



The Philadelphia Code
Sections 9-1008 (3) & (4), 9-810
EFFECTIVE DATE: October 13, 2021

RENTERS' ACCESS ACT

TENANT SCREENING GUIDELINES

POLICY PURPOSE

The Renters' Access Act ensures fair access to housing by creating uniform screening criteria guidelines for applicants related to the use of rental and credit history

INTENDED AUDIENCE

The City of Philadelphia is providing this guidance to rental property landlords and tenants to support compliance with these new regulations

CONTACT

For more information or to ask a question, please contact the Philadelphia Commission on Human Relations at phcr@phila.gov or the Fair Housing Commission at fairhousingcomm@phila.gov.

Table of Contents

- Overview.....1
- Tenant Screening Guidelines**
- Summary.....2
- Landlord Requirements3
- Exceptions and Enforcement4
- Additional Information**
- Renters' Step-By-Step5
- Landlord FAQ5
- Appendix I (Landlord Templates)**
- Sample Tenant Screening Criteria6
- Sample Adverse Action & Notice of Rights.....7-8
- Appendix II (Tenant Template)**
- Sample Request for Reconsideration9

TENANT SCREENING GUIDELINES

Sections 9-1108(3) and (4) and Section 9-810 establish the following regulations pertaining to applicant screening guidelines and process for prospective tenants.

1

Before accepting an application or application fee for rental housing, landlords must provide the applicant with the written or electronic **uniform screening criteria**.

2

The Uniform Screening Criteria should not include any of the **prohibited screening criteria** established in Section 9-810.

3

If a landlord rejects an application, within three business days of the rejection, they must provide a **written or electronic statement** of reasons for the rejection and include **copies of any third-party reports** the landlord relied on.

4

After receiving notice of rejection, a rejected tenant has **48 hours** to notify the landlord of their intent to dispute or request reconsideration of the denial, and **seven days** to provide evidence of (1) incorrect, inaccurately attributed, or prohibited information, or (2) mitigating circumstances related to the grounds for denial.

5

If a rejected applicant **disputes information** or **seeks reconsideration**, and provides information that demonstrates their ability to satisfy the requirements of tenancy, the landlord must offer to the rejected applicant the landlord's **next available dwelling unit of comparable size** and rental price if the landlord owns five or more rental units in the City of Philadelphia.



NEW REQUIREMENT

Section 9-1108(3) and (4) establish the guidelines for use of the following information in rental screening:

1. Rental history
2. Credit history and credit score



REMINDER

Section 9-810 should **not be read as an exclusive list** of the criteria that must apply for your property. Landlords are still required to establish **screening criteria** for prospective tenants that adhere to the guidelines established in this section.

Section 9-810 does not prevent or preclude landlords from utilizing less restrictive **screening criteria**.

UNIFORM SCREENING GUIDELINES



TENANTS CANNOT BE SCREENED USING ONLY:

- Credit score or tenant screening score
- Eviction records



TENANTS CAN BE SCREENED FOR:



RENTAL HISTORY

- Rental references
- Evictions occurring within last 4 years



CREDIT HISTORY

- Relevant credit history

OTHER SCREENING CRITERIA

- Income
- Relevant criminal history
- ID verifications
- Other non-prohibited criteria selected by the landlord



TENANTS CANNOT BE SCREENED FOR:



RENTAL HISTORY

- Evictions occurring four or more years prior
- Eviction records that:
 - Did not end in judgment for the landlord
 - Have been sealed
 - Have been withdrawn or marked satisfied or settled, discontinued and ended
 - Were filed during the COVID-19 emergency period
 - Have a judgement by agreement in place or have been resolved



CREDIT HISTORY

- Failure to pay rent or utility bills during the COVID-19 emergency period



AFFIRMATIVE REQUIREMENTS CREATED BY LEGISLATION

- Create and post written or electronic **uniform screening criteria** for tenants
- **Notify electronically or in writing** prospective tenants whose applications have been reviewed and rejected within three business days of the decision, and **provide a copy** of any third-party reports used to make that decision
- Conduct an **individualized assessment** of tenant applications
- **Review any additional information** an applicant provides if they choose to seek reconsideration or dispute information*
- **Offer the next available unit** of comparable size and price to a rejected applicant, if the rejected applicant provides information to demonstrate they could meet the obligations of tenancy**



