Unlocking Our Housing Futures: Tenant Screening and Fair Housing

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Welcome!
Agenda:

- Overview of tenant screening and fair housing issues
- Top issues in tenant screening
- Introduction to the CFPB/FTC RFI & How to comment
- Q & A
Overview:
Tenant Screening and Fair Housing
What is tenant screening? How is it used?

- **Tenant Screening**: The background checks that landlords use during the housing application process
  - Typically includes: financial, criminal, and rental history
  - *Any* blemish from the past has lasting effects on someone's accessibility to dignified, affordable housing

- Unknown screening criteria, time for approval/denial or disputes = increased challenges accessing housing for tenants
What is tenant screening?

● How does tenant screening happen?
  ○ Third-party tenant screening companies*
  ○ Open-access repositories of an individual’s information*
    *Substantial Inaccuracies

● Regulations from Fair Credit Reporting Act (FCRA)

IMPORTANT NOTE: Research has shown that these processes are ineffective at predicting successful tenancy. (Malone 2015, Warren 2019)
Tenant Screening Issues are Fair Housing Issues

**Who** experiences challenges to accessing housing?

- **Financial History:** People of color often have lower credit scores than their white counterparts
- **Criminal History:** Disparate incarceration rates for Black and Latinx men and women
  - 1 in 4 American adults have a criminal record
- **Eviction Records:** Avg. 3.6 million people, disproportionately Black and Latinx women experience an eviction filing, every year.
  - 2016: 1 in 17 renters faced an eviction filing
- Discriminatory experiences in the background check process
Impacts of discriminatory tenant screening

On someone’s housing search process:
- Cumulation of burdensome rental application fees (already expensive enough)
- Compromise valuable time

On someone’s long-term housing outcomes:
- Forced into unaffordable housing
- Forced into substandard housing
- Forced into homelessness
- Forced into deeper cycles of poverty
Learn more about tenant screening and the various policies being implemented across the country!

https://bit.ly/about evictionrecords

Eviction Record Sealing, Expungement, and Tenant Screening Policies are Gaining Traction
Status of state and local Eviction Record Sealing, Expungement, and Tenant Screening Policies (as of March 2023)

- Implemented
- Policy Repealed
- Previously Considered
- Currently Under Consideration

Source: PolicyLink Database of Eviction Record Sealing, Expungement, and Tenant Screening Regulations, U.S. Census Bureau
Top Issues in Tenant Screening
Top Issues in Tenant Screening: Tenant Screening Technologies

Matching

How Wild-Card Searches Include the Wrong People

The asterisk represents any number of additional characters.

Jones, Ant*

Jones, Anthony
Jones, Antony
Jones, Antonio
Jones, Antoinette

Wild-card searches catch nicknames and misspellings of people’s names, but can also pull in other people entirely.
Top Issues in Tenant Screening: Tenant Screening Technologies

Scores

MyRental
Top Issues in Tenant Screening: Tenant Screening Technologies

Accept/Reject Recommendations

### Applicant Information
- **Name:** Jonathan Quincy
- **SSN:** ***.**.9990
- **Address:** 10655 N Birch St, Burbank, CA 91502
- **DOB:** 10-Jan-1951
- **Income:** $4,500.00
- **Rent:** $1,400.00
- **Months at Residence:** 24
- **Months at Employment:** 21

### Analysis Results
- **Rent to Income:** Meets criteria
- **Eviction Filing:** Applicant does not meet eviction criteria
- **Score:** Reject Applicant
- **Applicant Score:** 55

### Decision Matrix
- **Rent to Income Multiple Exceeds Requirement:** Meets
- **Time at Residence Exceeds Requirement:** Meets
- **Time at Employment Exceeds Requirement:** Meets
- **Applicant Score:** 55

### Additional Notes
- **ID Check:** No
- **Substantial difference in Social Security Number found:** No
- **Substantial difference in Date of Birth found:** Yes
- **Additional Addresses:**
  - 1314 SOPHIA LN APT3, SANTA ANA CA 90017
  - Additional Names (aliases): see NTN Tenant Performance Profile
- **Alert Messages:**
  - Current Address – verify entered address with applicant
  - Fraud detected – see Additional Information in File below

### Public Records
- **Consequence:** Apartment Damage, Eviction Filing Required
- **Action:**
  - Consumer, Jonathan (1314 Sophia Ln)
  - Date of Filing: 08-May-2015
  - Disposition: Judgment for Plaintiff $1,000
Tenant Screening and Fair Housing

- Public Housing and Housing Choice Voucher Screening Issues
- Affirmatively Furthering Fair Housing and Tenant Screening
  - Screening out tenants in protected classes
Local/State Protections and Fair Housing

