

Chapter 2

Tenant Screening

Legal Tactics: Tenants' Rights in Massachusetts
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Tenant Screening

Tenants' Rights in Massachusetts

When you are looking for an apartment it is important to understand how landlords screen tenants. They screen tenants in different ways. Landlords want to know if tenants will:

- Pay the rent on time.
- Keep an apartment in good condition.
- Be a good neighbor.

Protect Yourself If Your Application Is Denied

If landlords or property managers deny your application for an apartment:

- Ask them why.
- You may be able to convince them that they should not reject you.
- They may have information from a tenant screening report, court record, or criminal record (CORI) which does not tell the whole story or is wrong.
- You may need to correct wrong or misleading information in your tenant screening report, your court record, or your CORI.
- You may be able to show them your circumstances have changed. For example, you lost your job and were unable to the rent, but now you have a job and can pay the rent.

How Landlords Screen

Credit reports

Landlords use credit reports to predict if you can and will pay the rent. Credit reports show how you borrow and repay money. They also show how much debt you have.

Tenant screening reports

Landlords can buy tenant screening reports from private companies. These reports can include eviction history, court cases, former addresses, social security number verification, and criminal record searches.

Criminal record information

Landlords and property managers can get some information about your criminal record, called "Criminal Offender Record Information" or CORI.

Court information

Massachusetts trial courts make information about court cases available to the public on the Internet.

Rental history

Landlords may ask you for references from your current and former landlords.

Credit Report

Before you look for a place, get a copy of your credit report. You can get 1 free copy once a year by filling out the Annual Credit Report Request Form. To get this form:

- Call 877-322-8228 or
Go to www.AnnualCreditReport.com
Click "Request your free credit reports"



Tenant Screening Reports

Landlords must tell you if they deny your rental application because of the information in a tenant screening report. But they do not always tell you why they deny you.

If landlords deny your rental application, ask if they used a tenant screening report. If they did, ask them for the name of the company. Contact the company and get the information that is wrong or misleading changed.

Criminal Record Information

A landlord cannot automatically disqualify anyone with a criminal record. Landlords need to assess each individual applicant.

Before a landlord can deny your application because of your CORI, the landlord must:

- Notify you that they plan to deny you housing because of what is in the CORI.
- Give you a copy of the CORI they got or tenant screening report if it has CORI.
- Tell you the part of your CORI or tenant screening report that is a problem.
- Give you information about how to fix mistakes on your CORI and give you a chance to get mistakes corrected.
- Give you a copy of their CORI Policy, if they are required to have one.

If you applied for certain types of subsidized housing, they must give you information about how to challenge the denial of housing based on CORI. See **Challenging a Denial** www.MassLegalHelp.org/cori/housing/denial.

Court Information

Massachusetts' trial courts make some information about court cases available to the public on the Internet. Tenant advocates have concerns about this because this information may contain errors. It also may not tell the whole story.

For example, the information online will not show that you came to an agreement with a former landlord and you followed that agreement.

If you have been involved in a housing case, make sure there are no errors online. Look up your case on the court's website at www.masscourts.org. If you find an error, use **Error Correction Form (Booklet 11)**.

Rental History

A landlord may want to get information from your current and former landlords to find out if you are a good tenant. Before you apply for apartments, contact former landlords and tell them that another landlord may request a reference from them. If you are afraid that a former landlord may give you a bad reference, ask them for a simple reference letter that says you paid the rent on time.

If you have no rental history, try to use other information that shows you can pay rent on time and take care of an apartment. For example, get letters from clergy, shelter staff, or employers saying that you will take care of the apartment and respect the rights of others.



MassLegalHelp.org/Tenant-Screening

Legal Tactics: Tenants Rights in Massachusetts May 2017

Tenant Screening

by Paul Schack

Italicized words are in the Glossary

Before you look for a place to live it is important to understand how landlords do tenant screening and what rights you have.

The proper purpose of tenant screening is for a landlord to determine if you will be a responsible tenant who will pay the rent on time, keep an apartment in good condition, and not disturb neighbors or damage property.