LANDLORDS ARE NOT REQUIRED TO

- Include any particular requirements in their screening criteria
- Review every application they receive
- Give preference to tenants of any kind
- Automatically rent to an applicant who seeks reconsideration, or participate in any kind of hearing overseen by a third party
- Offer the next available unit to applicants who do not demonstrate they could meet the obligations of tenancy



PROHIBITIONS CREATED BY LEGISLATION

- Cannot have a **blanket exclusion** policy against people with **eviction records**
- Cannot have a **blanket exclusion** policy based solely on a **credit score** or **tenant screening score**
- Cannot deny a rental application based on an applicant's **failure to pay rent or utility bills** during the **COVID-19** emergency period***
- Cannot deny a rental application based on an **eviction record** that (1) did not end in judgment for the landlord; (2) is sealed; (3) has been withdrawn or marked satisfied or settled, discontinued and ended; (4) is more than four years old; (5) was filed during the COVID-19 emergency period*; or (6) has a judgment by agreement currently in place or resolved



LANDLORDS ARE NOT REQUIRED TO

- Ignore all eviction records when performing an individualized assessment of an applicant
- Ignore credit scores or reports when performing an individualized assessment of an applicant
- Ignore other evidence of an applicant's inability to pay rent

*An applicant must notify the landlord of their intent to seek reconsideration within 48 hours after receiving notice of denial.

**This provision applies only to landlords who own five or more rental units in the City of Philadelphia.

***This provision includes an exception for evictions based on violent or dangerous criminal activity that resulted in a judgment against the tenant.

EXCEPTIONS

- 1 PUBLICLY-ASSISTED RENTAL HOUSING**
Landlords of publicly-assisted rental housing are exempt from the requirements to provide a written statement of reasons for the denial of a rental application, and from the Uniform Screening Guidelines established in section 9-810.
- 2 SMALL LANDLORDS & REQUESTED OFFER OF NEXT AVAILABLE UNIT**
Landlords with four or fewer dwelling units within the City of Philadelphia offered for rent are exempt from the requirement to offer the next available rental dwelling unit to a rejected tenant who provides information to demonstrate their ability to satisfy the obligations of tenancy.

ENFORCEMENT

- 1 LEGISLATIVE CODE:**
Sections 9-1108(3) & (4) of the Philadelphia Code, requiring uniform written or electronic screening criteria and a written statement of reasons for the denial of an application, will be monitored and enforced by the Philadelphia Commission on Human Relations.
- 2**
If a violation of an ordinance occurs, the landlord is subject to Section 9-1121 of the Philadelphia Code. Section 9-1121 provides that a violation of any provision of Chapter 9 is punishable by a fine not to exceed two thousand dollars (\$2,000) for each violation. More information is available at phila.gov/departments/philadelphia-commission-on-human-relations/
- 3 PRIVATE RIGHT OF ACTION CREATED:**
Any tenant aggrieved by a landlord's noncompliance with Section 9-810 has the right to file a lawsuit in court.

DISPUTING INFORMATION AND REQUESTING RECONSIDERATION OF DENIAL : RENTERS' STEP-BY-STEP

After an applicant receives notice that their rental application has been denied, they have the right to (1) dispute information the landlord relied upon in making their decision, and/or (2) provide evidence of mitigating circumstances.

Here's what to do you if you'd like to dispute information or request reconsideration after receiving a notice that your rental application has been denied:

Step 1: Within 48 hours of receiving a statement of rejection, provide the prospective landlord written, electronic, or verbal notice of your intent to dispute information or request reconsideration of the denial.

- For a sample notice of intent to dispute information or request reconsideration, see page 9.

Step 2: Within seven business days of receiving a statement of rejection, provide evidence of incorrect information or mitigating circumstances to the prospective landlord.

