

REGULAR CALENDAR

February 3, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Judiciary to which was referred HB
1408,**

**AN ACT requiring the refund of residential tenancy
application fees. Having considered the same, report
the same with the following resolution: RESOLVED,
that it is INEXPEDIENT TO LEGISLATE.**

Rep. Michael Sylvia

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Judiciary
Bill Number:	HB 1408
Title:	requiring the refund of residential tenancy application fees.
Date:	February 3, 2022
Consent Calendar:	REGULAR
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill would require landlords to refund all but the landlord's actual out-of-pocket costs for specific services such as credit reports or criminal background checks, to people whose application has been denied. The purpose of application fees is to offset actual costs, time and effort incurred processing the application. Although the bill would allow landlords to retain the actual out-of-pocket costs incurred for credit reports or criminal background checks, it does not allow for other real costs, time spent calling landlord references or confirming employment, or for office overhead. Applicants agree up front to a non-refundable application fee to cover costs and processing. Application fees are often nearly the same or even less than the costs paid by the landlord, so the tenant would be refunded very little or nothing.

Vote 14-7.

Rep. Michael Sylvia
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Judiciary

HB 1408, requiring the refund of residential tenancy application fees. **INEXPEDIENT TO LEGISLATE.**

Rep. Michael Sylvia for Judiciary. This bill would require landlords to refund all but the landlord's actual out-of-pocket costs for specific services such as credit reports or criminal background checks, to people whose application has been denied. The purpose of application fees is to offset actual costs, time and effort incurred processing the application. Although the bill would allow landlords to retain the actual out-of-pocket costs incurred for credit reports or criminal background checks, it does not allow for other real costs, time spent calling landlord references or confirming employment, or for office overhead. Applicants agree up front to a non-refundable application fee to cover costs and processing. Application fees are often nearly the same or even less than the costs paid by the landlord, so the tenant would be refunded very little or nothing. **Vote 14-7.**

Original: House Clerk
Cc: Committee Bill File

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HB 1408

BILL TITLE: requiring the refund of residential tenancy application fees.

DATE: February 3, 2022

LOB ROOM: 206-208

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Sylvia

Seconded by Rep. Merner

Vote: 14-7

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Kurt Wuelper, Clerk



2021 SESSION

Judiciary

Bill #: 1408 Motion: ITL AM #: _____ Exec Session Date: 2-3-22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
	✓		
Gordon, Edward M. Chairman			
McLean, Mark Vice Chairman	✓		
Sylvia, Michael J.	✓		
Wuelper, Kurt F. Clerk	✓		
Alexander, Joe H.	✓		
Rice, Kimberly A. <u>EDWARDS</u>	✓		
Silber, Norman J. <u>MERNER</u>	✓		
Greene, Bob J.	✓		
Kelley, Diane E.	✓		
Tausch, Lindsay <u>ANDRUS</u>	✓		
Trottier, Douglas R.	✓		
Smith, Marjorie K.	✓		
Berch, Paul S. <u>WOODS</u>	✓		
Horrigan, Timothy O.		✓	
DiLorenzo, Charlotte I.	✓		
Chase, Wendy		✓	
Kenney, Cam E.		✓	
Langley, Diane M.		✓	
McBeath, Rebecca Susan		✓	
Paige, Mark		✓	
Simpson, Alexis		✓	

Kurt Wuelper

14

7

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HB 1408

BILL TITLE: requiring the refund of residential tenancy application fees

DATE: 1-20-22

LOB ROOM: 206/8

Time Public Hearing Called to Order: 10:30 AM

Time Adjourned: 11:20 AM

Committee Members: ~~Reps. Gordon McLean, Wuelper, Sylvia, Alexander Jr., Nottor, Merner, Greene, D. Kelley, Andrus, Trottier, M. Smith, Borch, Horrigan, DiLorenzo, Chase, Kenney, Langley, McBeath, Paige and Simpson~~

Bill Sponsors:

Rep. Klein-Knight, Hills. 11; Rep. Grassie, Straf. 11; Rep. Adjutant, Graf. 17; Rep. Vail, Hills. 30; Rep. Bouchard, Hills. 11; Rep. Vann, Hills. 24; Rep. Wazir, Merr. 17

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Klein-Knight Sponsor Support We see landlords taking advantage of potential tenants and we are seeing application fees of \$1-2 hundred and not returning that money if the potential tenant doesn't rent. This is intended to make the failed tenant whole.

