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**Written Testimony of Ariel Nelson,
Senior Attorney,
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Before the House Committee on Housing and Homelessness
of the Oregon House of Representatives
in favor of H.B. 2967
February 19, 2025**

Dear Chair Marsh, Vice Chair Breese-Iverson, Vice Chair Andersen, and Honorable Members of the House Committee on Housing and Homelessness:

On behalf of the National Consumer Law Center (NCLC),¹ I thank you for holding a hearing on H.B. 2967, an act relating to residential applicant screening charges.

Renters across the country, including in Oregon, face an affordable housing shortage. A dizzying array of fees to secure and maintain rental housing contributes to sky-high rent prices. Renters often must pay these unavoidable junk fees during their search for housing, throughout the duration of their lease, and at the end of their lease.² These steep fees compound the heavy burden already placed on rental households, which make up about 35% of the U.S. population and about 37% of Oregon residents.³

¹ NCLC is a nonprofit organization specializing in consumer protection issues on behalf of low-income people. We work with thousands of legal services, government and private attorneys, as well as community groups and organizations, from all 50 states who represent low-income and elderly individuals on consumer issues. NCLC also publishes and annually supplements twenty-one consumer law practice treatises. It is from this vantage point—and from years of observing and analyzing issues at the intersection of consumer law and rental housing, including rental debt and rental housing junk fees—that NCLC offers this testimony.

² See Ariel Nelson, April Kuehnhoff, Chi Chi Wu, & Steve Sharpe, Nat'l Consumer L. Ctr., Too Damn High: How Junk Fees Add to Skyrocketing Rents (2023), <https://www.nclc.org/resources/toodamn-high-how-junk-fees-add-to-skyrocketing-rents/> [hereinafter NCLC, Too Damn High].

³ Fact Sheet: Biden-Harris Administration Takes Action to Protect Renters (July 27, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/07/27/fact-sheet-biden-harrisadministration-takes-action-to-protect-renters/>; Kristine de Leon, *Meet Oregon's majority-renter cities (and see how yours stacks up)*, OregonLive (June 12, 2023), <https://www.oregonlive.com/data/2023/06/meet-oregons-majority-renter-cities-and-see-how-yours-stacks-up.html>.

H.B. 2967 addresses one of the most egregious, most ubiquitous types of fees: applicant screening fees. The previous White House's Council of Economic Advisors estimated that the "excess burden" of application fees alone is \$276 million each year.⁴

Tenants often do not get their application fees back—even when they are supposed to, as Representative Gamba stated at the February 17, 2025 hearing on this bill.⁵ If a landlord denies an application, the applicant loses the money they paid and must pay again to apply elsewhere.⁶ These fees add up, as Senator Gorsek emphasized at the same hearing, and can simply be unaffordable for many people struggling to nail down housing. In short, these application fees make securing housing more difficult and more costly for renters, undercutting states' ability to increase housing stability and decrease homelessness.⁷

Although rental housing fees harm all renters, they are particularly harmful to renters of color, low-income renters, and renters who already face significant barriers in their search for housing, like those with criminal records.⁸ A Zillow study found that renters of color face steeper fees than white renters.⁹ According to Zillow, renters of color usually submit more applications and pay higher fees for those applications than white renters.¹⁰ More specifically, the research found that 38% of Black and Latinx renters typically have to submit five or more applications, compared with 21% of white renters.¹¹ Additionally, the typical white renter reported paying \$35 in application fees on their rental, while typical Black and Latinx renters reported spending \$50.

And renter households are more likely to be households of color.¹² "[L]ongstanding inequities in education and labor markets continue to limit the earnings of households of color, perpetuating

⁴ Council of Economic Advisors, *The Price Isn't Right: How Junk Fees Cost Consumers and Undermine Competition* (2024), <https://www.whitehouse.gov/cea/written-materials/2024/03/05/the-price-isnt-right-how-junk-fees-cost-consumers-and-undermine-competition/>.

⁵ See generally Chi Chi Wu, Ariel Nelson, April Kuehnhoff, & Caroline Cohn, Nat'l Consumer L. Ctr., *Digital Denials: How Abuse, Bias, and Lack of Transparency in Tenant Screening Harm Renters* (2023), <https://www.nclc.org/resources/digital-denials-how-abuse-bias-and-lack-of-transparency-in-tenant-screening-harm-renters/>.

