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**House Committee on Housing and Homelessness
Testimony in Support of HB 3974
6/2/2025**

Chair Bowman, Vice Chairs Drazan and Pham, and Members of the Committee:

On behalf of the Oregon Law Center, thank you for the opportunity to submit testimony in support of HB 3974, which would limit applicant screening fees for tenant applicants seeking housing to no more than \$20 per applicant.

OLC's mission is to achieve justice for low-income communities of Oregon by providing a full range of the highest quality civil legal services. Helping families maintain safe, stable housing is a critical part of our work. Without stable housing, it is difficult or impossible to hold down a job, keep children in school, access neighborhood amenities, and stay healthy. As vacancy rates have plummeted and housing has become less and less affordable across the state, our clients have increasingly struggled to maintain stability for themselves and their children. Increasingly, low and moderate income tenants risk homelessness due to the severe shortage of affordable housing supply.

So fierce is the competition for vacancies in today's housing market, that applicants are often forced to submit applications for many units at the same time, hoping for a chance at housing. And when multiple members of the applicant household are adults, each adult must pay the fee, for each unit applied for. This means that families pay many screening fees at a time in the desperate search for housing. These costs can add up to hundreds of dollars per unit, and are especially burdensome for low-income households.

When a household is seeking housing, they are already trying to set aside funds to pay for first month's rent, last month's rent, and security deposits, as well as moving costs. Having to pay multiple application screening fees can deplete these savings, making it harder to pass screening criteria and harder to afford getting into new housing.

Several states have recognized the challenges that application screening fees pose to accessing housing, and have taken steps to ban or limit these fees. The attached memo completed by OLC's law clerk, Jeffrey Star, in 2023, details these various approaches. After studying the various approaches to this issue, tenant advocates concluded that banning application fees altogether was the best practice; limiting fees to a reasonable amount is a next-best approach.

Note that nothing in the proposed legislation changes a landlord's ability to conduct applicant screening as a legitimate business practice. Similarly, nothing in the proposal would limit a landlord's ability to pass these costs along in the rent along with other costs of doing business. The measure would simply ensure that tenants fighting for a chance at housing would have fewer initial hurdles to overcome in obtaining that housing.

We respectfully submit this testimony in support of the measure as one way to help ease the impact of the housing crisis on low-income Oregonians. Thank you for your service to Oregon communities.

The Oregon Law Center's mission is to achieve justice for low-income communities in Oregon by providing a full range of the highest quality civil legal services.



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Memorandum

From: Jeffrey Star (Law Clerk, Oregon Law Center)

Re: Reusable Tenant Screening Reports

Date: July 12, 2023

Introduction

Landlords commonly contract with tenant screening companies (“TSCs”) to obtain reports on applicants’ credit, criminal, and eviction histories.¹ Nationwide, 9 of 10 landlords work with TSCs.² Landlords typically pass the expense of screening applications and hiring TSCs to the applicants in the form of an application fee.³

Application fees can pose a significant financial burden for applicants. Applicants reportedly pay an average of \$30-\$50 in fees per adult for each application.⁴ Many people must apply to multiple units over the course of a search for housing, so these fees add up. In a 2022 Zillow survey, 38% of Black and Latinx renters reported submitting five or more applications in a single housing search, and 21% of white renters reported the same.⁵

States have taken different approaches to decreasing the barriers posed by application fees. Some have limited or banned application fees altogether, while others have passed laws regulating reusable screening reports, where rather than paying for a new screening report for every application, an applicant pays for one screening report and can send it to multiple landlords during their housing search.

This memo discusses the legal background related to application fees and screening reports in Oregon, including relevant Federal and Oregon state laws. It then surveys laws on reusable reports and application fees in other states.

¹ In this memo, I refer to these reports collectively as “screening reports.”

² Public Comment from 15 State Attorneys General on the Adverse Impacts of Tenant Screening Reports and Algorithmic Determinations of Tenant “Worthiness,” at 3, <https://oag.ca.gov/system/files/attachments/press-docs/Multi%20State%20State%20Attorneys%20General%20Comment%20Letter%20to%20the%20FTC%20CFPB%20on%20Tenant%20Screening%20%281%29.pdf> [hereinafter “Comment from 15 State AGs”].