Q Sylvia: Are you suggesting all landlords do this? **Ans:** No. **Q** So how large is this problem?

Ans: it is significant. There are a lot of good landlords, but we have to deal with the others.

Q Horrigan: why not just eliminate the fees?

Ans: I don't think that is fair to landlords. They may have to pay for background checks or have other costs.

Q Langley: For the Section 8 population, would the Housing authority or others pay the fees?

Ans: No, they have to pay the fees out of pocket and that is another barrier, but this just ensures they get a fair shake if they don't get the apartment.

***Elliot Berry NH Legal Assistance Supports** Typical 2-bedroom rent is over \$1500. Our typical client has income of only \$1600/month which means she must apply to maybe ten or more places and even only a \$50 fee could amount to over \$500. The fee is typically for a background check, record check and other tests. Under the bill Out of Pocket costs do not have to be refunded. These checks and their costs are inherent in renting property. The gravy tenant shouldn't be charged separately for them. The fees above out-of-pocket costs are pure, but the fees are never refunded. I do think the bill needs a couple of simple fixes. [See Written] I just think multiple fees imposed on our poorest people should be minimized and refunded to unsuccessful applicants.

Q DiLorenzo: So, an upfront disclosure would suffice for not refunding the fees?

Ans: Only for out-of-pocket fees.

Q: What about the penalty you say is excessive?

Ans: I'll be grateful for any penalty. I do think the amount has to be enough to get people to comply with the law.

Q Langley: What type of notification should there be for the homeless?

Ans: Even they must put some sort of address to put on the application, but the landlord shouldn't have to make other arrangements.

Q Gordon: Calculating actual costs could be a problem for landlords, would be better to set a standard non-refundable fee and have this apply above that number?

Ans: Many landlords don't charge fees no and if you establish a maximum, more landlords will go to that.

Q DiLorenzo: Can a landlord get in trouble for charging a deposit to some tenants only?

Ans: Discrimination laws apply.

***Nick Norman AANH Opposed Opposed** My experience as a landlord and leader of a group, I don't see what is being described here. In my company we charge \$35 which is the cost of a background check. We may show an apartment several times and some of them won't show up at all wasting my time. Of those, we may get one or two applications. We tell people what we are doing and disclose up front the application fee is non-refundable. I'd be happy to work with Elliot to find a good resolution. There are three things we are talking about: Security fees, earnest money, and application fees. We must be careful to speak only to application fees. We do find many tenants who falsified their applications. Most often, they lie about their landlord references and we have to spend the time and effort to find the real one, if we can at all. All those falsifications get their application fee back under this bill and that is not fair. The bill as written would force landlords to simplify their process which would include more extensive checks up front and add to what every tenant would be charged.

Q Langley: You referenced validating applications. Do you have something in your lease about that?

Ans: I would love to see something in the bill about that. Often, those who are desperate are the first to apply and the most dishonest, making me have to check them out at significant cost.

Brandon Lemay Rights and Democracy Support We seek affordable homes for everyone in Manchester. I go door-to-door talking to tenant about their landlords. Nick's tenants have no complaints. The intent of this bill is for the bad landlords just as there are bad tenants who lie on their applications. Administrative fees are part of renting property and I see these costs as just part of the business of land lording. Some tenants pay more inn fees for their low-rent apartments than I pay for a high-end. The landlord profits from the fees but the tenant has a harder time finding a place. I know one who had to choose between doing laundry and applying for an apartment.

David Cline Self Opposed I am a landlord on the Seacoast. Application fees have a purpose. One is to screen out unserio8us applications. I've had people write down jobs they don't have, landlords they don't have and more. We employ a service which charges \$27 dollars to screen. Nick testified that his fees are a losing proposition. The penalty in this bill is actually worse than for failing to refund security deposits. In addition, the penalty is mandatory. I'm happy to work on reducing/eliminating these fees, but the penalty must be reduced. Under this bill, everything is by postal mail. Why can't we just send a text or e-mail? If I send a letter, how can I prove I sent it? The only way is to pay certification costs and send someone to the post office. Another problem is because the penalty is so great, it encourages false claims which should stay in small claims court. I'd be happy to work on fixing that. This bill is very hostile to landlords. We don't want to discourage landlords which will reduce, not increase, available housing. Maybe you should have a sub-committee to work with us, but his bill is just too harsh.