Every landlord screens tenants differently. Because so much information is available now on the internet some landlords may use that information to reject tenants just because they were at some point involved in a court case regardless of the result of the case.

This chapter gives you information to help you protect yourself during the tenant screening process if you are searching for an apartment in the private market.

If you are applying for public or subsidized housing there are specific rules about tenant screening. Read **Finding Public and Subsidized Housing, Chapter 6: Tenant Screening**.

Tenant Screening Agencies & Reports

There are companies, called "consumer reporting agencies" that supply landlords with information about tenants. These companies collect and sell information about tenants including court cases, credit checks, employment verification, former rental addresses, and criminal record checks. Sometimes the information in these reports is very misleading. It may also be flat out wrong.

"Consumer reports" are provided by "consumer reporting agencies" to third parties, such as landlords and property managers. They then use the information to make decisions including whether to grant credit or residential rental housing. "Consumer reports" is a broad category that includes what are popularly referred to as "credit reports." The term also includes tenant screening and background reports.

There are two major types of consumer reporting agencies:

- **Credit Reporting Agency**

Credit reporting agencies provide "credit reports," which consist of information on your credit and bill paying history. These include Equifax, Experian and TransUnion.

- **Specialty Consumer Reporting or Tenant Screening Agency**

Specialty consumer reporting agencies collect information for a specific purpose like screening tenants. These will be referred to as "tenant screening agencies."

Landlords do not need your permission to obtain a tenant screening or other consumer report.¹ **However, if a landlord denies you housing based on the report, she must give you a written notice** telling you the name of the tenant screening agency that provided the report and how to contact that agency to obtain a copy of the report.²

If your application for an apartment is denied, ask the landlord why. You may be able to

convince the landlord that you should not be rejected for that reason.

Also, ask the landlord whether she used a tenant screening agency and, if so, what the name of the company is. There are many tenant screening agencies and this may be your only real way of finding out what company is distributing information about you so that you can either get wrong information corrected or try to change information that is misleading. See the section in this chapter: **Your Right to Challenge the Accuracy of a Consumer Report.**³

1. What Is a Tenant Screening Report

Tenant screening reports can include information about eviction histories, court cases prior addresses, social security number verification, bankruptcy cases, and criminal record searches. Sometimes there may be comments from former property managers.

If you have ever had an *eviction* case brought against you, you might discover that one of these agencies has a file about you in its computer. A landlord may not want to rent to you because she thinks you will not pay your rent or are a troublemaker (even though your previous landlord violated the law or your case was dismissed).

How to Get a Copy of a Tenant Screening Report

There are many tenant screening agencies. Consumers have the right to a free report from a tenant screening agency once every 12 months. There is no centralized source for obtaining free tenant screening reports. Requests must be made directly to each tenant screening agency.

Each company must establish a toll-free telephone number for requesting consumer reports. Some, but not all, companies allow online, faxed, or mail-in requests. The only requirement is that they establish a toll-free number, published anywhere the company does business.

To obtain a free copy of your report, you must fill out a Consumer Disclosure Request Form. Your report should include a list of any person who has requested a report on you.

When making a request, you may be asked to provide your name, social security number, current and previous address, driver's license, and current employer. For a list of some specialty consumer reporting companies and their contact information click:

http://files.consumerfinance.gov/f/201604_cfp_b_list-of-consumer-reporting-companies.pdf.

2. What Is a Credit Report

Credit histories are one of the main items that landlords may look at when screening tenants. There are three national credit reporting companies:

- Experian
- Equifax
- TransUnion.

Credit reports show how you have borrowed money and repaid it and what money you currently owe. The vast majority of adults have a credit file.

Your credit file has basic information about you, such as your Social Security Number, birth date, current and former addresses, and employers. It also lists any amounts that you owe and any accounts that have been turned over to a collection company. It could also contain public information about court judgments, tax liens, and bankruptcies.⁴

Your credit report should not include information about your race, religious preference, medical history, personal lifestyle, or political preference. Income and driving records are rarely included.⁵

How to Get a Copy of a Credit Report

Before you start looking for housing, it is a good idea to get a copy of your credit report to make sure there are no mistakes or old information that will hurt you as your search for housing. Your report should also include a list of any person who has requested a report on you.