³ Eric Dunn, *The Case Against Rental Application Fees*, 30 GEO. J. ON POVERTY L. & POL’Y 21, 23 (2022), <https://www.law.georgetown.edu/poverty-journal/wp-content/uploads/sites/25/2023/01/The-Case-Against-Rental-Application-Fees.pdf>. However, some landlords charge application fees without screening applicants. Comment from 15 State AGs, *supra* note 2, at 3.

⁴ Dunn, *supra* note 3, at 21.

⁵ *Renters: Results from the Zillow Consumer Housing Trends Report 2022*, ZILLOW, https://www.zillow.com/research/renters-consumer-housing-trends-report-2022-31265/#_ft7.



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Federal Regulatory Background

Federal law regulates the contents of tenant screening reports and practices of TSCs. The **Fair Credit Reporting Act** (“FCRA”) requires that landlords notify an applicant if their rejection is based on the contents of a screening report. This is known as an Adverse Action notification, and can be delivered orally or in writing; it must include the name of the TSC who provided the report so that applicants can seek a copy of it.⁶ The FCRA does not require that landlords state the reason for the denial; however, certain state and local laws require more detailed disclosure.⁷ The FCRA also requires that screening companies follow reasonable procedures to ensure “maximum possible accuracy” of reports⁸ and disclose to consumers all information in their file.⁹ TSCs must investigate disputed screening results within thirty days.¹⁰ However, this window of time may be too long for people seeking housing, as a unit may no longer be available by the time a TSC investigated a disputed record.¹¹ Importantly, the FCRA generally does not preempt further state or local regulation of TSCs.¹²

In February 2023, the **Consumer Finance Protection Bureau** (CFPB) and Federal Trade Commission (FTC) issued a Request for Information (“RFI”) seeking comments on tenant screening practices.¹³ The RFI is part of the White House’s Blueprint for a Renters’ Bill of Rights.¹⁴ In addition to questions about screening practices and criteria, the RFI asked about portable screening reports and regulation of application fees. Numerous organizations submitted comments.¹⁵ Notably, a coalition of fifteen state Attorneys General submitted a comment asking that the FTC further regulate TSCs and encourage states to adopt regulations requiring landlords to accept reusable reports.¹⁶ Echoing comments submitted by other organizations, the Attorneys General described the following goals for future regulations: ensure that applicants have access to data being used to make screening

⁶ FEDERAL TRADE COMMISSION, USING CONSUMER REPORTS: WHAT LANDLORDS NEED TO KNOW (2001), <https://www.ftc.gov/system/files/documents/plain-language/bus49-using-consumer-reports-what-landlords-need-know.pdf>; 15 U.S.C. § 1681m(h)(5).

⁷ See Dunn, *supra* note 3, at 31 n.52 (citing Washington and Philadelphia laws).

⁸ 15. U.S.C. § 1681e(b).

⁹ 15 U.S.C. § 1681j(a)-(c) (describing mandatory disclosures); 15. U.S.C. § 1681i (defining FCRA procedures for disputing accuracy of reports); see also Comment from 15 State AGs, *supra* note 2, at 8.

¹⁰ Comment from 15 State AGs, *supra* note 2, at 8; 15 U.S.C. § 1681i(a)(1)(A).

¹¹ See Comment from 15 State AGs, *supra* note 2, at 8-9 (recommending reform reducing this time window to 15 days).

¹² Interpretive rule: *The Fair Credit Reporting Act’s Limited Preemption of State Laws*, CONSUMER FINANCIAL PROTECTION BUREAU (June 28, 2022), <https://www.consumerfinance.gov/rules-policy/final-rules/the-fair-credit-reporting-acts-limited-preemption-of-state-laws/>.

¹³ Submit a Comment on the Joint FTC-CFPB Tenant Screening Request for Information, FEDERAL TRADE COMMISSION (Feb. 28, 2023), <https://www.ftc.gov/policy/studies/submit-comment-joint-ftc-cfpb-tenant-screening-request-information>; see also Federal Agencies Seek Comment on Tenant Screening, SHRIVER CENTER ON POVERTY LAW (Mar. 13, 2023), <https://www.povertylaw.org/article/ftc-comment-tenant-screening/>.