Rep Kurt Wuelper, Clerk

House Remote Testify

Judiciary Committee Testify List for Bill HB1408 on 2022-01-20

Support: 51 Oppose: 6 Neutral: 0 Total to Testify: 0

Export to Excel

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Staub, Kathy	MANCHESTER, NH kstaub@comcast.net	A Member of the Public	Myself	Support	No	No	1/14/2022 1:57 PM
Gordon, Carolyn	Hanover, NH csgordon@dartmouth.edu	A Member of the Public	Myself	Support	No	No	1/15/2022 9:07 PM
Hamer, Heidi	Manchester, NH heidi.hamer@leg.state.nh.us	An Elected Official	Myself	Support	No	No	1/16/2022 8:42 AM
Glass, Jonathan	Cornish, NH jglass1063@gmail.com	A Member of the Public	Myself	Support	No	No	1/16/2022 10:14 AM
Howland, Curtis	Manchester, NH howland@priss.com	A Member of the Public	Myself	Oppose	No	No	1/16/2022 6:00 PM
Wazir, Safiya	Concord, NH S.wazir@leg.state.nh.us	An Elected Official	Myself and my constituents	Support	No	No	1/17/2022 7:29 AM
Nicholson, Lisa	Newmarket, NH lisarnicholson@yahoo.com	A Member of the Public	Myself	Oppose	No	No	1/17/2022 9:08 AM
Feder, Marsha	Hollis, NH marshafeder@gmail.com	A Member of the Public	Myself	Support	No	No	1/17/2022 9:48 AM
Straiton, Marie	Pembroke, NH m.straiton@comcast.net	A Member of the Public	Myself	Support	No	No	1/17/2022 10:41 AM
Lindpaintner, Lyn	Concord, NH lynlin@bluewin.ch	A Member of the Public	Myself	Support	No	No	1/17/2022 11:48 AM
Grossi, Anne	Bedford, NH adgrossi7982@gmail.com	A Member of the Public	Myself	Support	No	No	1/17/2022 12:43 PM
Podlipny, Ann	Chester, NH apodlipny57@comcast.net	A Member of the Public	Myself	Support	No	No	1/17/2022 12:48 PM
Hegfield, Laura	Amherst, NH laurahegfield@comcast.net	A Member of the Public	Myself	Support	No	No	1/17/2022 1:06 PM

Burr, Emily	Canterbury, NH revemilyburr@gmail.com	A Member of the Public	Myself	Support	No	No	1/17/2022 1:26 PM
Hayward, Marcia	Laconia, NH mjhayward131@gmail.com	A Member of the Public	Myself	Support	No	No	1/17/2022 1:41 PM
Oxenham, Lee	Plainfield, NH leeoxenham@comcast.net	An Elected Official	Myself	Support	No	No	1/17/2022 1:46 PM
Lynch, Chrisinda	Concord, NH cmmelynch@comcast.net	A Member of the Public	Myself	Support	No	No	1/17/2022 3:31 PM
Davidson, Suellen	Hollis, NH suellendavidson@gmail.com	A Member of the Public	Myself	Support	No	No	1/17/2022 4:01 PM
Smith, Sara	Pembroke, NH sara.rose.ssmith@gmail.com	A Member of the Public	Myself	Support	No	No	1/17/2022 5:12 PM
Dontonville, Roger	Enfield, NH rdontonville@gmail.com	An Elected Official	Myself	Support	No	No	1/17/2022 6:03 PM
Blais, Vanessa	Manchester, NH Bessblais@gmail.com	A Member of the Public	Myself	Support	No	No	1/17/2022 7:31 PM
Weber, Jill	Mont Vernon, NH jill@frajilfarms.com	A Member of the Public	Myself	Support	No	No	1/17/2022 7:53 PM
Corell, Elizabeth	Concord, NH Elizabeth.j.corell@gmail.com	A Member of the Public	Myself	Support	No	No	1/17/2022 7:59 PM
Dontonville, Anne	Enfield, NH Ardontonville@gmail.com	A Member of the Public	Myself	Support	No	No	1/17/2022 8:01 PM
Kelly, Jon	Penacook, NH jonmkelly@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/17/2022 9:17 PM
Davidson, Stuart	Hollis, NH studavidso@gmail.com	A Member of the Public	Myself	Support	No	No	1/17/2022 9:20 PM
Damon, Claudia	Concord, NH cordsdamon@gmail.com	A Member of the Public	Myself	Support	No	No	1/17/2022 9:57 PM
Oxenham, Evan	Plainfield, NH evan.oxenham@gmail.com	A Member of the Public	Myself	Support	No	No	1/17/2022 9:58 PM
Falk, Cheri	Wilton, NH falk.cj@gmail.com	A Member of the Public	Myself	Support	No	No	1/18/2022 10:07 AM
Falk, Stephen	Wilton, NH Falkfinewoodworking@gmail.com	A Member of the Public	Myself	Support	No	No	1/18/2022 10:08 AM
Tucker, Katherine	Wilmot, NH katherine.s.tucker@valley.net	A Member of the Public	Myself	Support	No	No	1/18/2022 1:28 PM