Under federal law, you are entitled to one free copy of your credit report once every 12 months from each of the national credit reporting agencies. They have set up one central website, toll free telephone number, and mailing address through which you can order your free annual report. To order:

- Click on www.AnnualCreditReport.com;
- Call 877-322-8228; or
- Complete the Annual Credit Report Request Form and mail it to:

Annual Credit Report Request Service
P.O. Box 105281
Atlanta, GA 30348-5281

You can find the form at www.consumer.ftc.gov/articles/pdf-0093-annual-report-request-form.pdf.

Do not contact the national credit reporting agencies individually for your free annual report. They only provide free annual credit reports through the centralized request service listed above. If you contact them directly, you may end up with a “free” report that converts to an expensive paid subscription service.

Massachusetts residents are entitled to an additional free credit report a year from each of these credit reporting companies.⁶ You are also entitled to a free report if:

- You are receiving public welfare assistance;
- You have been denied credit or housing within the last 60 days;

- You are unemployed and will be applying for a job in the next 60 days; or
- You have reason to believe that your credit report contains inaccurate information due to fraud.⁷

If you are not entitled to a free copy, the reporting companies cannot charge you more than \$12 for a copy of your credit report.⁸

3. How to Correct Errors or Old Information on a Credit or Tenant Screening Report

Once you get a copy of your credit or tenant screening report, take a careful look at it. Check to see if there are any mistakes. For example, there might be information from another person’s account on your report. Or it may show that you still owe a debt that has been paid. Also check for outdated information. Negative information can only be reported for 7 years, except for information about bankruptcies, which can remain on your report for 10 years.⁹ Criminal convictions can stay on forever.

a. Your Right to Challenge the Accuracy of a Consumer Report

If you believe that your consumer report contains incorrect or old information, you have a right to challenge the accuracy of the report.¹⁰ If your challenge is unsuccessful, you also have the right to add to the file your own statement about what happened, so that whenever a new landlord checks your file, she will see your explanation. For example, if an eviction case was brought against you but was later dismissed, you should challenge it by asking that the dismissal be included. If the tenant screening agency does not correct the information, you can add an explanation that the action was dismissed because your landlord made an accounting error and claimed that you owed rent when you did not.

If you have been denied housing, you have a right to see and obtain a free copy of your report. To obtain a free copy, you must ask for the information within 60 days of receiving notice that you were denied housing.¹¹

You have the right to dispute the accuracy or completeness of the information in your report. After you have reviewed your file, contact the reporting agency to dispute information you feel it is inaccurate or incomplete.

To challenge the accuracy or completeness of a report, write a letter to each reporting agency that has reported incorrect information. Tell the reporting agency what you believe is incomplete or inaccurate, why, and request that they correct the item. Include with the letter copies of any documents that show that the information is wrong or misleading.¹² Keep a copy of your letter and the originals of any supporting documents.

For example, if the tenant screening report claims you did not pay rent and you did and you still have receipts for rent, send the agency copies of these receipts. Do not send the original receipts. If you don't have receipts, get canceled checks from your bank or a bank statement showing you paid the rent.

By law, the reporting agency must reinvestigate and correct erroneous information.¹³ In most circumstances, the company is required to get back to you with the results of the investigation within 30 days.¹⁴

If the company determines that information in the report is inaccurate or that it can no longer be verified, the company must delete this information within 3 business days.¹⁵ The creditor or other information provider that supplied the information has a duty to correct and update the information.¹⁶ If the reporting agency does not resolve the dispute to your satisfaction, you have a right to include a statement (in 100 words or less) explaining your side of the story.¹⁷ This statement must be attached to your report and provided to anyone who accesses your report in the future.¹⁸

If the reporting agency modifies or removes bad information from your file, you have a right to request that they send the new report to any person who has received your report within the past 6 months.¹⁹ The agency must send a corrected report to you, the consumer within 10 business days of your request and must send it to anyone who has requested it within 15 days of your request. The company cannot charge a fee for this service.²⁰

While all of this is a lot of work, it may be necessary as you search for housing.

b. Are You Victim of Identity Fraud

If you have negative information on your credit report because someone has stolen your personal or financial information, you may be the victim of identity fraud. For more information, go to: www.ago.state.ma.us/filelibrary/ident4.pdf and www.consumer.gov/idtheft/.