¹⁴ THE WHITE HOUSE BLUEPRINT FOR A RENTERS BILL OF RIGHTS 12, WHITE HOUSE DOMESTIC POLICY COUNCIL AND NATIONAL ECONOMIC COUNCIL (2023), <https://www.whitehouse.gov/wp-content/uploads/2023/01/White-House-Blueprint-for-a-Renters-Bill-of-Rights.pdf>.

¹⁵ For a collection of advocacy organizations’ comments, see <https://www.policylink.org/share-your-story>.

¹⁶ Comment from 15 State AGs, *supra* note 2, at 5.



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determinations; limit reliance on algorithms; and prevent reliance on inaccurate or stale data.¹⁷ They proposed many reforms, including requiring landlords to publicize their rental criteria, the application fees they charge, and which TSC they use; requiring that TSCs send a copy of their report to the applicant simultaneously to when they send it to the landlord, including all underlying data;¹⁸ and in the event that landlords take an adverse action based on a report, requiring that landlords identify which part of the report they relied upon to make their decision.

The **Fair Housing Act** (“FHA”) also regulates tenant screening practices. Landlords are encouraged to adopt consistent screening procedures to avoid claims of discrimination based on classes protected under the FHA (race, color, religion, national origin, gender, familial status, and disability).¹⁹ Under the FHA, housing-related actions that have a disparate impact on a protected class constitute housing discrimination. In 2022, HUD issued guidance stating that some screening criteria based on criminal records are likely to have a disparate impact based on race, due to the disproportionate impact of the criminal legal system on Black people and other people of color.²⁰ Blanket policies denying applicants with criminal records likely violate the FHA; however, landlords may consider an applicant’s criminal record if their criteria are targeted toward safety and security concerns. Factors include whether the screening criteria distinguishes between arrests and convictions, time elapsed since the conviction, and the type of crime.

Oregon Regulatory Background

State Laws

Oregon state law regulates the tenant screening process.²¹ **ORS 90.303** dictates **what landlords may consider when screening applicants**. Landlords cannot consider eviction filings that resulted in a dismissal, judgment in favor of the tenant, or a judgment against the tenant more than five years prior.²² Landlords can’t consider arrests that did not result in convictions. Landlords can only consider convictions or pending charges if the activity is currently illegal in Oregon and fits within one of the following categories: (a) non-marijuana drug-related crime; (b) person crime; (c) sex offense; (d) crime involving financial fraud, including theft and forgery; or (e) any other crime that would adversely affect

¹⁷ *Id.* at 1.

¹⁸ *Id.* at 5, 9.

¹⁹ *Tenant Screening Laws for Landlords and Tenants*, RENTPREP, <https://rentprep.com/tenant-screening/tenant-screening-laws/>.

²⁰ U.S. Dep’t of Hous. & Urb. Dev., Implementation of the Office of General Counsel’s Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions (June 10, 2022), <https://www.hud.gov/sites/dfiles/FHEO/documents/Implementation%20of%20OGC%20Guidance%20on%20Application%20of%20FHA%20Standards%20to%20the%20Use%20of%20Criminal%20Records%20-%20June%2010%202022.pdf>.

²¹ For a summary of state law and recommendations for applicants, see The Oregon Community Alliance of Tenants’ know-your-rights document: <https://www.oregoncat.org/s/Rental-applications-and-the-screening-process-Eng.pdf>.

