

The Seven C's of Tenant Screening

Consumer reports. Information on a prospective tenant usually compiled by a third-party company. These reports may contain information on credit history, credit scores, rental history, criminal history, and character of the tenant prospect. Allowed subject to limitations below.

Consumer consent. A landlord must obtain the prospects consent before ordering a consumer report. Paragraph 9 of the Application to Rent/Screening Fee (C.A.R. Form LRA) provides: Applicant ... authorizes Landlord or Manager or Agent to ... (ii) obtain a credit report on applicant; and (iii) obtain an "Investigative Consumer Report" ... on or about the applicant.

Criminal history. A blanket ban on renting to persons with a criminal record is unlawful discrimination because it is deemed to have disparate impact on persons of color and race. However, specific rental-related criminal information may justify a refusal to rent if it pertains to the safety of other residents, employees or the property AND is close enough in time to be considered relevant. 7 years is generally the outside time for criminal matters to be considered but shorter periods may be applicable depending on the circumstances. Note that arrest records without criminal conviction should not be considered. Criminal record information should not be considered before applying other allowing screening criteria to a tenant prospect.

Compliance with notice requirements. If an applicant is denied because of information in the consumer report, even if not the sole reason, a specific notice must be delivered to the applicant specifying the reason for the denial, the applicant's right to contact the reporting agency. The Denial of Rental Application for Credit or Other Reasons (C.A.R. Form DRA) may be used for this purpose.

Credit scores. If a landlord has a minimum credit score requirement, it needs to be equally applied to all applicants. If, because of a credit score, an applicant receives some adverse actions (such as the denial of housing or results in different criteria being demanded such as higher rent, co-signers or greater security deposit), then the notice give (C.A.R. Form DRA) must also address: The credit score; the range of credit scores, key factors that adversely affected the applicant's credit score; the date the score was created and the contact information for the person or entity providing the score.

Consequences. Failure to give the required notification of adverse action can result in the applicant being award up to \$1,000 for each violation plus punitive damages plus legal costs and attorney fees under federal law if the failure is intentional, and, under California law, up to \$5,000 per intentional violation plus any other relief a court deems appropriate.

CCOVID period delinquencies. A housing provider, tenant screening company, or other entity that evaluates tenants on behalf of a housing provider shall not use an alleged COVID-19 rental debt, as a negative factor for the purpose of evaluating a prospective housing application or as the basis for refusing to rent a dwelling unit to an otherwise qualified prospective tenant.