⁶ Eric Dunn, *The Case Against Rental Application Fees*, Geo. 30 Geo. J. on Poverty L. & Pol'y 21, 23 (2022).

⁷ *Id.* at 30.

⁸ Note that these categories are overlapping, as renters of color are more likely to be denied admission because of criminal history and people with a criminal history are more likely to be low income. See, e.g., *id.* at 32; Terry-Ann Craigie et al., Brennan Ctr. for Just., Conviction, Imprisonment, and Lost Earnings: How Involvement with the Criminal Justice System Deepens Inequality, 6 (2020), <https://www.brennancenter.org/our-work/research-reports/conviction-imprisonment-and-lost-earnings-how-involvement-criminal> (finding that "[o]n average, formerly imprisoned people earn nearly half a million dollars less over their careers than they might have otherwise," that "[t]hese losses are borne disproportionately by people already living in poverty," and that "they help perpetuate it").

⁹ Manny Garcia, *Renters of Color Pay Higher Security Deposits, More Application Fees*, Zillow (Apr. 6, 2022), <https://www.zillow.com/research/renters-of-color-higher-fees-30922/>; see also Many Garcia & Edward Berchick, *Renters: Results from the Zillow Consumer Housing Trends Report 2021*, Zillow (Aug. 10, 2021), <https://www.zillow.com/research/renters-consumer-housing-trends-report-2021-29863/>.

¹⁰ Garcia, *supra* note 9; see also Dunn, *supra* note 6, at 46.

¹¹ Garcia & Berchick, *supra* note 9.

¹² About 58% of Black households and 52% of Hispanic households rented their housing in 2019 while only about 28% of white households rented. Drew Desilver, *As national eviction ban expires, a look at who rents and who owns in the U.S.*, Pew Research Ctr. (Aug. 2, 2021), <https://www.pewresearch.org/short-reads/2021/08/02/as-national-eviction-ban-expires-a-look-at-who-rents-and-who-owns-in-the-u-s/> (based on data from 2019); see also Joint Ctr. for Hous. Studies of

racial and ethnic disparities in cost-burdened rates.¹³ More than half of Black (54%) and Latino/Hispanic (52%) renter households are cost burdened—meaning that they pay more than 30% of their income on rent and utilities—while 42% of white households are cost burdened.¹⁴

Renter households are also more likely to be lower income.¹⁵ Almost two-thirds of households that fall into the bottom 20% of incomes pay more than 50% of their income on rent and utilities, meaning they are “severely cost burdened.”¹⁶ Oregon has one of the highest percentages of cost-burdened renters in the United States, with more than 50% of renters spending more than 30% of their income on housing.¹⁷ And 27% of Oregonians are severely cost-burdened.¹⁸ The dwindling supply of low-rent units is only worsening cost burdens.¹⁹ According to the State of the State’s Housing Report, Oregon is short 128,000 units for households considered extremely low-income and very low-income.²⁰

State governments play a central role in landlord-tenant law in the United States, as they have traditionally been the entities that regulate rental housing. States can protect vulnerable renters from widespread and abusive junk fees-related practices. State laws are a traditional, straightforward, and powerful tool for imposing limits and prohibitions on rental housing junk fees.

Harvard Univ., America’s Rental Housing 12 (2022) [hereinafter America’s Rental Housing 2022], https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2022.pdf (renters are much more likely than homeowners to be households of color “High rentership rates among households of color reflect longstanding disparities in access to homeownership, including discriminatory lending, legal, and real estate practices.”).

¹³ America’s Rental Housing 2022, *supra* note 12, at 30.

¹⁴ *Id.*; see also Andrew Aurand, Dan Emmanuel, Emma Foley, Matt Clarke, Ikra Rafi, & Diane Yentel, Nat’l Low Income Hous. Coal., The Gap: A Shortage of Affordable Homes 1 (2023), <https://nlihc.org/gap> (“Black, Latino, and Indigenous households are disproportionately extremely low-income renters and are disproportionately impacted by [the affordable housing] shortage.”).

¹⁵ See America’s Rental Housing 2022, *supra* note 12, at 13 (renters are much more likely than homeowners to have lower incomes).

