

1 SENATE BILL 267

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO HOUSING; REQUIRING OWNERS TO PROVIDE NOTICE TO
12 DWELLING UNIT APPLICANTS OF FEES RELATED TO APPLICANT
13 SCREENING; REQUIRING OWNERS TO RETURN AN APPLICANT SCREENING
14 FEE IN CERTAIN CIRCUMSTANCES; REQUIRING OWNERS TO PROVIDE
15 NOTICE OF FEE INCREASES; EXTENDING THE NOTICE PERIOD FOR RENT
16 INCREASES; REDUCING THE LIMIT ON LATE FEES; EXPANDING PRIVATE
17 REMEDIES; PRESCRIBING CIVIL PENALTIES.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 SECTION 1. Section 47-8-3 NMSA 1978 (being Laws 1975,
21 Chapter 38, Section 3, as amended) is amended to read:

22 "47-8-3. DEFINITIONS.--As used in the Uniform Owner-
23 Resident Relations Act:

24 A. "abandonment" means absence of the resident from
25 the dwelling, without notice to the owner, in excess of seven

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1 continuous days; providing such absence occurs only after rent
2 for the dwelling unit is delinquent;

3 B. "action" includes recoupment, counterclaim, set-
4 off, suit in equity and any other proceeding in which rights
5 are determined, including an action for possession;

6 C. "amenity" means a facility appurtenance or area
7 supplied by the owner and the absence of which would not
8 materially affect the health and safety of the resident or the
9 habitability of the dwelling unit;

10 D. "applicant" means a person who makes a request
11 to rent a dwelling unit to the owner and who agrees to act as a
12 guarantor or cosigner on a rental agreement;

13 [~~D-~~] E. "codes" includes building codes, housing
14 codes, health and safety codes, sanitation codes and any law,
15 ordinance or governmental regulation concerning fitness for
16 habitation or the construction, maintenance, operation,
17 occupancy or use of a dwelling unit;

18 [~~E-~~] F. "deposit" means an amount of currency or
19 instrument delivered to the owner by the resident as a pledge
20 to abide by terms and conditions of the rental agreement;

21 [~~F-~~] G. "dwelling unit" means a structure, mobile
22 home or the part of a structure, including a hotel or motel,
23 that is used as a home, residence or sleeping place by one
24 person who maintains a household or by two or more persons who
25 maintain a common household and includes a parcel of land

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1 leased by its owner for use as a site for the parking of a
2 mobile home;

3 ~~[G.]~~ H. "eviction" means any action initiated by
4 the owner to regain possession of a dwelling unit and use of
5 the premises ~~[under]~~ pursuant to the terms of the Uniform
6 Owner-Resident Relations Act;

7 ~~[H.]~~ I. "fair rental value" is that value that is
8 comparable to the value established in the market place;

9 ~~[I.]~~ J. "good faith" means honesty in fact in the
10 conduct of the transaction concerned as evidenced by all
11 surrounding circumstances;

12 ~~[J.]~~ K. "normal wear and tear" means deterioration
13 that occurs based upon the use for which the rental unit is
14 intended, without negligence, carelessness, accident, abuse or
15 intentional damage of the premises, equipment or chattels of
16 the owner by the residents or by any other person in the
17 dwelling unit or on the premises with the resident's consent;
18 however, uncleanliness does not constitute normal wear and
19 tear;

20 ~~[K.]~~ L. "organization" includes a corporation,
21 government, governmental subdivision or agency thereof,
22 business trust, estate, trust, partnership or association, two
23 or more persons having a joint or common interest or any other
24 legal or commercial entity;

25 ~~[L.]~~ M. "owner" means one or more persons, jointly

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1 or severally, in whom is vested:

2 (1) all or part of the legal title to
3 property, but shall not include the limited partner in an
4 association regulated [~~under~~] pursuant to the Uniform Limited
5 Partnership Act; or

