



INFORMATION REGARDING THE MODEL TENANT SELECTION CRITERIA FORM

Disclaimer concerning the Use of this Model Policy: This model tenant selection criteria form is a suggested format with suggested text that Texas REALTORS® may use as a guide to develop an office policy related to the selection of tenants. Texas REALTORS® does not represent or warrant that this model document addresses all items that should be addressed in a tenant selection criteria form or that compliance with this model document will eliminate any potential responsibility or liability by the company or its agents.

Summary of Applicable Law

When adopting tenant selection criteria one should consider the following statutes:

- (a) Section 92.3515 of the Property Code; and*
- (b) The Fair Credit Reporting Act, 15 U.S.C.A, Section 1681, Chapter 41.*

Texas Property Code Section 92.3515 requires you to make available to a residential tenancy applicant a copy of your printed tenant selection criteria and the grounds for which a rental application may be denied. While you do not have to provide a copy of the policy every time you receive an application, you are required to have a copy of your selection criteria available in the event an applicant requests it. Failure to make a copy of the tenant selection criteria available to an applicant who is rejected could result in the landlord's forfeiture of any application fee and application deposit.

The Federal Fair Credit Reporting Act requires a landlord to provide certain information to an applicant who is rejected based upon information the landlord obtained from the applicant's Credit Reporting Agency (CRA) report, commonly referred to as a credit report. That information includes the agency from which the information was obtained and that agency's contact information. In order to comply with that requirement, you should use TXR Form 2212, "Adverse Action Notice and Credit Score Disclosure", or an equivalent form.

Additionally, you should be aware of the U.S. Department of Housing and Urban Development's guidance on the use of criminal history. Any policy in which an applicant would be denied as a result of his or her criminal history must be tailored to serve a substantial, legitimate, and nondiscriminatory interest of the landlord (like resident safety or the protection of the property) and should take into account factors such as the type of crime and the length of time since conviction. You should not have a blanket policy or practice that denies housing to an applicant with (i) one or more prior arrests without any conviction; or (ii) any kind of criminal conviction, regardless of type, elapsed time, or other mitigating factors.

Property Management

REALTORS® who are managing rental property on behalf of property owners should consider that owners may have specific selection criteria that will need to be added to or deleted from this model document. Be sure to have a conversation with your client prior to adopting this form for any particular property.

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