²² OR. REV. STAT. § 90.303(1), https://www.oregonlegislature.gov/bills_laws/ors/ors090.html



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the landlord's property or another tenant's health, safety, or right to peaceful enjoyment of the premises.²³

ORS 90.304 further regulates **steps landlords must take when denying an application**. If a landlord denies an applicant, they must provide a written statement indicating some reason for the denial.²⁴ Otherwise, landlords need not disclose results of screening reports beyond what the FCRA requires.²⁵ However, before denying an applicant based on criminal history, landlords must give applicants the opportunity to submit supplemental evidence explaining negative information and conduct an individualized assessment of the applicant, taking into consideration the nature and severity of incidents, their number and type, time elapsed since, and age of applicant at time of incidents.²⁶

ORS 90.295 restricts fees that landlords may charge prior to entering a rental agreement. 90.100(3) defines "applicant screening charge" as any payment that a landlord requires prior to entering a lease.²⁷ Landlords may only charge an applicant once in a 60-day period, even if the applicant applies for multiple properties owned by that landlord. The fee is capped at either (1) the landlord's average actual cost for screenings, including charges from TSCs and the reasonable value of the landlord's time spent, or (2) the customary amount charged by TSCs for a comparable level of screening.²⁸ Landlords must adopt written screening criteria and give applicants notice of such, along with notice of applicants' right to dispute the accuracy of screening reports and the right to appeal a negative determination, if any appeal right exists.²⁹ They must also give applicants an estimate of how many applications are currently under consideration. If a landlord does not screen an applicant, they must refund the application fee.³⁰ If the landlord violates any of these provisions, the applicant may recover twice the amount of the fee plus \$150.³¹

City Laws

Portland

Portland imposes further restrictions on application fees and criteria. First, City Code § 30.01.086(D)(7) more specifically regulates application fees. If a landlord uses a TSC to complete the entire screening process for an applicant, the application fee is capped at the actual cost charged by the TSC. If a landlord uses a TSC for only part of the screening process, the application fee cannot be more than 25% greater than the cost charged by the TSC. If a landlord does not use a TSC, the application fee

²³ *Id.* § 90.303(2)-(3).

²⁴ *Id.* § 90.304(1)-(2).

²⁵ *Id.* § 90.304(4).

²⁶ *Id.* § 90.304(5). This largely mirrors HUD's guidance discussed above, *supra* note 20.

²⁷ This does not include refundable deposits, which landlords may require as a condition of holding the apartment available. See Comments on HB 2968A (1993).

²⁸ OR. REV. STAT. § 90.295(2), https://www.oregonlegislature.gov/bills_laws/ors/ors090.html

²⁹ *Id.* § 90.295(3)

³⁰ *Id.* § 90.295(5)

³¹ *Id.* § 90.295(6).



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cannot be more than 10% greater than what TSCs charge for comparable screenings in the Portland area.³²

Furthermore, when multiple people intend to live together, the applicants may determine who will be the “financially responsible” applicant(s);³³ landlords can conduct background screening for other members of the group for factors related to safety or maintaining the property (i.e. criminal history), but cannot screen them for financial responsibility (i.e. credit history).³⁴

Portland defines “low-barrier screening criteria”;³⁵ landlords may use their own criteria instead, but in that case they must conduct an “individual assessment” prior to denying an applicant, considering the nature, number, and type of incidents that would lead to denial, along with time elapsed since the incidents.³⁶ Applicants must be allowed to submit supplemental evidence, and landlords must give written notice of the basis for any denial.³⁷ Landlords must also allow applicants to appeal denials within 30 days; this would not enable the applicant to reverse the denial and rent the initial unit, but would prequalify the applicant for opportunities at the landlord’s other Portland properties for three months.³⁸

Eugene

Eugene sought to limit application fees as part of a broad package of housing reforms. In July 2022, the city capped fees at \$10.³⁹ However, a state court found this preempted by state law. The court reasoned that \$10 is less than the actual cost of tenant screenings, and thus Eugene’s ordinance frustrated the purpose of ORS 90.295, allowing landlords to pass screening costs on to applicants.⁴⁰

*** Update from Sybil Hebb 6/1/2025: The [Oregon Court of Appeals overturned the lower court's decision in August 2024, allowing the city to enforce the cap](#). That decision was appealed to the Oregon Supreme Court; the case was [not accepted for review](#), leaving the Court of Appeals decision in place.*

³² Portland City Code § 30.01.086(D)(7), <https://www.portland.gov/code/30/01/086>

³³ *Id.* § 30.01.086(2).

³⁴ *Id.* § 30.01.086(3).

