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## Prohibit Pre-lease Deposits and Application Fees

**Prelease deposits and application fees are barriers for tenants looking for housing, making an already expensive and stressful process more expensive.**

The 2022 Consumer Housing Trends Report says that “[t]he typical (median) recent renter submitted 2 applications. A 2021 report from the Housing Justice Center gives the average fee as \$40 per application for Minnesota Renters.<sup>1</sup> The Consumer Housing Trends Report also says that renters in urban and suburban areas, renters of color, younger renters, and renters in regions with the most expensive rental markets are all more likely to pay higher up front costs. The study also found that “renters tend to have lower incomes than the U.S. population overall”<sup>2</sup> compounding the issue further. Media reports and scholarly articles further document the effect of application fees on homelessness.<sup>3</sup>

Nationally, renters of color are more likely to report paying an application fee: Larger shares of Black (89%), Latinx (88%) recent renters reported paying an application fee than white renters (82%). Latinx renters were also about twice as likely as their non-hispanic white counterparts to report submitting 5 applications or more (27% Latinx recent renters reported submitting 5 or more, compared to 13% of white renters).

Recent renters of color also reported paying higher total amounts in application fees: The typical white renter reported paying \$50 in application fees across all the rentals they applied for, while the typical Black (\$70), Latinx (\$100), and Asian (\$95) recent renters all reported spending more.

A significantly larger share of recent renters report paying an application fee (84% in 2023, up from 68% in 2022). This higher prevalence of application fees suggests that landlords and property managers may have been able to increasingly forgo waiving upfront fees, and pass administrative costs like credit and background checks on to rental applicants.

States are beginning to prohibit, or sharply regulate, prelease deposits and application fees. Massachusetts prohibits prelease deposits altogether<sup>4</sup> and both California and Oregon restrict

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<sup>1</sup> <https://www.hjcmn.org/wp-content/uploads/2021/04/Tenant-Screening-Report.pdf>

<sup>2</sup> The annual median household income among renter households is approximately \$47,301, compared to the overall national median of \$70,784

<sup>3</sup> [Jennifer Ludden, \*Rental Application Fees Add up Fast in a Tight Market. But Limiting Them Is Tough\* \(National Public Radio January 13, 2023\); Eric Dunn, \*The Case Against Rental Application Fees\*, Georgetown Journal on Poverty Law and Policy \(Volume XXX, Number 1, Fall 2022\).](#)

<sup>4</sup> Mass. Gen. Laws ch. 186, § 15B.

them.<sup>5</sup> Vermont and Massachusetts have banned application fees while New York prohibits application fees for people who have portable reports available. Colorado, Oregon, Virginia, Washington and Wisconsin restrict them<sup>6</sup> and other states and cities are considering prohibitions and restrictions on application fees.<sup>7</sup>

### **Current Law:**

The current state law allows landlords to charge prospective tenants an unregulated sum of money in order for the landlord to “hold” the rental for them. Often these deposits are hundreds of dollars and are in addition to any application fee. Landlords are only supposed to charge these fees if they make a written agreement with the prospective tenant that clearly lays out when the prelease deposit would be returned but there are no parameters given in the statute of what those circumstances might be.

If the parties do not end up entering into a rental agreement the tenant is not guaranteed that they will get their deposit back at all, or get it back in a timely manner, and the only realistic remedy a tenant has is to file a claim in Conciliation court, which can take several months to be heard and has its own filing fees associated with it.

Application fees are slightly more regulated in that the current statute explicitly states that a landlord can only use the collected fee for performing a background check and that any amount not used for that purpose must be returned to the applicant. The statute is also much more explicit on what circumstances a landlord must return an application fee, but gives no timeline of when the landlord must do so. Application fees typically range from \$30-\$100 but there is no regulation on how much can be charged to perform a background check, and again, a tenant’s remedy if there are concerns about the actual amounts being used for these checks is to file a claim in Conciliation Court.

### **Proposed Statute: What Would Change?**

The proposed law would prohibit landlords from charging prelease deposits and application fees from prospective tenants. This will ensure that these fees do not prevent tenants from being able to move, or seek out new housing. These costs pose a significant barrier for people trying to move, especially those who are low income who may not have the extra income to pay hundreds of dollars to see if they are even eligible to move into a property or not.

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<sup>5</sup> Cal. Civ. Code § x 1950.7; Or. Rev. Stat. § 90.297.

<sup>6</sup> Colo. Rev. Stat. § 38-12-901 et seq.; Or. Rev. Stat. § 90.295; Va. Code Ann. § 55.1-1203; Wash. Rev. Code § 59.18.253; Wis. Stat. § 704.085.

<sup>7</sup> [Jennifer Ludden, Rental Application Fees Add up Fast in a Tight Market. But Limiting Them Is Tough \(National Public Radio January 13, 2023\).](#)