Jones, Andrew	Pembroke, NH arj11718@yahoo.com	A Member of the Public	Myself	Support	No	No	1/18/2022 4:21 PM
Robinson, Ellis	Grantham, NH EllisMMRobinson@gmail.com	A Member of the Public	Myself	Support	No	No	1/18/2022 5:20 PM
Siegart, Diane	Thornton, NH dsiegart@comcast.net	A Member of the Public	Myself	Support	No	No	1/18/2022 6:17 PM
Aronson, Laura	MANCHESTER, NH laura@mlans.net	A Member of the Public	Myself	Support	No	No	1/18/2022 8:36 PM
Clark, Denise	Milford, NH denise.m.clark03055@gmail.com	A Member of the Public	Myself	Support	No	No	1/18/2022 8:51 PM
Devore, Gary	Pembroke, NH torin_asheron@yahoo.com	A Member of the Public	Myself	Oppose	No	No	1/19/2022 10:06 AM
Altschiller, Debra	Stratham, NH debra.altschiller@leg.state.nh.us	An Elected Official	Myself	Support	No	No	1/19/2022 11:08 AM
Doherty, David	Pembroke, NH ddoherty0845@gmail.com	A Member of the Public	Myself	Support	No	No	1/19/2022 3:43 PM
Almy, Susan	Lebanon, NH Susan.almy@comcast.net	An Elected Official	Myself	Support	No	No	1/19/2022 6:38 PM
Broshek, Mary Anne	ANDOVER, NH mabandsadie@gmail.com	A Member of the Public	Myself	Support	No	No	1/19/2022 7:01 PM
Richman, Susan	Durham, NH susan7richman@gmail.com	A Member of the Public	Myself	Support	No	No	1/19/2022 8:37 PM
Sinclair-pappas, Barbara	Chichester, NH bespappas@gmail.com	A Member of the Public	Myself	Support	No	No	1/19/2022 8:39 PM
Gilman, Representative Julie	Exeter, NH Julie.gilman@leg.state.nh.us	An Elected Official	Town of Exeter	Support	No	No	1/19/2022 8:57 PM
Perencevich, Ruth	Concord, NH rperence@comcast.net	A Member of the Public	Myself	Support	No	No	1/19/2022 9:01 PM
Anastasia, Patricia	Londonderry, NH patti.anastasia@gmail.com	A Member of the Public	Myself	Support	No	No	1/19/2022 9:28 PM
Rettew, Annie	Concord, NH abrettew@gmail.com	A Member of the Public	Myself	Support	No	No	1/19/2022 9:47 PM
Loveless, Eric	bedford, NH nassur34@protonmail.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 12:20 AM
Brennan, Nancy	Weare, NH burningnan14@gmail.com	A Member of the Public	Myself	Support	No	No	1/20/2022 6:43 AM

Hatch, Sally	Concord, NH sallyhatch@comcast.net	A Member of the Public	Myself	Support	No	No	1/20/2022 7:41 AM
Weston, Joyce	Plymouth, NH jweston14@roadrunner.com	An Elected Official	Myself	Support	No	No	1/20/2022 7:46 AM
Dewey, Karen	NEWPORT, NH pkdewey@comcast.net	A Member of the Public	Myself	Support	No	No	1/20/2022 8:11 AM
Hayes, Randy	Canterbury, NH rcompostr@gmail.com	A Member of the Public	Myself	Support	No	No	1/20/2022 9:49 AM
Kuemmerle, Nancy	Enfield, NH nkuemmerle@une.edu	A Member of the Public	Myself	Support	No	No	1/20/2022 1:26 PM
Lane, Connie	Concord, NH nhlanes@comcast.net	An Elected Official	Merrimack District 12	Support	No	No	1/20/2022 4:05 PM
Petrusewicz, Carol	Rochester, NH clmcc2befree@yahoo.com	A Member of the Public	Myself	Oppose	No	No	1/20/2022 7:07 PM
levesque, cassandra	Barrington, NH cassandra.levesque@leg.state.nh.us	An Elected Official	Myself	Support	No	No	1/20/2022 7:38 PM

HB1408 Testimony

Dear Representatives,

I am asking you to kill HB 1408 - requiring the refund of residential tenancy application fees.