6 (2) all or part of the beneficial ownership
7 and a right to present use and enjoyment of the premises and
8 agents thereof and includes a mortgagee in possession and the
9 lessors, but shall not include a person or persons, jointly or
10 severally, who as owner leases the entire premises to a lessee
11 of vacant land for apartment use;

12 [~~M-~~] N. "person" includes an individual,
13 corporation, entity or organization;

14 [~~N-~~] O. "premises" means facilities, facilities and
15 appurtenances, areas and other facilities held out for use of
16 the resident or whose use is promised to the resident
17 coincidental with occupancy of a dwelling unit;

18 [~~Ø-~~] P. "rent" means payments in currency or in-
19 kind [~~under~~] pursuant to terms and conditions of the rental
20 agreement for use of a dwelling unit or premises, to be made to
21 the owner by the resident, [~~but~~] and does not include deposits,
22 fees or utilities;

23 [~~P-~~] Q. "rental agreement" means all agreements
24 between an owner and resident and valid rules and regulations
25 adopted under Section 47-8-23 NMSA 1978 embodying the terms and

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1 conditions concerning the use and occupancy of a dwelling unit
2 or premises;

3 [Q-] R. "resident" means a person entitled [~~under~~]
4 pursuant to a rental agreement to occupy a dwelling unit in
5 peaceful possession to the exclusion of others and includes the
6 owner of a mobile home renting premises, other than a lot or
7 parcel in a mobile home park, for use as a site for the
8 location of the mobile home;

9 [R-] S. "roomer" means a person occupying a
10 dwelling unit that lacks a major bathroom or kitchen facility
11 in a structure where one or more major facilities are used in
12 common by occupants of the dwelling units. As referred to in
13 this subsection, "major facility", in the case of a bathroom,
14 means toilet and either a bath or shower and, in the case of a
15 kitchen, means refrigerator, stove or sink;

16 T. "screening fee" means a one-time charge that is
17 charged to an applicant by an owner to recoup the owner's cost
18 of purchasing a consumer credit report or reference check or
19 the assistance of a screening service to validate, review or
20 otherwise process an application for renting a dwelling unit;

21 [S-] U. "single family residence" means a structure
22 maintained and used as a single dwelling unit. Notwithstanding
23 that a dwelling unit shares one or more walls with another
24 dwelling unit, it is a single family residence if it has direct
25 access to a street or thoroughfare and shares neither heating

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1 facilities, hot water equipment nor any other essential
2 facility or service with any other dwelling unit;

3 ~~[F.]~~ V. "substantial violation" means a violation
4 of the rental agreement or rules and regulations by the
5 resident or occurring with the resident's consent that occurs
6 in the dwelling unit, on the premises or within three hundred
7 feet of the premises and that includes the following conduct,
8 which shall be the sole grounds for a substantial violation:

9 (1) possession, use, sale, distribution or
10 manufacture of a controlled substance, excluding misdemeanor
11 possession and use;

12 (2) unlawful use of a deadly weapon;

13 (3) unlawful action causing serious physical
14 harm to another person;

15 (4) sexual assault or sexual molestation of
16 another person;

17 (5) entry into the dwelling unit or vehicle of
18 another person without that person's permission and with intent
19 to commit theft or assault;

20 (6) theft or attempted theft of the property
21 of another person by use or threatened use of force; or

22 (7) intentional or reckless damage to property
23 in excess of one thousand dollars (\$1,000);

24 ~~[U.]~~ W. "term" is the period of occupancy specified
25 in the rental agreement; and

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1 [V-] X. "transient occupancy" means occupancy of a
2 dwelling unit for which rent is paid on less than a weekly
3 basis or where the resident has not manifested an intent to
4 make the dwelling unit a residence or household."

5 SECTION 2. A new section of the Uniform Owner-Resident
6 Relations Act is enacted to read:

7 "[NEW MATERIAL] OWNER DISCLOSURE TO APPLICANTS.--An owner
8 shall disclose to applicants all terms of a rental agreement in
9 a published listing of the dwelling unit, including the base
10 rent that will be assessed and a description of all fees or
11 charges that will be assessed during the residency, which shall
12 be itemized and readily identifiable in the listing."

