

B-Engrossed
Senate Bill 291

Ordered by the House June 21
Including Senate Amendments dated March 26 and House Amendments
dated June 21

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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.

Requires landlords **who require applicant screening charges** to adopt certain written screening criteria made available to applicants before accepting application. Limits criminal [*behavior*] **charges and convictions** 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

1
2 Relating to housing; amending ORS 90.295, 90.303 and 90.304.

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

4 **SECTION 1.** ORS 90.295 is amended to read:

5 90.295. (1)(a) A landlord may require payment of an applicant screening charge solely to cover
6 the costs of obtaining information about an applicant as the landlord processes the application for
7 a rental agreement. This activity is known as screening[,] and includes but is not limited to checking
8 references and obtaining a consumer credit report or tenant screening report. The landlord must
9 provide the applicant with a receipt for any applicant screening charge.

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

13 (2) The amount of any applicant screening charge must not be greater than the landlord's av-
14 erage actual cost of screening applicants **or the customary amount charged by tenant screening**
15 **companies or consumer credit reporting agencies for a comparable level of screening.** Actual
16 costs may include the cost of using a tenant screening company or a consumer credit reporting
17 agency[, *and may include*] **and** the reasonable value of any time spent by the landlord or the
18 landlord's agents in otherwise obtaining information on applicants. [*In any case, the applicant*
19 *screening charge must not be greater than the customary amount charged by tenant screening compa-*
20 *nies or consumer credit reporting agencies for a comparable level of screening.*]

21 (3) A landlord may not require payment of an applicant screening charge unless prior to ac-
22 cepting the payment the landlord:

23 (a) Adopts written screening or admission criteria;

24 (b) Gives written notice to the applicant of:

25 (A) The amount of the applicant screening charge;

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) The landlord's screening or admission criteria;

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

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

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

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

12 **(G) The amount of rent the landlord will charge and the deposits the landlord will re-**
13 **quire, subject to change in the rent or deposits by agreement of the landlord and the tenant**
14 **before entering into a rental agreement; and**

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

17 (c) Gives actual notice to the applicant of an estimate, made to the best of the landlord's ability
18 at that time, of the approximate number of rental units of the type, and in the area, sought by the
19 applicant that are, or within a reasonable future time will be, available to rent from that landlord.
20 The estimate shall include the approximate number of applications previously accepted and remain-
21 ing under consideration for those units. A good faith error by a landlord in making an estimate
22 under this paragraph does not provide grounds for a claim under subsection [(8)(b)] **(6)(b)** of this
23 section[;].

24 *[(d) Gives written notice to the applicant of the amount of rent the landlord will charge and the*
25 *deposits the landlord will require, subject to change in the rent or deposits by agreement of the land-*
26 *lord and the tenant before entering into a rental agreement; and]*

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

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

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

41 **[(6)] (4)** Unless the applicant agrees otherwise in writing, a landlord may not require payment
42 of an applicant screening charge when the landlord knows or should know that no rental units are
43 available at that time or will be available within a reasonable future time.

44 **[(7)] (5)** A landlord that requires an applicant screening charge must refund the applicant
45 screening charge to the applicant within a reasonable time if the landlord:

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

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

3 [(8)(a)] **(6)(a)** An applicant may not recover an applicant screening charge from the landlord if
4 the [tenant] **applicant** refuses an offer from the landlord to rent the dwelling unit.

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

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

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

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

12 90.303. (1) When evaluating an applicant, a landlord may not consider [an] **a previous** action to
13 recover possession pursuant to ORS 105.105 to 105.168 if the action:

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

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

18 (2) When evaluating the applicant, a landlord may [not] consider a previous arrest of the appli-
19 cant [if the arrest did not result in a conviction. This subsection does not apply] **only** if the arrest
20 [has] resulted in charges for criminal [behavior] **conduct** as described in subsection (3) of this sec-
21 tion [that have not been dismissed at the time the applicant submits the application.] **and:**

22 (a) **The applicant was convicted of the charges; or**

23 (b) **The charges are pending and the applicant is not presently participating in a diver-**
24 **sion, conditional discharge or deferral of judgment program on the charges.**

25 (3) When evaluating the applicant, the landlord may [not] consider criminal [conviction and
26 charging history unless the conviction or pending charge is] **convictions or pending charges only**
27 for conduct that **is presently illegal in this state and** is:

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

30 (b) A person crime;

31 (c) A sex offense;

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

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

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

36 (B) The health, safety or right to peaceful enjoyment of the premises of residents, the landlord
37 or the landlord's agent.

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

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

41 90.304. (1) If a landlord [requires an applicant to pay an applicant screening charge and the ap-
42 plication is denied, or if an applicant makes a written request following the landlord's denial of an
43 application,] **denies an application after the landlord's application of screening or admissions**
44 **criteria, within 14 days of the denial** the landlord must [promptly] provide the applicant with a
45 written statement of one or more reasons for the denial.

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

4 (a) Rental information, including:

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

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

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

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

12 (b) Criminal records, including:

13 (A) An unacceptable criminal history.

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

15 (c) Financial information, including:

16 (A) Insufficient income.

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

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

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

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

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

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

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

28 **(c) A right of the applicant to appeal the determination, if any right to appeal exists.**

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

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

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

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

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

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

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

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

44 **[(3)] (6) If a landlord fails to comply with this section, the applicant may recover from the**
45 **landlord \$100.**