I am a small landlord and in order to process a potential tenant's application, I always BUY a background report and do my own research.

Lines 10-11 are outrageous, my business working time would be required to be done for free.

My time spent calling landlord references or confirming employment, and my costs for office heating and lighting and insuring overhead, is ALWAYS significant and very time consuming, I need to recover these costs.

Lines 24-25 is absurdly heavy-handed.

Failure to adhere to this bill's timeline subjects any landlord to penalties of the consumer protection statute, which includes up to \$3,000 in damages and the paying of attorney fees.

The bill, if passed, could easily hurt the marginal applicant. I have personally rented to some people who have shaky credit reports but because I spent the time talking to their references, I gave them a chance at a really good home.

Since landlords won't be reimbursed for their time then to save time, landlords could immediately pull credit & tenant reports. The landlord would immediately deny an application the person whose credit is not great, rather than spend uncompensated time checking landlord and employment references. It's easier just to go to the next application or relist the apartment.

This bill does not understand that prospects agree up front to an application fee, and that the purpose of an application fee is to cover the costs of performing the background check and processing and is nonrefundable.

Sincerely,
Kit Lord

Hi there,

I am small (part-time) apartment building owner. Below you will find more details (pictures) regarding bills which are targeting small business owners like myself. In my humble opinion at this point we have too many regulations to much government involvement and control. This is not business friendly policy. Small business performs best when there is less regulation and if regulations are simple and business friendly. Small business is bread and butter of this country and economy. Too many restrictions are destroying middle class and small businesses in this country. When big corporations are gaining more and more control. This is very unhealthy for our country. This needs to be stopped immediately. The middle class is the most important part of well performing economy. All those restrictions and regulations are direct attack on a middle class and their small business. Without middle class and small business owners there is no healthy economy and free country. There will be only big corporations and government control.

Current government control is causing USA economy to collapse and is making USA a third world country. We need to STOP this and the best place to STOP this is on a local level. I am asking all of you to oppose those bills which are not business friendly do more harm than good.

HB 1291- AGAINST
HB 549 - FOR
HB 1408 - AGAINST
HB 1642 - AGAINST
SB 217 - AGAINST
HB 1107- AGAINST

HB1408 Testimony

HB 1133 -AGAINST

HB 1216-AGAINST

HB 1200 - AGAINST

HB 1402 AGAINST

HB 160 - AGAINST

SB 269 - FOR

HB 550 - AGAINST

Kind regards,

Jay Bielecki

Archived: Wednesday, March 16, 2022 10:39:01 AM

From: [Andres Borden](#)

Sent: Wednesday, January 19, 2022 11:53:06 AM

To: [~House Judiciary Committee](#)

Subject: HB 1291 and HB1408

Importance: Normal

Dear members,

As a property manager in the State of NH, I am opposed to these two bills . HB 1292 and HB 1408

The fee for an application goes to the "credit check" companies who check credit scores and criminal & sexual offenders records. This is imperative for the safety of future neighbors, and a tool used to help us make better decisions. We cannot get this money back.

Section 8 is a great recourse for many residents, but I believe all potential applicants should be judged on multiple components.

Thank you,

Andres Borden

Property Manager/Leasing Agent

Arthur Thomas Properties

Office 603.413.6175

Direct 603.617.4072

Archived: Wednesday, March 16, 2022 10:39:02 AM
From: [Ken Wolfe](#)
Sent: Wednesday, January 19, 2022 11:10:02 AM
To: [~House Judiciary Committee](#)
Subject: HB 1291 and HB 1408
Importance: Normal

As a licensed Rental Agent and Property Manager in New Hampshire, I am opposed HB 1291 and HB 1408.