13 SECTION 3. A new section of the Uniform Owner-Resident
14 Relations Act is enacted to read:

15 "[NEW MATERIAL] DWELLING UNIT APPLICANT SCREENING FEE--
16 PROHIBITED FEES.--

17 A. An owner may charge an applicant a screening fee
18 that shall not exceed fifty dollars (\$50.00) to cover the cost
19 of obtaining information about the applicant, including the
20 cost of a consumer credit report, a reference check or a
21 screening service; provided that the owner:

22 (1) provides the applicant with written notice
23 of the screening fee and the applicant agrees in writing to pay
24 the screening fee;

25 (2) shall not charge the applicant a screening

1 fee when the owner knows or should know that a dwelling unit is
2 not available for rent at that time or will not be available at
3 the beginning of the residency;

4 (3) provides the applicant with a written
5 receipt for the screening fee paid by the applicant;

6 (4) shall not use, cash or deposit an
7 applicant's screening fee until all prior applicants have
8 either been screened and rejected or offered the dwelling unit
9 and declined to enter into a rental agreement; and

10 (5) aside from a screening fee, shall not
11 charge other fees to process an application.

12 B. An owner shall return the screening fee to an
13 applicant if:

14 (1) a prior applicant is offered the dwelling
15 unit and agrees to enter into a rental agreement; or

16 (2) the owner does not:
17 (a) obtain a consumer credit report;
18 (b) perform a reference check; or
19 (c) use a screening service to obtain
20 information about the applicant.

21 C. A screening fee that is returned as provided in
22 Subsection B of this section shall be:

23 (1) returned by mail;
24 (2) destroyed upon the applicant's request if
25 paid by check; or

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1 (3) made available for the applicant to
2 retrieve.

3 D. An owner shall not assess a fee for:

4 (1) processing, reviewing or accepting rental
5 applications; or

6 (2) move-in prior to the start of a residency
7 that is not a security deposit or screening fee."

8 SECTION 4. A new section of the Uniform Owner-Resident
9 Relations Act is enacted to read:

10 "[NEW MATERIAL] BACKGROUND CHECKS.--

11 A. An owner may require a background check of an
12 applicant before entering a rental agreement; provided that a
13 resident may provide the resident's own background check or
14 credit report to an owner if the reports were obtained ninety
15 days prior to the application. An owner shall provide the
16 resident with a copy of any reports used to screen the
17 applicant.

18 B. An owner shall not charge an applicant for
19 reports for applicant screening if the applicant can provide
20 the reports. An owner that charges for reports for applicant
21 screening shall provide copies of all reports to the applicant.
22 The screening fee shall be refunded if the application is not
23 processed."

24 SECTION 5. A new section of the Uniform Owner-Resident
25 Relations Act is enacted to read:

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1 "[NEW MATERIAL] NOTICE OF FEE CHANGES REQUIRED.--An owner
2 may increase a fee that is provided pursuant to the terms of a
3 rental agreement by providing written notice at least sixty
4 days prior to the periodic rental date specified in the rental
5 agreement or at least sixty days prior to the end of the term
6 of a fixed term residency. In the case of a periodic residency
7 of less than one month, written notice shall be provided at
8 least one rental period in advance of the first fee payment to
9 be increased."

10 **SECTION 6.** Section 47-8-15 NMSA 1978 (being Laws 1975,
11 Chapter 38, Section 15, as amended) is amended to read:

12 "47-8-15. PAYMENT OF RENT.--

13 A. The resident shall pay rent in accordance with
14 the rental agreement. In the absence of an agreement, the
15 resident shall pay as rent the fair rental value for the use of
16 the premises and occupancy of the dwelling unit.