³⁵ *Id.* § 30.01.086(E). These criteria include: landlords may not deny an applicant based on misdemeanors more than three years prior, felonies more than seven years prior, or any convictions entered in the juvenile justice system; landlords may also not deny applicants based on a credit score over 500, insufficient credit history, past-due debts under \$1000, debts under \$500 to prior a landlord for property damage, or any medical or education-related debts; finally, applicants may not be denied on the basis of eviction cases more than three years prior, or sealed eviction records.

³⁶ *Id.* § 30.01.086(F).

³⁷ Landlords may be required to give a slightly more robust explanation of denials that are not based on the low-barrier screening criteria. Compare § 30.01.086(F)(2)(c) with § 30.01.086(E)(2)(a).

³⁸ *Id.* § 30.01.086(D)(8).

³⁹ Megan Banta, *As Renters Face Tightening Market, Eugene Officials Consider Protections, Fee Reductions*, THE REGISTER GUARD (Nov. 25, 2021), <https://www.registerguard.com/story/news/2021/11/25/eugene-renters-tenants-protections-landlords-fees-deposit-eviction/8743840002/>.

⁴⁰ Megan Banta, *Judge: Eugene's \$10 Cap on Rental Application, Screening Fees Conflicts with State Law*, THE REGISTER GUARD (Feb. 2, 2023), <https://www.registerguard.com/story/news/courts/2023/02/02/eugene-tenants-landlords-renter-application-fees-lawsuit/69868211007/>.



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Reusable Reports in Other Jurisdictions

Other states and cities have passed laws regulating reusable tenant screening reports. Some laws mandate that landlords accept reusable reports, while others allow landlords to choose whether to accept them. These regulations commonly define what such reports must contain, the time period during which they are valid, what notice a landlord must give to prospective applicants about their policy on accepting reusable reports, and whether landlords must be able to access the report directly from the TSC. Generally, if landlords accept a reusable report, they may not charge other screening fees.

Mandatory Acceptance: Colorado, Rhode Island, New York, & Wisconsin

In 2023, **Colorado** passed HB 23-1099 requiring landlords to accept reusable reports and prohibiting application fees for applicants who provide a reusable report.⁴¹ A reusable report must have been created within the past 30 days, the landlord must be able to directly access it from the TSC at no cost to the landlord, and it must include credit, criminal, and eviction histories. The lookback periods for such histories are limited by Colorado's 2019 Rental Application Fairness Act.⁴² There is one exception: landlords may refuse to accept reusable reports if they accept only one application fee at a time and refund the fee if the applicant does not lease the property for any reason. HB 23-1099 includes a \$2,500 statutory penalty for violations related to screenings or application fees, plus attorney fees, unless the landlord cures a violation within seven days of receiving notice of the violation. It also authorizes the Attorney General to independently enforce these provisions.

In 2023, **Rhode Island** passed legislation prohibiting application fees altogether.⁴³ The bill provides that landlords may charge applicants for the actual cost of credit or criminal background checks. If the landlord charges such fees, the landlord must give the applicant a copy of the report(s). However, if an applicant provides the landlord with a criminal background check or credit report issued in the past 90 days, the landlord may not charge a fee for such reports. This effectively requires landlords to accept reusable credit and criminal reports, or to cover the cost of obtaining their own reports.

In 2019, **New York** prohibited landlords from charging application fees if the applicant provides "a copy of a background check or credit check conducted within the past thirty days."⁴⁴ New York does

⁴¹ Colorado HB 23-1099 (2023), <https://leg.colorado.gov/bills/hb23-1099>.

⁴² Colorado HB 19-1106 (2019), <https://leg.colorado.gov/bills/hb19-1106>. Landlords may not consider rental/eviction or credit history beyond seven years or criminal history beyond five years prior to the application. However, the look-back limitation does not apply to certain methamphetamine-related offenses, any offense for which applicant was required to register as a sex offender, any homicide, or stalking.

⁴³ Rhode Island H6087 (2023), creating R.I. GEN. LAWS § 34-18-58, <https://legiscan.com/RI/text/H6087/id/2786778>.

⁴⁴ New York RPP 238-A(b), <https://www.nysenate.gov/legislation/laws/RPP/238-A>.