Thank you,
Ken Wolfe Rental Agent/Property Manager
Arthur Thomas Properties LLC
10 Durham Rd. Dover, NH 03820
603-413-6175

Sent on [Mail](#) for Windows

Archived: Wednesday, March 16, 2022 10:38:58 AM
From: [Kit Lord](#)
Sent: Wednesday, January 19, 2022 2:05:55 PM
To: [~House Judiciary Committee](#)
Subject: Vote NO on HB1408 on application fee refunds
Importance: Normal

Dear Representatives,

I am asking you to kill HB 1408 - requiring the refund of residential tenancy application fees.

Lines 10-11 are outrageous, my business working time would be required to be done for free.

My time spent calling landlord references or confirming employment, and my costs for office heating and lighting and insuring overhead, is ALWAYS significant and very time consuming, I need to recover these costs.

Lines 24-25 is absurdly heavy-handed.

Failure to adhere to this bill's timeline subjects any landlord to penalties of the consumer protection statute, which includes up to \$3,000 in damages and the paying of attorney fees.

The bill, if passed, could easily hurt the marginal applicant. I have personally rented to some people who have shaky credit reports but because I spent the time talking to their references, I gave them a chance at a really good home.

Since landlords won't be reimbursed for their time then to save time, landlords could immediately pull credit & tenant reports. The landlord would immediately deny an application the person who's credit is not great, rather than spend uncompensated time checking landlord and employment references. It's easier just to go to the next application or relist the apartment.

This bill does not understand that prospects agree up front to an application fee, and that the purpose of an application fee is to cover the costs of performing the background check and processing and is nonrefundable.

Sincerely,
Kit Lord

Archived: Wednesday, March 16, 2022 10:38:59 AM
From: Lisa R Nicholson
Sent: Wednesday, January 19, 2022 12:56:09 PM
To: ~House Judiciary Committee
Cc: Lisa Nicholson
Subject: Against HB 1291 and HB 1408
Importance: Normal

Hello,

I am writing to voice my opposition to both HB 1291 and HB 1408.

I am opposed to HB 1291. Landlords and property owners should be able to maintain consistency with their screening criteria across the board. With minimum requirements for credit, income and rental history for every applicant, a landlord can use the necessary tools to ensure a minimum standard of applicants. As I understand it, HB 1291 seeks to make it discriminatory to choose not to accept a housing voucher as a source of income. It is also my understanding that landlords and property owners would also not be able to apply the same criteria for screening that *every other applicant* must adhere to. This seems completely counter-intuitive on a basic level. Even if a housing voucher can be used as a source of income, all other criteria should still need to be met.

Also, in order to accept a housing voucher, it involves a third-party lease contract with an entity other than the property owner. Again, this inherently seems counterintuitive to the rights of a property owner. It should be a choice to accept a voucher and the regulations which go along with it.

I am also opposed to HB 1408, the mandatory refund of application fees if an applicant is denied. As a landlord, our minimum requirements are spelled out very clearly in several different places, up to and including the top of an application before someone decides to complete it. If they don't meet those requirements, and knowingly submit an application, they shouldn't be returned those funds. Also, to disallow the labor cost/time cost involved in running them is a detriment to a company who has to pay someone to run those reports, along with the base cost of them.

I am strongly opposed to both bills and hope there will be some in depth discussion about the inherent flaws in both bills. Please consider voting against these bills.

Respectfully,

Lisa Nicholson

Lisa R. Nicholson
Leasing and Marketing Manager
Principal Broker
Licensed in NH
Cheney Realty, LLC
76 Exeter Rd
Newmarket, NH 03857
P – (603) 659-2303 ext. 20
F – (888) 909-6797
www.cheneyco.com
Business of the Year winner 2017, Newmarket Business Association



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Nothing in any email communications sent between the parties or their agents shall be deemed to create a binding contract to purchase, sell or lease real estate. A contract shall not exist until a purchase and sale or lease agreement is signed by all parties.

Thank you!

01/20/2022 at 10:30 a.m. HB1408, Application Fees Refund
Nick Norman
Legislative Initiative Landlord Tenant Law
AANH Government Affairs Chair
NickNorman@yahoo.com
603-432-5549

HB1408

Please vote Inexpedient To Legislate.

Summary: This bill would require all residential landlords who are owners of restricted property to refund all but the landlord's actual out of pocket costs for specific services such as credit reports or criminal background checks, to people who's application has been denied. The landlord is not permitted to charge for the landlord's or his or her employee's time or office overhead.

Failure to notify the tenant in writing within 15 days of the submission of the application of the denial and refund the tenant subjects the landlord to penalties of the consumer protection statute, which includes up to \$3,000 in damages and the paying of attorney fees.

