

1 AN ACT relating to the screening of tenants.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) For the purposes of this section:

6 (a) "Applicant screening charge" means a fee charged by a landlord to cover
7 the cost of an applicant's tenant screening; and

8 (b) "Tenant screening" means a landlord's process for obtaining an
9 applicant's information while forming a rental agreement, including but
10 not limited to checking references and obtaining a consumer credit report
11 or tenant screening report.

12 (2) (a) A landlord shall not require an applicant to pay more than a single
13 applicant screening charge within a sixty (60) day period, regardless of the
14 number of rental units owned or managed by the landlord for which the
15 applicant has applied.

16 (b) An applicant screening charge shall not be greater than the landlord's
17 actual cost of the tenant screening or the customary amount charged by
18 tenant screening companies or consumer credit reporting agencies for a
19 comparable level of screening. Actual cost may include the cost of a tenant
20 screening company or a consumer credit reporting agency and the
21 reasonable value of any time spent by the landlord or the landlord's agents
22 in otherwise obtaining an applicant's information.

23 (3) A landlord shall not require payment of an applicant screening charge until the
24 landlord provides written notice to the applicant of the following:

25 (a) An estimate made in good faith pertaining to additional rental units owned
26 or managed by a landlord which shall include the following:

27 1. The number of rental units that are comparable to the unit sought by

- 1 the applicant;
- 2 2. The rental amount of each rental unit relatively comparable to the
- 3 unit sought by the applicant;
- 4 3. If not already available for rent, the approximate date each rental unit
- 5 will become available for rent within a reasonable future time;
- 6 4. The number of applications already accepted and remaining under
- 7 consideration for those rental units; and
- 8 5. A disclaimer that a good faith error by a landlord in making an
- 9 estimate under this paragraph does not provide grounds for a claim
- 10 under subsection (7)(b) of this section;
- 11 (b) The rental amount charged for the unit sought and the amount of any
- 12 deposit required by the landlord; and
- 13 (c) If required by the landlord, the amount of renter's liability insurance an
- 14 applicant must maintain throughout the lease.
- 15 (4) Regardless of whether a landlord requires payment for an applicant screening
- 16 charge, prior to accepting the application and any payment, the landlord shall:
- 17 (a) Adopt written screening or admission criteria; and
- 18 (b) Give written notice to the applicant of the following:
- 19 1. The amount of any applicant screening charges;
- 20 2. The landlord's screening and admission criteria;
- 21 3. The landlord's typical process for screening applicants, including
- 22 whether the landlord uses a tenant screening company, credit reports,
- 23 public records, criminal records, or contacts employers, landlords, or
- 24 other references;
- 25 4. The applicant's right to dispute the accuracy of any information
- 26 provided to the landlord by a screening company or credit reporting
- 27 agency;

- 1 5. Any right of the applicant to appeal a negative determination; and
2 6. Any nondiscrimination policy as required by federal, state, or local
3 law plus any nondiscrimination policy of the landlord including that a
4 landlord may not discriminate against an applicant based on the race,
5 sex, sexual orientation, national origin, marital status, familial status,
6 or source of income of the applicant.

7 (5) Unless the applicant agrees otherwise in writing, a landlord shall not require
8 payment of an applicant screening charge when a landlord knows or should
9 know that no rental units are available at that time or will become available
10 within a reasonable future time.

11 (6) A landlord shall return the applicant screening charge to the applicant within a
12 reasonable time if the landlord:

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

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

15 (7) (a) An applicant may not recover an applicant screening charge from the
16 landlord if the applicant refuses an offer from the landlord to rent the
17 dwelling unit.

18 (b) The applicant may recover from the landlord the amount of the applicant
19 screening charge, plus one hundred and fifty dollars (\$150), if:

20 1. The landlord fails to comply with this section with respect to the
21 tenant screening or applicant screening charge; or

22 2. The landlord does not conduct a screening of the applicant for any
23 reason and fails to refund an applicant screening charge to the
24 applicant within a reasonable amount of time.