4. How to Repair Bad Credit

Credit counseling services, which are often nonprofit organizations, can help you get your debt under control. These services have trained counselors who arrange repayment plans that are acceptable to you and your creditors, and they may be able to persuade creditors to lower or eliminate interest and late payments. The counselors can also help you set up a realistic budget. These counseling services are offered at little or no cost. You may want to look for a credit counselor certified by the National Foundation for Credit Counseling: www.nfcc.org.

IMPORTANT: BEWARE OF SCAMS. Credit repair companies are not the same as credit counseling services. Many companies charge you money and say they will “fix” your credit report. If you have bad credit, a credit repair company **cannot** legally remove accurate and timely information from a credit report. If there is inaccurate information on your report, you can challenge the inaccurate information yourself. It is not worth paying someone to do it for you. For more information about the dangers of

credit repair companies, go to:
www.consumer.ftc.gov/articles/0225-credit-repair-scams

5. Improve Your Chances of Getting Housing

To improve your chances of getting housing, there are a number of steps you can take if you have bad credit:

- **Supply positive unreported payment history to the landlord so that they can see you pay your bills**
Gather documentation of accounts which are in good standing, like medical copays or premiums, car insurance bills, child support payments, phone bills, cell phone bills, rent, utilities, program fees at shelters, storage facilities, or furniture rentals. Credit reporting agencies do not usually include this information in their reports, although they are beginning to include some types of rental payments.
- **Explain damaging information**
When you are applying for housing and you know the landlord will do a credit check, include a letter and documentation to the landlord explaining your negative credit history. For example, you can show that a period in which you fell behind on bills was due to illness, unemployment, interruption of public benefits, or divorce.
- **Demonstrate positive income changes**
Point out any increases in income, stabilized income (for example, getting approved for SSI), or increased earning power due to education or job training. Point out why paying rent will not be a problem if the rent is subsidized. Or, if you had a disabling illness that resulted in falling behind on your bills, but you are no longer ill, this would be important to explain.
- **Seek a reasonable accommodation**
If your poor credit is due to a disability, you should request that a housing authority or landlord make a *reasonable accommodation* of

your disability. Accommodations can include requests to ignore credit history from a time when you were untreated, if you are currently receiving treatment, or to approve your application on the condition that you get a representative payee who will pay your rent.

- **Offer to have someone else pay the rent**
Consider offering to arrange for a representative payee (if you are on SSI) or protective payments (if you receive welfare benefits) or a co-signer on a lease. Be aware that, once you get a representative payee, the payee will have control over how all your money is spent.
- **Apply to different types of landlords**
Landlords who have larger multifamily developments are most likely to check your credit records. If you apply to many different types of landlords and housing programs, you may find some landlords who will not look into your credit report. For example, multifamily owners often use credit reports to screen out applications because they cannot afford to hire sufficient staff to screen applicants, while larger housing authorities rely more on CORI reports and extensive review of prior housing history.

Rental History

A landlord may want to get information from current and prior landlords to determine whether you will be a good tenant.

Prospective landlords may ask you to list where you have lived in recent years, including contact information for prior landlords. They may also ask you to sign a form giving them permission to contact a former landlord in order to ask information about you as a tenant, although they do not have to ask you permission to do this. However, refusing permission may result in being rejected.

Before contacting prospective landlords, it may be a good idea to contact former landlords and

tell them that they may be receiving a reference request from another landlord. If you are afraid that a former landlord may unfairly give you a bad reference, one thing to do is to ask that former landlord for a simple reference letter that says you paid the rent on time. You can also show them that certain circumstances have changed. For example, if you lost your job and were unable to pay the rent, but now you have a job and can pay the rent, this is important information to provide.