- **Disputing Information:** You can provide evidence that information relied upon by the prospective landlord was (1) inaccurate, or (2) incorrectly attributed to you, the prospective tenant, or (3) was based on screening criteria prohibited by Section 9-810.
- **Evidence of Mitigating Circumstances:** You can also provide evidence of mitigating circumstances--related to the reasons your application was denied--to show that you are able to satisfy the obligations of tenancy. Some examples of this type of evidence includes, but is not limited to:
 - a history of on-time rental payments that otherwise may not appear in a background check;
 - proof that a prior eviction based on nonpayment of rent was based, in whole or in part, on rent you did not personally owe;
 - new or increased income that is reliable and sufficient to cover rental costs;
 - letters of recommendation provided by employers or former housing providers;
 - changes in circumstances that would make prior lease violations less likely to reoccur.

? FREQUENTLY ASKED QUESTIONS FROM LANDLORDS

How do I get information on a tenant's background?

Landlords can request documentation from tenants in accordance with their uniform screening criteria. Landlords also often charge application fees and utilize tenant screening companies to obtain information on an applicant. Screening companies can provide you with reports based solely on the type of information you are looking to review. This information should align with your uniform screening criteria.

Can I still utilize a rental reference?

Yes, landlords may still request a rental reference from an applicant and use that information in your applicant screening process, so long as the screening process is compliant with Sec. 9-810. The landlord should document how a rental reference will be used and what information may result in an application being denied.

Can I still use credit scores?

A landlord cannot disqualify an applicant based solely on the credit score itself. A landlord can use relevant information from the credit report that is related to an applicant's rental history, and can consider a credit score as part of a holistic screening process.

How do I legally deny an applicant?

If a landlord denies a rental housing application, they must provide the applicant with a written notice of denial within 3 business days of the rejection. The notice must include the basis for the disqualification.

Can I request an applicant have a cosigner or guarantee?

Yes. A cosigner or guarantee is usually requested when an applicant does not meet the screening requirement on their own. You can continue to utilize this option in these instances.

Do I have to hold a unit while a rejected applicant disputes information or seeks reconsideration?

No, the landlord does not have to hold a unit if a rejected applicant disputes information or seeks reconsideration. However, if a rejected applicant provides new information that would prove to a reasonable person that they can meet the requirements of tenancy, a landlord with five or more rental units in the City of Philadelphia must offer the rejected applicant their next available unit of comparable size and rental price.

Is a rejected applicant who successfully disputes information or seeks reconsideration of denial required to accept the offer of a landlord's next available unit?

No, the rejected applicant is under no obligation to accept the landlord's next available unit.

SAMPLE SCREENING CRITERIA

All rental applications will be screened for the following criteria:

- **Rental application**
 - Must be complete, correct, and verified
- **Income**
 - Must be at least \$ _____
 - Must be verified
- **Reference from previous landlord and/or employer**
- **Credit history**
 - Must prove history of on-time rental payments

Please note that all tenant applications will be screened by [INSERT SCREENING COMPANY NAME].

Disclaimer: Use of these sample forms does not necessarily satisfy obligations under federal/state law, and language concerning the FCRA is provided for convenience only. Additionally, this is not an exhaustive list of tenants' rights under the FCRA. Landlords have a responsibility to assure compliance with all federal and state laws, and the City cannot provide guidance on compliance with the FCRA.

APPENDIX I: LANDLORD TEMPLATES

SAMPLE ADVERSE ACTION NOTICE AND NOTICE OF RIGHTS

[DATE]
[APPLICANT'S NAME]
[APPLICANT'S ADDRESS]

Dear [APPLICANT'S NAME],
Thank you for submitting your rental application to us. We regret to inform you that your application has been rejected due to the following reasons:

Income

- Is below our minimum requirement
- Could not be verified

Rental application

- Contained insufficient information
- Contained erroneous information
- Information could not be verified

Information obtained from third parties other than a consumer reporting agency

- Pursuant to Section 615(b) of the Fair Credit Reporting Act (FCRA), you are entitled to receive disclosure of the nature of this information within 30 days if you make a written request no later than 60 days after delivery of this notice.