25 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO
26 READ AS FOLLOWS:

27 (1) For the purposes of this section, "crime against a person" means an offense

1 described in KRS Chapters 507, 508, or 509.

2 (2) When evaluating an applicant, a landlord shall not consider a previous action to
3 recover possession pursuant to KRS 383.200 to 383.285 if the action:

4 (a) Was dismissed or resulted in a judgment for the applicant before the
5 applicant submitted his or her application; or

6 (b) Resulted in a judgment against the applicant five (5) or more years before
7 the application was submitted.

8 (3) When evaluating an applicant, a landlord shall not consider a previous arrest of
9 the applicant if:

10 (a) The case against the applicant was dismissed without conviction;

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

14 (c) The arrest was not for criminal behavior described in subsection (4) of this
15 section.

16 (4) When evaluating the applicant, the landlord shall not consider an applicant's
17 criminal conviction and charging history unless the conviction or pending charge
18 is for conduct that is currently illegal in this state and is:

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

21 (b) A crime against a person;

22 (c) A sex offense;

23 (d) A crime involving finance fraud, including identity theft or forgery; or

24 (e) Any other crime if the conduct for which the applicant was convicted or
25 charged would adversely affect:

26 1. Property of the landlord or a tenant; or

27 2. The health, safety, or right to peaceful enjoyment or the premises to

1 residents, the landlord, or the landlord's agent.

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

4 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO
5 READ AS FOLLOWS:

6 (1) If a landlord denies an application, the landlord shall, within fourteen (14) days
7 of the denial, provide the applicant with a written statement of one (1) or more
8 reasons for the denial.

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

12 (a) Negative or insufficient reports from references or other sources;

13 (b) An unacceptable or insufficient rental history, such as a reference from a
14 prior landlord;

15 (c) A prior action for possession under KRS 383.200 to 383.285 that resulted in
16 a judgment for the plaintiff or an action for possession that has not yet
17 resulted in a dismissal or general judgement;

18 (d) Inability to verify information regarding rental history;

19 (e) Criminal records, including:

20 1. An unacceptable criminal history described in subsection (3) of
21 Section 2 of this Act; or

22 2. Inability to verify information regarding criminal history;

23 (f) Financial information, including:

24 1. Insufficient income;

25 2. Negative information provided by a consumer reporting agency; or

26 3. Inability to verify information regarding credit history;

27 (g) Failure to meet other written screening criteria; or

1 (h) The dwelling unit has already been rented.

2 (3) The statement of reasons for denial shall include:

3 (a) The name and address of any tenant screening companies or consumer
4 credit reporting agencies that provided reports on which denial was based if
5 not previously disclosed to the applicant;

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

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

11 (4) Except as provided in subsection (3)(a) of this section, a landlord shall not be
12 required to disclose the results of a tenant screening or report to an applicant
13 with respect to information that is not required to be disclosed under the federal
14 Fair Credit Reporting Act, 15 U.S.C. secs. 1681 et seq. A landlord may give to an
15 applicant a copy of that applicant's consumer report, as defined in the federal
16 Fair Credit Reporting Act.

17 (5) Before denying an application for housing on the basis of criminal history as
18 described in subsection (3) of Section 2 of this Act, a landlord shall:

19 (a) Provide an opportunity for the applicant to submit supplemental evidence to
20 explain, justify, or negate the relevance of potentially negative information;
21 and

22 (b) Conduct an individualized assessment of the applicant, including any
23 supplemental evidence, considering such factors as:

24 1. The nature and severity of the incidents that would lead to denial;

25 2. The number and type of incidents;

26 3. The time elapsed since the date the incident occurred; and

27 4. The age of the individual at the time the incidents occurred.

- 1 *(6) If the landlord fails to comply with this section the applicant may initiate an*
- 2 *action to recover from the landlord one hundred dollars (\$100).*