¹⁶ Jason DeParle, *Record Rent Burdens Batter Low-Income Life*, NY Times (Dec. 11, 2023), <https://www.nytimes.com/2023/12/11/us/politics/rent-burdens-low-income-life.html>; see also Joint Ctr. for Hous. Studies of Harvard Univ., America’s Rental Housing 35 (2024) [hereinafter America’s Rental Housing 2024], https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2024.pdf (“In 2022, 83 percent of [households earning less than \$30,000] were cost burdened, with the majority (65 percent) experiencing severe burdens, marking yet another all-time high.”).

¹⁷ Lauren Drake, *Oregon’s first statewide housing report paints grim portrait of affordability*, OPB (Nov. 22, 2024), <https://www.opb.org/article/2024/11/22/oregon-state-of-housing-report/>.

¹⁸ Joint Ctr. for Hous. Studies, Cost Burdens Climb the Income Scale, <https://www.jchs.harvard.edu/arh-2024-cost-burdens-climb-income-scale> (last visited Feb. 14, 2025).

¹⁹ America’s Rental Housing 2024, *supra* note 16, at 2 (“A record-high 22.4 million renter households spent more than 30 percent of their income on rent and utilities. This is an increase of 2 million households over three years Among cost-burdened households, 12.1 million had housing costs that consumed more than half of their income, an all-time high for severe burdens.”).

²⁰ Oregon Hous. & Comm’ty Servs., State of the State’s Housing 13 (2024), <https://www.oregon.gov/ohcs/about-us/Documents/state-of-the-states-housing.pdf>; see also Joint Ctr. for Hous. Studies, Low-Rent Supply Is Shrinking, <https://www.jchs.harvard.edu/arh-2024-low-rent-supply-shrinking> (last visited Feb. 14, 2025).

At least fourteen other states have passed laws targeting application and screening fees.²¹ Most of these laws—including the law on the books in Oregon—do not ban on application fees, full stop. Instead, these laws typically: (1) cap application fees by prohibiting landlords from charging more than a certain amount in fees, more than the actual cost of the screening, or more than once within a certain time period; (2) purport to prohibit fees but contain significant exceptions, such as allowing landlords to charge a fee to cover the cost of tenant screening; (3) prohibit landlords that accept reusable tenant screening reports from charging application fees if the tenant provides such a report; or (4) require return of application fees under certain circumstances.²² These complicated schemes are less protective of tenants than laws like Vermont's,²³ which simply prohibit landlords and their agents from charging application fees. A law like Vermont's is clear and comprehensive and does not contain convoluted exceptions that ultimately undercut the goal of making the search for housing meaningfully more affordable. H.B. 2967 is like Vermont's law.

Some landlords claim that banning application fees will lead to a deluge of applications from unserious applicants. However, as Eric Dunn, the Director of Litigation at the National Housing Project has explained, the search for rental housing is often labor- and time-intensive for renters, who have little incentive to submit applications to units that they are not genuinely interested in.²⁴ There do not appear to be any studies or reports of unserious rental applicants imposing significant costs on landlords in Vermont, where application fees have been banned for over twenty years.²⁵

Moreover, landlords can deter applicants in a variety of other ways.²⁶ For example, they could require a written application.²⁷ And they could publish their tenant screening criteria. If applicants know the screening criteria in advance, they will not be incentivized to apply if they know they will not meet that criteria.

Finally, even if landlords might sometimes receive more applications when fees are prohibited, requiring landlords “to absorb this incidental cost associated with the business of leasing” is justified by important benefits like improving access to housing and consumer protection and reducing harms like discrimination.²⁸

H.B. 2967 would eliminate harmful application fees. The bill is easy for both prospective tenants and landlords to understand, which has the added benefit of making enforcement more straightforward. And, critically, it would make the difficult search for rental housing more affordable and allow applicants to put their money toward their actual rent payments.

I thank you for considering this important legislation and respectfully urge you to support H.B. 2967.

²¹ Ariel Nelson, Steve Sharpe, April Kuehnhoff, & Chi Chi Wu, Nat'l Consumer L. Ctr., “What the Heck, Dude!”: How States Can Fight Rental Housing Junk Fees 8–11 (2024), <https://www.nclc.org/resources/what-the-heck-dude-how-states-can-fight-rental-housing-junk-fees/>

²² *Id.* at 8–11.

²³ Vt. Stat. Ann. tit. 9, § 4456a.

²⁴ Dunn, *supra* note 6, at 34.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 34–35; see also *id.* (discussing how shifting the cost of screening rental applicants to landlords is just because screening only benefits landlords).

Sincerely,

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