- Philadelphia, PA: Renters’ Access Act
- Washington, D.C.: Eviction Record Sealing Authority and Fairness in Renting Amendment Act of 2022
- State of California: AB 2819 which automatically seals an eviction record by restricting public access to the records at the point of filing for 60 days.
About the Tenant Screening Request for Information (RFI)
Tenant Screening RFI

The White House Blueprint for a Renters Bill of Rights

Prepared by the Domestic Policy Council and National Economic Council

January 2023
Tenant Screening RFI

FTC and CFPB Seek Public Comment on How Background Screening May Shut Renters out of Housing

Public urged to provide input on such issues as use of criminal and eviction records, algorithms in tenant screening process, and adverse impact on underserved communities
What do these agencies do?

The **Federal Trade Commission (FTC)** takes action against businesses when they engage in “unfair” or “deceptive” trade practices, including discriminatory practices. They also enforce the rules that require tenant screening companies to ensure accuracy in the reports they create. For example, they fined tenant screening company AppFolio because it was including criminal and eviction records in tenant screening reports without checking to make sure they were matched to the right person and didn’t contain errors.

The **Consumer Financial Protection Bureau (CFPB)** regulates background check companies, including tenant screening companies. For example, the CFPB has released guidance telling background check companies that “name-only matching” does not meet their legal obligations.
What information are they asking for?

- Information and experiences from all stakeholders, including tenants, landlords, tenant screening companies, and advocates;

- Information about how tenant screening works and how it impacts people’s access to housing, such as:
  - What information do tenants receive about how they will be screened, or about why they were rejected?
  - How do landlords use and evaluate information such as criminal and eviction records?
  - What are the discriminatory impacts of tenant screening?
What will they do with this information?

- **Sue/enforce against companies** and landlords that are engaging in unfair, deceptive, or discriminatory practices, such as rejecting applicants because of eviction filings or arrest records, or failing to tell applicants why they were rejected;

- **Publish guidance or rules** requiring tenant screening companies and landlords to take certain steps to protect tenants, such as excluding certain records (like sealed or dismissed eviction records) from tenant screening reports or telling tenants what criteria and information will be used to screen them;

- **Conduct follow-up studies and investigations** to get targeted information from tenant screening companies and landlords, such as how tenant screening companies design and test their scoring algorithms;

- **Share information with other enforcement agencies**, such as the Department of Housing and Urban Development (HUD) so that they can do more to enforce against housing discrimination in the tenant screening process.
How can you share your story?
Submitted out of housing?

Share your story and tell the government to protect dignified homes for all.

Too often, people trying to find affordable, dignified homes for themselves and their families are locked out of good places to live because of background checks, also known as “tenant screening.” But now we have a chance to tell the federal government about the problems people face when applying for housing. Tell your story to help hold landlords and background check companies accountable for the harms they cause, like charging too many fees, denying people housing because of past criminal or eviction records, denying people because of a credit check, or never telling people why they were denied. Tell your story using the form below by May 30.

Submit a comment at stoptenantscreening.org
ADDITIONAL RESOURCES:

- Submit your comment through the federal register ([https://www.regulations.gov/document/FTC-2023-0024-0002/comment](https://www.regulations.gov/document/FTC-2023-0024-0002/comment)) or at StopTenantScreening.org
- Learn more about tenant screening regulations and eviction record sealing policies: [https://plcylk.org/evictionrecordstool](https://plcylk.org/evictionrecordstool)
- Learn more about where these policies exist across the country: [https://plcylk.org/evictionrecordsmap](https://plcylk.org/evictionrecordsmap)
- Dig into the data on rental debt across the country: [https://nationalequityatlas.org/rent-debt](https://nationalequityatlas.org/rent-debt)
- Additional resources on tenant screening and fair housing for individuals with disabilities:
  - HUD Study Rental Housing Discrimination on the Basis of Mental Disabilities: Results of Pilot Testing: [https://www.huduser.gov/portal/publications/MentalDisabilities-FinalPaper.html](https://www.huduser.gov/portal/publications/MentalDisabilities-FinalPaper.html)
  - The Arc: [https://thearc.org/policy-advocacy/housing/](https://thearc.org/policy-advocacy/housing/)
  - “When a renter with disabilities is denied housing” by Eric Dunn [https://shelterforce.org/2019/06/10/when-a-renter-with-disabilities-is-denied-housing/](https://shelterforce.org/2019/06/10/when-a-renter-with-disabilities-is-denied-housing/)
  - Tenant Resource Center (WI): [https://www.tenantresourcecenter.org/renting_with_disabilities](https://www.tenantresourcecenter.org/renting_with_disabilities)