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Affordable Housing Alert

JULY 31, 2023

White House announces initiatives to strengthen renters' rights

By Rebecca Simon and Harry Kelly

The administration announced a series of actions that will impact tenants' rights across the country, including providing funding for tenant organizing and taking steps to protect renters from incorrect screening reports and unfair eviction notice procedures.



What's the Impact?

- / Landlords must follow existing Fair Credit Reporting Act rules by informing denied applicants of their rights to obtain screening reports.
- / \$10 million is available for tenant education, training, technical assistance, and outreach, as well as establishing and operating tenant organizations.
- / HUD strengthens eviction notice procedures through rulemaking.

On July 27, 2023, the Biden administration announced a series of actions focused on protecting renters' rights. This announcement follows the release of the "Blueprint for a Renters Bill of Rights" in January 2023, which outlined policies and practices "that promote fairness for Americans living in rental housing." This week's announcement specifically focuses on three new efforts to increase renter protections, including:

- / Ensuring renters have an opportunity to address incorrect tenant screening reports;
- / Providing new funding to support tenant organizing efforts; and
- / Ensuring renters are given fair notice in advance of eviction.

Access to correct tenant screening reports

The focus of the first initiative is to ensure that renters are informed regarding what information in a tenant screening report is responsible for the denial of their rental application. The administration believes that by giving renters access to this information, renters can correct any errors in their reports responsible for incorrect denials.

Following the White House's announcement, similar statements were issued by the Department of Housing and Urban Development's (HUD's) Office of Multifamily Housing and Office of Public and Indian Housing, USDA Rural Development, as well as the Federal Trade Commission, the Consumer Financial Protection Bureau, and the Federal Housing Financing Agency. These statements highlight requirements under various regulations and guidance requiring landlords to provide written notice of a rental application rejection with the specific reasoning for the rejection. This includes rejections based on the use of screening reports for credit history, rental history, employment verification, criminal history, sex offender registries, national terrorist watchlist, and risk scores based on criteria selected by the landlord. Many of the rules also require landlords to give applicants an opportunity to respond to the rejection and dispute the reason for the rejection.

In particular, the statements by the various federal agencies highlight the requirements under the Fair Credit Reporting Act for landlords to inform rental applicants if information from a tenant screening report played a role in rejecting a rental applicant, also known as an adverse action notice. The notice must include information about which tenant screening company was used and inform the applicant that they can receive a free copy of the report from the tenant screening company within sixty (60) days.

Funding for tenant organizing efforts

The second initiative under this announcement is a Notice of Funding Opportunity (NOFO) for Tenant Education and Outreach Program of \$10 million administered through HUD's Office of Multifamily Housing. The stated goal of this program is to build the capacity of tenants to be active partners in the preservation of affordable housing for low-income persons.

Eligible applicants for this program are intermediary organizations, including nonprofit and for-profit organizations and HUD-approved housing counseling agencies, that will provide and oversee the administration of sub-awards to local tenant organizations and support them in their property-specific tenant capacity-building work. Owners and managers of multifamily assisted housing are not eligible to be grantees. The funding will support efforts to develop and strengthen the skills, abilities, processes, and resources that tenants and tenant organizations need to be active partners in the preservation and improvement of their housing communities.

The NOFO opened on July 25, 2023, and closes October 23, 2023.

Requiring fair notice in advance of eviction

The final initiative contained in this announcement from the White House is a commitment by HUD to issue a notice of proposed rulemaking that will require at least thirty (30) days' written notice to renters in public housing and properties with project-based rental assistance prior to termination of a lease for nonpayment of rent. Such a notice is already contained in HUD rules; however, this notice would permanently memorialize the requirement in HUD regulations.

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