

## **Support House Bill 4778 (Welch)**

### **Fair Tenant Screening Act: Establish Basic Consumer Protections for Residential Tenant Applicants**

**Purpose:** To establish basic consumer protections for people paying fees to apply for rental housing. The benefits include helping people to:

1. Make an informed decision regarding whether or not to pay a rental application fee.
2. Have protections against being charged unreasonably high or fraudulent fees.
3. Access copies of information collected from third parties, such as credit reporting and tenant screening companies, used as part of the screening process.
4. Correct information being reported about them that may be incomplete, inaccurate and/or outdated.
5. Communicate and share information regarding the tenant screening process.

**Provisions:** The proposed legislation amends the Landlord and Tenant Act (765 ILCS 705), requiring any party charging a rental application fee to:

- Charge a fee that is no more than the actual out-of-pocket costs to evaluate the application. There is no cap on the fee as long as it reflects these costs.
- Prior to payment of the fee, provide prospective tenants written notice letting them know: (1) the itemized lists of costs associated with the fee (e.g., credit check or criminal background check); (2) the date by when the applicant will get a response regarding their application; and (3) whether a specific unit is available for rental.
- After payment of the fee, provide a written receipt.
- By the response date, provide written notice regarding the decision whether or not to offer a rental unit.
- If a lease is not offered, the following information shall also be provided: (1) the specific grounds that led to the denial; (2) a copy of any information obtained from a third-party that formed a basis for the denial, (3) a written itemized accounting of how the application fee was spent.
- Return any unspent portion of the application fee to the applicant.

It would also become a violation of the law to knowingly make false misrepresentations regarding the current or future availability of a rental unit.

Violators of these provisions could be held liable in court for the application fee plus a civil penalty of up to \$200, reasonable attorney fees and costs.

**Supporters:** Chicago Coalition for the Homeless, Heartland Alliance, Housing Action Illinois, Lawyers' Committee for Better Housing, Metropolitan Tenants Organization, Sargent Shriver National Center on Poverty Law and Woodstock Institute

**For More Information:** Contact Bob Palmer, Housing Action Illinois, at 312-939-6074 x. 206 or [bob@housingactionil.org](mailto:bob@housingactionil.org), or Jeremy Bergstrom, Sargent Shriver National Center on Poverty Law, at 312-368-2677 or [JeremyBergstrom@povertylaw.org](mailto:JeremyBergstrom@povertylaw.org).

## **Support House Bill 4778: Fair Tenant Screening Act FAQs**

### **Who will benefit?**

- People seeking rental housing in more expensive and/or low vacancy markets that may have to pay multiple application fees before securing an apartment.
- People with very limited incomes, including people who are homeless or at-risk of homelessness, who have to make very careful decisions about how to spend their limited financial resources.
- People seeking rental housing with poor credit, criminal records, past evictions and/or other backgrounds that make it challenging to find housing.

### **How will tenant applicants denied housing benefit by having access to copies of third party information collected about them during the screening process?**

- Without access to this information, tenant applicants have no ability to know what companies have collected information about them and/or verify the accuracy of the information.
- If information is incomplete, incorrect and/or obsolete, people will have the opportunity to contact the source to have it corrected.
- If accurate information being reported is creating an obstacle to securing rental housing, people will have the information they need in the future to better communicate with potential landlords about these issues.

### **How will this assist homeless people or people at-risk of homelessness?**

- People who are homeless or at-risk of homelessness are desperate to obtain housing and having an application denied is a major life setback. This legislation will help guarantee a timely, definitive response to their rental application and provide protections against wasting their limited finances when there is no chance their application will result in them securing housing.

### **How does this legislation impact situations when no application fee is charged?**

The provisions in this legislation only apply when an application fee is charged.

### **Does this legislation place a cap on the application fees that can be charged?**

No. There is no cap on the fees that can be charged. However, the fees are limited to actual out of pocket costs, so that charging fees can't be done to generate profit.

## **What other states have similar laws?**

Examples of states regulating application fees include the following laws:

- A 2012 Washington state law requires that before a landlord can charge a tenant a screening fee they must disclose the criteria they will use that would result in a denial of tenancy either in writing or by posting. Landlords can only charge prospective tenants for the actual cost of screening fees.
- A 2013 Oregon state law allows a landlord to charge an applicant for tenant screening costs only if the landlord first adopts a written tenant screening criteria, and provides the tenant with a receipt, a copy of the screening criteria.
- California law limits tenant screening fees to actual costs and places a cap on fees, with annual increases based on inflation. There are also restrictions charging an on you an application screening fee when an apartment is not available, or won't be in a reasonable time, unless the applicant agrees otherwise in writing.
- Texas law requires landlords to provide applicants with written notice of their eligibility criteria, including the grounds on which a rental application may be denied, before collecting a rental application fee. If the landlord does not provide or post the eligibility criteria and the landlord rejects the applicant, the landlord must return everything the applicant gave them including the application fee and deposit.