Consumer report(s) and/or score provided by _____

- Credit Report
- Tenant Screening Report
- Investigative Consumer Report

Right to Third Party Documentation

- To the extent permitted by the Fair Credit Reporting Act, 15 U.S.C. Section 1681, et. seq., you have the right to a copy of any documents obtained from a third party for the purpose of establishing the applicant's eligibility or otherwise deciding whether to rent the unit to the applicant, within three business days of the rejection.

Right to Dispute Information or Seek Reconsideration

You have the right to dispute or request reconsideration of your application. You must notify me in writing, by phone, or in person if you wish to dispute or request reconsideration of the denial within forty-eight (48) hours after receiving this notice. I can be notified using the below contact information:

Name: _____

Address: _____

Phone Number: _____

Email: _____

Disclaimer: Use of these sample forms does not necessarily satisfy obligations under federal/state law, and language concerning the FCRA is provided for convenience only. Additionally, this is not an exhaustive list of tenants' rights under the FCRA. Landlords have a responsibility to assure compliance with all federal and state laws, and the City cannot provide guidance on compliance with the FCRA.

■ APPENDIX I: LANDLORD TEMPLATES

SAMPLE ADVERSE ACTION NOTICE AND NOTICE OF RIGHTS (CONTINUED)

I will reasonably consider:

- any evidence that the information relied upon was inaccurate or incorrectly attributed to the applicant
- any evidence that the information relied upon was based on prohibited screening criteria, such as
 - LIST OUT
 - For more information, see Philadelphia Code Section 9-810
- a history of on-time rental payments
- that a prior eviction of the prospective tenant based on nonpayment of rent was based, in whole or in part, on rent not owed by the applicant
- new/increased income of the applicant that is reliable and sufficient to cover rental costs;
- letters of recommendation by employers or former housing providers
- changes in circumstances that would make prior lease violations less likely to reoccur.

If you request reconsideration within 48 hours of receiving this notice, you have seven business days after receipt of this notice to provide any of the above information.

Rights under the Federal Credit Reporting Act [If Applicable]

Your application was denied, in whole or in part, on the basis of a report given by a consumer reporting agency and/or on the basis of the information obtained from other sources. Accordingly, you have the right under the Fair Credit Reporting Act to make a written request, within 60 days from the receipt of this notice, to obtain a free report from any of the following Agencies:

Equifax Information Services

PO Box 105873
Atlanta, GA 30348-5873
(800) 685-1111

Experian (TRW)

PO Box 2104
Allen, TX 75013-2014
(888) 397-3742

Trans Union

PO Box 2104
Chester, PA 19022
(800) 888-421

Additionally, www.annualcreditreport.com is a free online service you can use to order all three of your credit reports once per year.

You also have the right to dispute your credit report on the basis of its inaccuracy or incompleteness. For more information, including information about additional rights, go to www.consumerfinance.gov/learnmore or write to: Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20552.

Sincerely,

[LANDLORD OR AGENT]

[LANDLORD OR AGENT'S ADDRESS]

Disclaimer: Use of these sample forms does not necessarily satisfy obligations under federal/state law, and language concerning the FCRA is provided for convenience only. Additionally, this is not an exhaustive list of tenants' rights under the FCRA. Landlords have a responsibility to assure compliance with all federal and state laws, and the City cannot provide guidance on compliance with the FCRA.

SAMPLE REQUEST FOR RECONSIDERATION

[DATE]
[PROSPECTIVE LANDLORD'S NAME]
[PROSPECTIVE LANDLORD'S ADDRESS]

Dear [PROSPECTIVE LANDLORD'S NAME],
I received your notice of denial of my rental application on [DATE]. I am writing to inform you that I plan to:

- Request reconsideration of this decision
- Dispute incorrect information used in making this decision

I will be providing you additional information within seven business days of when I received the notice of denial.

Sincerely,

[APPLICANT'S NAME]
[APPLICANT'S ADDRESS, PHONE, AND/OR EMAIL]