A) The nature and severity of the incidents that would lead to a denial;**

4       **(B) The number and type of incidents;**

5       **(C) The time that has elapsed since the date the incidents occurred; and**

6       **(D) The age of the individual at the time the incidents occurred.**

7       [(3)] **(6)** If a landlord fails to comply with this section, the applicant may recover from the  
8 landlord \$100.

9

\_\_\_\_\_