

HOUSE BILL NO. 379

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on _____)

(Patron Prior to Substitute—Delegate Bennett-Parker)

A BILL to amend and reenact § 55.1-1203 of the Code of Virginia, relating to Virginia Residential Landlord and Tenant Act; application; notice, deposit, fee, and additional information.

Be it enacted by the General Assembly of Virginia:

1. That § 55.1-1203 of the Code of Virginia is amended and reenacted as follows:

§ 55.1-1203. Application; notice, deposit, fee, and additional information.

A. ~~Any~~ Prior to requesting or collecting any payment or information about a prospective tenant, a landlord shall first notify the applicant in writing or by posting in a manner accessible to a prospective tenant (i) the amount of any fees or application deposit that may be charged to an applicant and whether such fee or application deposit is refundable; (ii) the tenant selection criteria applicable to the unit; (iii) any criteria that will result in an automatic denial of the application; (iv) additional criteria that may result in the denial of the application; (v) if the landlord uses a consumer report in his determination, the name and address of the consumer reporting agency; and (vi) the applicant's right to obtain a free copy of the consumer report in the event of a denial or other adverse action and right to dispute the accuracy of information appearing in the consumer report.

B. No landlord shall request or collect any fee prior to signing the rental agreement, except that the landlord may require an application fee and a refundable application deposit ~~in addition to a nonrefundable application fee~~. An application fee shall not exceed the actual out-of-pocket expenses the landlord paid to a third party performing background, credit, or other pre-occupancy check on the applicant. If a landlord fails to review an application for any reason, the landlord shall refund any application fee paid by or on behalf of the applicant within 14 days. If the applicant fails to rent the unit for which application was made, from the application deposit the landlord shall refund to the applicant within 20 days after the applicant's failure to rent the unit or the landlord's rejection of the application all sums ~~in excess of the landlord's~~, less the actual expenses and damages the landlord incurred in the application process that are directly attributable to the applicant, together with an itemized list of such expenses and damages. If, however, the application fee or deposit was made by cash, certified check, cashier's check, or postal money order, such refund shall be made within 10 days of the applicant's failure to rent the unit if the failure to rent is due to the landlord's rejection of the application. ~~If the landlord fails to comply with this section, the applicant may recover as damages~~

suffered by him that portion of the application deposit wrongfully withheld and reasonable attorney fees.

B. C. A landlord may request that a prospective tenant provide information that will enable the landlord to determine whether each applicant may become a tenant. *A landlord shall use the information contained in the application to evaluate an applicant for eligibility for all comparable dwelling units that the landlord owns in the Commonwealth.* The landlord may photocopy each applicant's driver's license or other similar photo identification, containing either the applicant's social security number or control number issued by the Department of Motor Vehicles pursuant to § 46.2-342. However, a landlord shall not photocopy a U.S. government-issued identification so long as to do so is a violation of 18 U.S.C. § 701. The landlord may require, for the purpose of determining whether each applicant is eligible to become a tenant in *any of the* landlord's dwelling ~~unit~~ *units*, that each applicant provide a social security number issued by the U.S. Social Security Administration or an individual taxpayer identification number issued by the U.S. Internal Revenue Service.

C. ~~An application fee shall not exceed \$50, exclusive of any actual out-of-pocket expenses paid by the landlord to a third party performing background, credit, or other pre-occupancy checks on the applicant. However, where an application is being made for a dwelling unit that is a public housing unit or other housing unit subject to regulation by the U.S. Department of Housing and Urban Development, an application fee shall not exceed \$32, exclusive of any actual out-of-pocket expenses paid to a third party by the landlord performing background, credit, or other pre-occupancy checks on the applicant.~~

Nothing in this subsection shall prevent a landlord from requesting updated or supplemental information from an applicant if more than 60 days have elapsed since the original application was submitted, provided that the landlord does not charge the applicant an additional fee for such update. If more than one year has elapsed since the original application, the landlord may request that the applicant submit a new application and charge the applicable application fee.

D. A landlord shall consider evidence of an applicant's status as a victim of family abuse, as defined in § 16.1-228, to mitigate any adverse effect of an otherwise qualified applicant's low credit score. In order to establish the applicant's status as a victim of family abuse, an applicant may submit to the landlord (i) a letter from a sexual and domestic violence program, a housing counselor certified by the U.S. Department of Housing and Urban Development, or an attorney representing the applicant; (ii) a law-enforcement incident report; or (iii) a court order.

E. If a landlord does not comply with this section, the applicant may recover actual damages, including all amounts paid to the landlord as an application fee, application deposit, or reimbursement for any of the

64 landlord's out-of-pocket expenses that were charged to the prospective tenant, ~~along with~~ *and reasonable*
65 *costs of the applicant, including court costs and attorney fees.*