

May 30, 2023

Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW
Suite CC-5610 (Annex B),
Washington, DC 20580.

RE: Tenant Screening, P235400


Submitted electronically via: www.regulations.gov

Greetings:

On behalf of the more than 1.5 million members of the National Association of REALTORS®, thank you for the opportunity to provide feedback to the Consumer Financial Protection Bureau (CFPB) and the Federal Trade Commission (FTC) on tenant screening practices in the field of rental housing. Approximately 40% of NAR's members own at least one rental housing unit, and our membership counts thousands of "mom-and-pop" housing providers among its numbers. For housing providers, the ability to screen tenants is paramount to maintaining a safe, stable housing environment - something that becomes all the more important in a multifamily housing building in which other residents' safety and enjoyment of their own living unit may be at stake.

Background checks, including criminal records, eviction history, and credit scores, serve important functions. They can provide insight into a potential renter's reliability and ability to pay their rent in full, on time. They let housing providers know if a person may be a danger to other residents or the property itself. When used correctly and in compliance with the law, these provide a snapshot of the type of resident an applicant may be and allow the housing providers to make an assessment that is free of bias. In a recent survey of NAR members, 84% of respondents reported that ahead of accepting a rental application, potential residents are informed of the screening criteria they will be judged on. These screening services are nearly all conducted via a third-party service which specializes in compiling such reports. In cases where that information is incorrect or incomplete, federal regulators should investigate those companies and their practices to determine where there are flaws in the system which may be negatively impacting renters.

NAR's members who are housing providers largely report that the most highly weighted information that may disqualify an applicant are violent crimes, property-related crimes (such as vandalism or arson), and evictions that have occurred in just the last five years. In addition, 67% report that they have procedures in place to allow a potential renter to explain an issue on their criminal or eviction record before denying their application, and the majority inform an applicant the reason they have been denied. The fees that they collect to run these background checks and get credit score information cover the expenses related to processing the applications and acquiring the credit score information, as well third-party fees and to pay staff for handling them.



While these background checks are an important aspect in trying to determine if an applicant may be a danger to the property or other residents, NAR's members are also highly aware of and educated on Fair Housing laws and practices. NAR opposes policies and practices that have a disproportionately adverse effect on a demographic group defined by race, color, religion, sex, disability, familial status, national origin, sexual orientation, or gender identity, unless such policies or practices are justified by a legitimate business necessity and there is no less-discriminatory alternative. NAR agrees with the Supreme Court's approach in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, which we believe strikes the proper balance between combatting discrimination and ensuring that real estate professionals and housing providers have appropriate latitude to make legitimate business decisions in the pursuit of nondiscriminatory objectives.

NAR has urged members to [review](#) HUD guidance on conducting criminal background checks in compliance with fair housing law. We have [emphasized](#) to members that they should:


- Create tailored criminal history-based policies/practices.
- Be sure to have clear, specific reasoning for the criminal history-based policy/practice that can be supported by evidence.
- Exclude individuals only based on criminal convictions that present a demonstrable risk to resident safety or property.
- Consider the nature and severity of an individual's conviction before excluding the individual based on the conviction.
- Consider the amount of time that has passed since the criminal conduct occurred.

In addition, NAR recognizes that traditional credit scores may not provide an accurate snapshot of the ability of a potential resident to pay their rent in full and on time. NAR supports and encourages REALTORS® who serve as property managers and housing providers to utilize alternatives to traditional credit scoring models when screening prospective tenants. Many tenants lack a detailed credit history that is sometimes needed to qualify as a renter, despite having the necessary income and otherwise strong financial records to indicate their ability to pay rent on time and in full.

NAR is committed to uplifting technologies and resources to advance consumers on their way to achieving homeownership. Through its wholly owned subsidiary, Second Century Ventures, NAR invests in technology companies innovating in and beyond the real estate ecosystem while reinforcing the REALTORS® essential role to consumers. To further this mission, NAR established REACH, a technology growth program for companies with high potential impact for consumers, real estate professionals, and the economy. Second Century Ventures and REACH frequently collaborate with corporate partners, like-minded investors, and academia (including AARP, CREtech, Blueprint, and Oxford University) to share best practices, elevate and accelerate the adoption of new solutions.

Through Second Century Ventures and REACH, NAR has invested in companies including Matrix Rental Solutions, which established a proprietary credit scoring alternative that creates better opportunities for tenants applying for housing. Additional tenant and landlord companies NAR is either invested or involved with include WYL, Stake, Leasera, Property Inspect, Single Key, Landis, Rental Beast, and FutureRent.


Resident screening is an essential risk-management tool for housing providers and property managers. NAR and its members are committed to providing safe, secure



housing for all Americans, and these practices are a critical element of doing so. We urge you recognize their value and to direct resources and attention to ensuring that the information included in these checks is accurate and unbiased, and to provide education to all parties involved on existing regulations as well as their rights and responsibilities while developing tools to clarify requirements and promote compliance.

Again, thank you for the opportunity to provide our insights into the importance of resident screening practices in creating safe and secure housing opportunities for America's renters. We look forward to continuing to work with you to clarify and improve these systems for renters and housing providers alike.

Sincerely,



Kenny Parcell
2023 President, National Association of REALTORS®