The purpose of application fees is to offset actual costs, time & effort incurred by the landlord in processing the application. Although the bill would allow landlords to retain the actual out of pocket costs incurred for credit reports or criminal background checks, it does not allow for other real costs, time spent calling landlord references or confirming employment, or for office overhead. These expenses are real. can be significant. very time consuming and the landlord needs to recover these costs.

Many applicants falsify their rental application particularly with false landlord references which takes time for the person processing the application to prove. Also, tenants frequently say they have no eviction history when in fact they do. The bill is essentially saying, the applicants that lie should have their application fees returned after wasting hours of the landlord's time and effort.

If a prospective tenant doesn't want to loose application costs then they can carefully review their situation with the landlord before they even apply, including showing the landlord their credit report before applying.

Besides all of the above the actual costs of processing the application is nearly the same or even less than the costs paid by the landlord. So the tenant would be refunded very little or nothing.

The bill, if passed, could easily hurt the marginal applicant. Since landlords won't be reimbursed for their time then to save time, landlords could immediately pull credit & tenant reports. The landlord would immediately deny an application with a person who's credit is not great, rather than spend uncompensated time checking landlord and employment references. It's easier just to go to the next application or relist the apartment.

If the landlord is not going to be reimbursed for time and effort then why not just hire services that process the entire application and increase the application cost?

What if the landlord uses a management company. The management company is an independent contractor not an employee, can their time be charged against the denied applicants fee?

The penalties are unreasonable in light of the harm to the applicant.

Again the issue is a housing shortage in New Hampshire and other areas of our country. The extent of the number of people who have applied for and paid multiple application fees in order to obtain an apartment is not known. This bill maybe for a few people, who most likely have bad credit or landlord history. A bill should not be passed to help those few people.

Those people can also help themselves by asking when they are about to apply what are the landlord's requirements to have the application approved. If they do not meet those requirements, they should simply not apply and not pay the application fee.

This bill does not understand that prospects agree up front to an application fee, and that the purpose of an application fee is to cover the costs of performing the background check and processing and is nonrefundable.

This is not a reasonable bill, people freely enter into these application fee agreements and understand that they are not refundable.

If the bill passes and landlords are not reimbursed for their time it will lead landlords to be more choosy in who they accept applications on from the start and will limit the renters options for housing.

Only a small portion of applications get denied, usually because they were dishonest on the application.

This is another example of government intervention where it is not needed.

Please vote Inexpedient To Legislate.

Testimony for HB 1408

Chairman Gordon and members of the Judiciary Committee,

As a landlord in New Hampshire, and elsewhere, I have had to process applications with demonstrably false or, more often, unverifiable information. I have never charged an application fee, but I hope landlords continue to have the ability to do so because these false applications can take up a lot of our time.

If you pass HB1408 we will get a lot more false applications. Falsifying a rental application would only have an upside for the applicant: a possible lucrative penalty against the landlord if mail delivery carrying the refund is slow.

I favor having the landlord advocates and Attorney Barry suggest a compromise.

Attorney Barry said, "No one is policing" unscrupulous landlords who take advantage of the housing crunch to collect an unreasonable number of application fees. This is profiteering at the expense of the public. Perhaps you could enable the Attorney General to investigate these landlords.

Sincerely,

William Peirce, New Hampshire landlord
53 Rogers Road
Kittery ME 03904

Archived: Wednesday, March 16, 2022 10:39:06 AM

From: Paul Stewart

Sent: Monday, January 17, 2022 9:53:13 AM

To: Ned Gordon

Cc: ~House Judiciary Committee

Subject: HB 1408

Importance: Normal

Dear Chairman Gordon,

My name is Paul Stewart, and I am President of Stewart Property Management, located in Bedford, NH. Our company manages 2500 affordable housing units throughout the state.

As a matter of policy, our company has never charged application fees, for the simple reason that-the past two years of exceptional demand for housing notwithstanding- we have not wanted to give potential applicants any disincentive to apply for our apartments.

It has been our view that the easier we make applying for housing the more applicants that we'll receive. It is likely that the current phenomenon of an undersupply of housing removes the disincentive, but we see no basis, other than creating another profit center, for keeping application fees beyond the out of pocket costs.

Paul Stewart

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Archived: Wednesday, March 16, 2022 10:39:05 AM

From: Colette NH

Sent: Monday, January 17, 2022 11:17:26 AM

To: ~House Judiciary Committee

Subject: Several Bills- Please vote against.