17 B. Rent is payable without demand or notice at the
18 time and place agreed upon by the parties. Unless otherwise
19 agreed, rent is payable at the dwelling unit. Unless otherwise
20 agreed, periodic rent is payable at the beginning of any term
21 of one month or less and otherwise in equal monthly
22 installments at the beginning of each monthly period. The date
23 of one month to the same date of the following month shall
24 constitute a term of one month.

25 C. Unless the rental agreement fixes a definite

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1 term, the residency is week-to-week in the case of a person who
2 pays weekly rent and in all other cases month-to-month.

3 D. If the rental agreement provides for the
4 charging of a late fee and if the resident does not pay rent in
5 accordance with the rental agreement, the owner may charge the
6 resident a late fee in an amount not to exceed [~~ten~~] five
7 percent of the [~~total rent payment~~] rent for each rental period
8 that the resident is in default. Late fees shall be calculated
9 only based on rent. To assess a late fee, the owner shall
10 provide notice of the late fee charged no later than the last
11 day of the next rental period immediately following the period
12 in which the default occurred.

13 E. An owner may not assess a fee from the resident
14 for occupancy of the dwelling unit by a reasonable number of
15 guests for a reasonable length of time. This shall not
16 preclude charges for use of premises or facilities other than
17 the dwelling unit by guests.

18 F. An owner may increase the rent payable by the
19 resident in a month-to-month residency by providing written
20 notice to the resident of the proposed increase at least thirty
21 days prior to the periodic rental date specified in the rental
22 agreement or, in the case of a fixed term residency, at least
23 thirty days prior to the end of the term. In the case of a
24 periodic residency of less than one month, written notice shall
25 be provided at least one rental period in advance of the first

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1 rental payment to be increased.

2 G. Unless agreed upon in writing by the owner and
3 the resident, a resident's payment of rent may not be allocated
4 to any deposits or damages."

5 SECTION 7. Section 47-8-48 NMSA 1978 (being Laws 1975,
6 Chapter 38, Section 48, as amended) is amended to read:

7 "47-8-48. PREVAILING PARTY RIGHTS IN ~~[LAW SUIT]~~
8 LAWSUIT--[CIVIL PENALTIES] PRIVATE ENFORCEMENT.--

9 A. If suit is brought by an applicant or any party
10 to the rental agreement to enforce the terms and conditions of
11 the rental agreement or to enforce any provisions of the
12 Uniform Owner-Resident Relations Act, the prevailing party
13 shall be entitled to reasonable attorneys' fees and court costs
14 to be assessed by the court.

15 B. An owner who charges an unauthorized screening
16 fee shall be liable for two hundred fifty dollars (\$250) and
17 shall return all fees paid by the applicant.

18 ~~[B. Any]~~ C. An owner who violates a provision of
19 Section 47-8-36 or 47-8-39 NMSA 1978 shall be ~~[subject to a~~
20 ~~civil penalty equal to]~~ liable for two times the amount of the
21 monthly rent.

22 ~~[G. Any]~~ D. A resident who intentionally violates
23 a provision of Subsection F of Section 47-8-22 NMSA 1978 shall
24 be ~~[subject to a civil penalty equal to]~~ liable for two times
25 the amount of the monthly rent."

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1 SECTION 8. A new section of the Uniform Owner-Resident
2 Relations Act is enacted to read:

3 "[NEW MATERIAL] CIVIL PENALTIES--ENFORCEMENT.--

4 A. It is an unfair or deceptive trade practice
5 pursuant to the Unfair Practices Act for an owner to charge a
6 fee from an applicant that is not a screening fee or deposit or
7 that was not published in a listing for rental of a dwelling
8 unit in violation of the Uniform Owner-Resident Relations Act.
9 The attorney general may bring an action pursuant to the Unfair
10 Practices Act against an owner regarding this practice.

11 B. It is an unfair or deceptive trade practice
12 pursuant to the Unfair Practices Act for an owner to charge
13 rent or fees that are not included in the rental agreement in
14 violation of the Uniform Owner-Resident Relations Act. The
15 attorney general may bring an action pursuant to the Unfair
16 Practices Act against an owner regarding this practice."