

# RISK INSIGHTS

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PROPERTY MANAGEMENT

## Compliance with the Fair Credit Reporting Act

Choosing a tenant to rent one of your properties is an important and difficult decision. Obtaining applicants' consumer reports can help you make an informed choice when accepting or denying housing applications. However, you need to take care when using this valuable resource. The Fair Credit Reporting Act (FCRA) regulates the use of consumer reports, in order to protect consumers. It is important that you comply with the FCRA to avoid costly penalties and lawsuits.

### Consumer Report

A consumer report contains information about an individual's personal and credit characteristics, character, general reputation and lifestyle. To be covered by the FCRA, a report must be prepared by a legitimate consumer reporting agency (CRA). Credit background, references, past employment, social security, work habits, education, drug testing, judgments and liens, sex offender lists, criminal backgrounds, driving records and military records are all consumer reports if they are obtained from a CRA. For your purposes, credit reports are probably the most important information, but you may find other types of reports helpful in your decision making.

When requesting a consumer report from a CRA, you are required to certify to that agency the purpose(s) for which you will use the report, and that it will not be used for any other purpose.

### Adverse Actions

When using a consumer report to make a decision about a rental application, you do not need to release the report to them. However, if the report prompts you to make an "adverse action" such as denying their application, then there are FCRA requirements you must meet.

If something in the individual's consumer report contributed to your decision to deny their housing application (even if that

was only part of what went into your decision), you must provide notice of the adverse action to the individual. Also, in oral, written or electronic form, you must provide the following:

- The name, address and phone number of the CRA that provided you with the report
- That the CRA involved did not make the decision to take the adverse action and that the agency cannot provide the consumer with any reasons why the decision was made
- That they have the right to obtain a free copy of their consumer report from the CRA that provided it to you
  - They have 60 days to obtain their report and to dispute the accuracy or completeness of any information in the report

**Consumer reports can help you make an informed decision about accepting potential tenants into your building, but be sure to follow FCRA regulations to avoid penalties or lawsuits.**

### Disposal Requirements

The Federal Trade Commission (FTC) requires that any company that utilizes consumer reports have a method in place for disposing of

those records in order to maintain customer privacy and reduce the risk of fraud or identity theft. Businesses can create their own disposal practices, but the FTC mandates that the policies be and appropriate to prevent any unauthorized access to information in a consumer report.

### Consequences for Noncompliance

There are legal consequences for companies who fail to follow the requirements laid out by the FCRA. The FCRA allows individuals to sue companies for damages in federal court. A person who successfully sues is entitled to recover court costs and reasonable legal fees. The law also allows individuals to seek punitive damages for deliberate violations. In addition, the FTC, other federal agencies and individual states may impose penalties on companies for willful noncompliance of these regulations.

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