Importance: Normal

Good morning,

This session your committee will be discussing and voting on several bills that will tie the hands of landlords who are trying to provide good, fair and safe housing. Please do not support the following bills:

- HB 1042 Health Advisories to Vacation Home Renters. This bill would require the landlord/home owner to notify any renters of the presence of fecal bacteria or cyanobacteria in bodies of water. Often times these types of contaminations occur overnight. It is unrealistic for anyone to know of the presence of these contaminants on a daily basis. It only open the door for unnecessary litigation.
- HB 1200 45 Day notice of rent increase. It is difficult enough for landlords to try to pay the current bills. Our cost of real estate taxes, heat, electricity and especially labor are going up astronomically. We need to be able to pay our bills and delaying rent increases will dramatically effect this. As a landlord if I have to wait 45 days for rent increases my only option would be to make rent increase larger due to the increase waiting time.
- HB 1133 Prohibiting Termination of Lease on Sale. This is already in current law.
- SB 217 90 day Eviction Notice for Repairs or Renovations. - Most often if a unit needs repairs or renovations waiting 90 days will likely place the unit in an inhabitable position. This in and of itself is not in the best interest of tenants.
- HB 1408 Application Fees Refund – It takes a lot of time and effort to process an application. Refunding this every time a tenant is not chosen to rent a particular unit will again raise the costs to landlords who will necessarily need to raise rents.
- HB 1291 Section 8 Becoming a Protected Class This is insane. I believe your objective is to increase rental units not decrease them. Passing this would have the would take housing units off the market.

In summary, your vote to make it harder to be a landlord will only serve to decrease the number of rental units. Landlords are not bad people needing to be punished for the service we provide. We are small business owners trying to provide as affordable housing as possible and make a reasonable living for our families.

Thank you for your consideration and service.

Sincerely

Sincerely

Colette Worsman

62 Black Brook Road

Meredith, NH 03253

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HB 1408 - AS INTRODUCED

2022 SESSION

22-2733

11/04

HOUSE BILL **1408**

AN ACT requiring the refund of residential tenancy application fees.

SPONSORS: Rep. Klein-Knight, Hills. 11; Rep. Grassie, Straf. 11; Rep. Adjutant, Graf. 17; Rep. Vail, Hills. 30; Rep. Bouchard, Hills. 11; Rep. Vann, Hills. 24; Rep. Wazir, Merr. 17

COMMITTEE: Judiciary

ANALYSIS

This bill requires the refund of residential tenancy application fees when an applicant does not become a party to a signed rental agreement.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT requiring the refund of residential tenancy application fees.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Subdivision; Application Fees. Amend RSA 540-A by inserting after section 8 the
2 following new subdivision:

3 Application Fees

4 540-A:9 Definitions. As used in this subdivision, and unless context otherwise requires:

5 I. "Application fee" means the total amount an applicant for tenancy is required to pay a
6 landlord in order to be considered for renting residential premises.

7 II. "Cost" means the out-of-pocket expense to a landlord for a specific service incurred in
8 connection with consideration of an application performed prior to approval or disapproval of an
9 application for tenancy, including but not limited to a credit check, or a criminal records check.
10 "Cost" shall not include time and effort that a landlord, or any employee or agent of a landlord,
11 spends processing the application.

12 III. "Landlord" means the owner of "restricted property" as defined in RSA 540-A:1-a, II, and
13 any employee or agent thereof.

14 540-A:10 Application Fees; Refund; Deduction of Costs.

15 I. Within 15 days of the submission of an application for tenancy by a prospective tenant, a
16 landlord that requires an application fee shall:

17 (a) Inform the applicant in writing, mailed to the applicant's address as indicated on the
18 application for tenancy, that his or her application has been denied.

19 (b) Refund the application fee within 15 days of the date on which the applicant is
20 informed of the denial, provided that any cost as defined in RSA 540-A:9, II may be deducted from
21 the refund.

22 (c) Include with the refund or, if after deduction there is no refund, mail separately an
23 itemized statement of each cost that is deducted from the refund.

24 540-A:11 Remedy. Any landlord who violates the provisions of this subdivision shall be subject
25 to civil remedies pursuant to RSA 358-A:10, including costs and reasonable attorney's fees.

26 2 Effective Date. This act shall take effect 60 days after its passage.