If there were times when you were not renting, you should identify those gaps on your application. A landlord may deny you housing if she believes that gaps are an attempt to hide a negative landlord reference. So explain gaps in your rental history, such as if you were living with family or friends, living in an emergency shelter, or some other situation.

If you have no rental history, try to use other sources of information that demonstrates your ability to pay rent on time and take care of an apartment. For example, car loan or insurance payments can show that you will pay the rent on time and letters of reference from clergy, shelter staff, or employers can show that you will take care of the apartment and respect the rights of others.

Eviction History

Massachusetts trial courts have begun making information about court cases available to the public on the internet,²¹ including information about housing cases. While the specific details of housing cases are not currently available online, landlords can see if an eviction case has ever been brought against you in a particular court and the reason for the case. Landlords can also see whether you have ever brought a case against your landlord, for example, to get bad conditions in your home fixed.

Some landlords have begun using this database as a tenant screening tool to decide whether they want to rent to a particular tenant. Tenant advocates and members of the legal community

have concerns about the online use of the Massachusetts trial court's database. For example, there can be mistakes in the database.

If you have been involved in a housing case and you plan to move, you should look your case up on the court's website to see what information is there. Go to: www.masscourts.org. If you find inaccurate information, contact the court to get the information corrected. See **Error Correction Form (Booklet 11)**. For example, if the case was because the landlord wanted to move her son into the apartment, but the online information says it was for non-payment of rent, contact the court and ask them to change this.

Criminal Records and Your Rights

Massachusetts criminal court records are called "Criminal Offender Record Information" (CORI, pronounced COR'-EE).²² When a person is charged with a crime in a Massachusetts state or federal court, that person has a CORI. Even if the case is dismissed or if the person is found not guilty, there is still a CORI.

A CORI report includes the history of each criminal charge - all court proceedings - from arraignment to sentencing. They can be long. For example, even though there may be only one criminal incident, there may be a lot of entries or multiple charges on a CORI report.

One of the original purposes of the CORI law was to protect the privacy of people with criminal records so that people would have a chance to turn over a new leaf. In 2012, CORI laws were substantially changed in ways that have had a harmful impact on the privacy of former offenders who apply for rental housing. More people can get more access.

But in 2016, the U.S. Department of Housing and Urban Development released important guidelines that prohibit landlords from automatically disqualifying anyone with a criminal record. Landlords need to assess each individual applicant.²³

1. Who Can Get Access to Criminal Records

a. Access to CORI for Market Rate Housing

If you are applying to public or subsidized housing the CORI rules are different. See **Criminal Background Checks in Finding Public and Subsidized Housing, Chapter 6: Tenant Screening.**

Private landlords (whether individuals or organizations), property management companies with market-rate housing, and real estate agents have what is called "Standard" access to CORI to screen potential tenants. They must first have permission from the state's Criminal History System's Board. When a landlord with Standard access requests a CORI report, the report will include:²⁴

- Criminal cases still going on.²⁵
- Conviction for a misdemeanor when the conviction date or incarceration release date is less than 5 years prior to the CORI Request Date. (The CORI system will report the offense and all other convicted offenses.
- Conviction for a felony when the conviction date or incarceration release date occurred less than 10 years prior to the CORI Request Date.
- Convictions for murder, manslaughter or sex offense no matter how old.

The landlord must not get:

- Any sealed cases,
- Cases where there was no conviction,
- Misdemeanor convictions more than 5 years old
- Felony convictions more than 10 years old

- Juvenile cases if a person younger than 17 years old and they were not convicted as an adult,
- Civil cases, or
- Non-incarcerable cases.

b. Access to CORI for Private Subsidized Housing

While landlords and property management companies renting to tenants with housing vouchers can only get Standard Access to CORI as outlined above, landlords and property management companies that manage multi-family subsidized housing have what is called "Required 1" CORI access. A CORI report for a Required 1 access will include all adult and youthful offender convictions regardless of date and all pending offenses.²⁶

c. What If You Are Denied Housing

Before any landlord, property management company, or real estate agent can reject your housing application based on your CORI, it must:

- Notify you that they plan to deny you housing;
- Give you a copy of the CORI or tenant screening report with the CORI that **they** got;
- Give you a copy of the landlord's CORI Policy, if applicable;²⁷
- Tell you what part of your CORI or background report is a problem.
- Give you the opportunity to dispute the accuracy of the information contained in the CORI;
- Provide you with information about how to fix mistakes.²⁸

A landlord can only request your CORI as the final step in the application process.²⁹

Sometimes landlords authorize tenant screening agencies to decide whether to accept or reject a housing applicant. If the tenant screening agency is acting as the decision maker the agency has to follow the same CORI rules as landlords.³⁰

If you have applied for subsidized housing through a property management company they must also provide information about how to challenge or appeal the denial of housing based on CORI.³¹ See **Challenging a Denial** at: www.MassLegalHelp.org/cori/housing/denial.

2. What You Can Do to Protect Your Rights

a. Ask for a Meeting

A landlord, property management company, or real estate agency many check your CORI only if you sign a form that says you know they are requesting your CORI. This form is called a CORI Acknowledgment Form.

Sometimes a landlord will ask a person applying to rent to get a copy of her own CORI and bring it to the landlord. This is illegal. If a landlord asks you to get your own CORI, you should tell her that such a request is illegal, and that, if she wants access to your criminal record, she should request it from the state agency that has CORI. Landlord must be certified to access CORI.

If you feel that your rights have been violated, you can file a complaint with the Civil Rights Division of the Massachusetts Attorney General. A complaint form is available at: www.mass.gov/ago/criminalrecordsrights

If you know the landlord or property management company will do a criminal background check, ask them to review the CORI or background information with you so that you can discuss its accuracy and relevance. If you get a meeting and the CORI report accurately lists convictions of serious crimes, show how your recent activity indicates that the former criminal behavior will not recur.

b. Find Out If Someone Has Requested Your CORI

You can find out if someone has requested your CORI by sending a CORI Self-Audit request to:

ATTN: Self Audit
Massachusetts Department of Criminal Justice
Information Services
200 Arlington Street, Suite 2200
Chelsea, MA 02150

You can get one free CORI self-audit every 90 days.

c. Get Your Own CORI

Because CORI reports may include inaccurate and misleading information you should get a copy of your own CORI before applying for housing. See the section in this chapter called **Getting Your Own Records**.

You may be able to have your CORI sealed. If you qualify for having your CORI sealed, landlords will not be able to access your CORI. For information on how to seal your CORI see <http://www.masslegalhelp.org/cori/sealing>.

Sometimes CORI information is incorrect because someone else used your Social Security Number or has a name that is the same or similar to yours. You have a right to request that information in your CORI that is inaccurate, incomplete, or misleading be corrected if the court that created the information will not make the change.³²

Note: If your CORI relates only to illegal drug possession (not illegal drug distribution), see the section called **Discrimination Based on Disability** in **Chapter 7: Discrimination**.

d. Getting Your Own Records

Under the CORI law, if you are indigent, you may get a copy of your own CORI for free. But you must fill out and send in with your **CORI Request Form** a completed **Affidavit of Indigency (Booklet 9)**.

For a more about how to get a copy of your CORI and a CORI Request Form go to: www.masslegalhelp.org/cori/get-a-copy-of-my-own.

You can also request your own CORI from the online iCORI system at <https://icori.chs.state.ma.us/>.

You may give written permission for someone else, such as an attorney, other advocate, or family member, to get a copy of your CORI.

Employment and Income

Landlords generally want to have some verification of your income or employment status to make sure that you can afford the rent. They may ask for copies of pay stubs or your employer's phone number. You can decide what information you are comfortable giving them. For example, if you are comfortable you can show them a copy of your rent pay stubs and black out private information.

Discrimination

Landlords may use different screening criteria, but they cannot apply these criteria in a discriminatory manner. For example, it is illegal for a landlord to ask you about your race, religion, age (other than making sure you are over 18 years old), sexual preference, or whether you are pregnant. For more information about who is protected by discrimination laws, see **Chapter 7: Discrimination**.