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not further define the contents or mechanics of a reusable report. Otherwise, application fees are capped at \$20 or the actual cost of credit/background checks, whichever is less. If landlords charge an application fee, they must give the applicant a copy of the screening report and a receipt for the cost.

Wisconsin prohibits landlords from charging credit check fees if applicants provide a credit report created within the past 30 days.⁴⁵ Otherwise, credit check fees are limited to the lesser of \$25 or the actual cost of obtaining the report. The legislation does not specify whether landlords may charge for eviction or criminal history checks.

Discretionary Acceptance: California, Maryland, & Washington

California's AB 2559,⁴⁶ passed in 2022, allows but does not require landlords to accept reusable reports; if landlords accept a reusable report, they may not charge an application fee. AB 2559 requires that reusable reports include an eviction history report to the maximum extent (in terms of look-back period and records included) allowed by state law; it does not set requirements for what credit or criminal history must be included in the report, but states that the legislation has no effect on laws regulating consideration of criminal history. Reusable reports must have been prepared within 30 days, and the landlord must be able to directly access the report from the TSC at no cost. Landlords may require the applicant to state that there has not been a material change to information in the report since it was generated. The bill also provides that “[i]f an ordinance, resolution, regulation, administrative action, initiative, or other policy adopted by a city, county, or city and county conflicts with this section, the policy that provides greater protections to applicants shall apply.” For applicants who do not provide a reusable report, prior legislation⁴⁷ placed a \$30 per-applicant cap on application fees, adjusted based on the Consumer Price Index; the cap is approximately \$60 now.⁴⁸

Maryland's Real Property § 8-218⁴⁹ similarly allows landlords to choose whether to accept reusable reports created within 30 days. It requires that reports include a credit report plus a criminal history record check and eviction check for the previous seven years. It also requires that landlords give applicants notice as to whether they accept reusable reports “in a conspicuous manner” on the rental listing, landlord’s website homepage, or any other manner reasonably calculated to provide notice.

Washington defines reusable reports similarly to Maryland, but does not cap the look-back period for credit, criminal, and eviction histories.⁵⁰ Landlords must also give notice whether they accept reusable reports.

⁴⁵ WISC. STAT. § 704.085, <https://docs.legis.wisconsin.gov/statutes/statutes/704/085/1/a>. This requirement does not apply to non-residents of Wisconsin.

⁴⁶ California AB 2559, https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2559

⁴⁷ Cal. Civ. Code § 1950.6,

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV§ionNum=1950.6.

⁴⁸ *What Is the Maximum Amount that I Can Charge for a Screening Fee?*, CAA, <https://caanet.org/kb/max-screening-fee/>.

⁴⁹ Maryland SB 691 (2021), https://mgaleg.maryland.gov/2021rs/Chapters_noln/CH_784_sb0691t.pdf.

⁵⁰ RCW 59.18.030(4), (5), (11), <https://app.leg.wa.gov/RCW/default.aspx?cite=59.18.030> (defining history as based on “at least seven years,” if reportable in accordance with other state law).



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State Laws Restricting Application Fees

Massachusetts,⁵¹ Vermont,⁵² and the city of Portland, Maine,⁵³ prohibit application fees altogether. Massachusetts' law does not apply to licensed brokers and agents.⁵⁴ Several other states, along with Oregon and California as previously discussed, either place dollar-amount caps on application fees or limit them to the actual cost of screenings.⁵⁵

⁵¹ MASS. GEN. LAWS ANN. ch. 186, § 15B(1)(b),
<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleI/Chapter186/Section15b>.

⁵² 9 V.S.A. § 4456(a) (1999), <https://legislature.vermont.gov/statutes/section/09/137/04456a>.

⁵³ Portland, Maine's [2022 referendum](#).

⁵⁴ Massachusetts 254 CMR 7.00(1), <https://www.registerguard.com/story/news/courts/2023/02/02/eugene-tenants-landlords-renter-application-fees-lawsuit/69868211007/>.

⁵⁵ For example, in [Minnesota](#), fee may not exceed actual screening costs; excess must be refunded; in [Virginia](#), fee is limited to \$50 plus actual expenses for screening checks; in [Washington, D.C.](#), fee is limited to \$50.