Landlords also should not automatically exclude any person with a criminal conviction record, but should consider the nature and severity of an individual's conviction when screening.³³ For example, landlords should not request criminal background checks for some applicants and not others. Landlords should consider the amount of time that has passed since the conviction and also the nature and severity of the conviction.

Protections for Survivors of Domestic Violence

1. All Housing

In Massachusetts, a landlord cannot reject your application for housing if you had to end your lease early or change your locks at a previous apartment because of domestic violence. This applies to all landlords and all rental housing.

If you feel you have been denied housing for this reason, you can file a complaint in Housing Court, District Court or Boston Municipal court and ask a judge to require the landlord to rent to you. Denial of housing for reasons related to domestic violence might also be considered discrimination based on gender. If you feel that you are being discriminated against because of your gender see **Chapter 7: Discrimination**.

2. State Housing Assistance

If you are applying for state housing assistance, a housing agency or housing provider cannot reject your application if you have to end your lease early or change your locks at a previous apartment because you faced domestic violence.

If you feel you have been denied a state rental housing voucher for these reasons you can immediately appeal the denial in a hearing under the rules of the specific housing program. For more about these rules see *Challenging the Denial of Housing*. You can also file a complaint in Housing Court, District Court or Boston Municipal court and ask a judge to require the housing agency to give you subsidy.

If you have applied to privately-owned multifamily subsidized housing provider, you can file a complaint in Housing Court, District Court or Boston Municipal court and ask a judge to require the housing provider to give you housing.

Denial of housing for reasons related to domestic violence might also be considered discrimination based on gender. If you feel that you are being discriminated against because of your gender see **Chapter 7: Discrimination**.

3. Federal Housing Assistance

If you are applying for federally subsidized housing or a Section 8 voucher, a landlord, property manager, or housing agency cannot deny you housing because you have been victim of domestic violence, dating violence, stalking or sexual assault. The federal law is called the Violence Against Women Act (VAWA). It does not apply to market rate housing.

If you believe that you have been denied federally subsidized housing or a Section 8 voucher because of reasons related to domestic violence, you can challenge the denial by submitting a form to the property manager or landlord saying that you are protected by VAWA. Click to get this form in English and in other languages. Or you can also submit your own letter and do not have to use this form.

A landlord or agency providing the Section 8 voucher may ask you for proof that you have been a victim of violence. The landlord or housing agency must give you at least 14 business days (weekends and holidays do not count) to provide proof of the violence. In addition to the form listed above, you may provide a letter signed by a victim service provider, attorney, or medical or mental health professional who has helped you with the abuse. Or you may provide a police report, court record (such as a restraining order), or record from an agency hearing.

In addition, if you are denied federally subsidized housing or Section 8 for reasons related to domestic violence, dating violence, stalking or sexual assault you can also immediately appeal the denial under the rules of the specific housing program. For more about these rules see **Challenging the Denial of Housing in Legal Tactics: Finding Public and Subsidized Housing**.

Background Checking Fees

In Massachusetts, while the law clearly states that a landlord can charge a tenant first month's rent, last month's rent, a security deposit, and the cost of a new lock and key, the law does not state that a landlord can charge a fee to get your CORI report or another background check.³⁴ A private landlord may refuse to rent an apartment if you do not pay an extra fee, even if it is illegal. If you decide to pay a fee because you are afraid you will lose an apartment, make sure you get a written, signed, and dated receipt for the money you paid. Ask that the receipt say exactly what the money was for. This receipt is very important. If you later decide to challenge this extra fee or deduct it from your future rent, the receipt will be proof of what the money was used for.

Endnotes

1. G.L. c. 93, §51(a)(3)(v) gives a consumer reporting agency the authority to give a "consumer report" to a person using the information in connection with the rental of residential property. While landlords can obtain what is defined as a "consumer report" without the consumer's permission, landlords cannot obtain what is defined as an "investigate consumer report" without the consumer's permission. See G.L. c. 93, §53. An "investigative consumer report" is a report that includes information about a "person's character, general reputation, personal characteristics, or mode of living" obtained through personal interviews. See G.L. c. 93, §50. A "consumer report" is limited to credit information and cannot include specific information listed in the law. See G.L. c. 93, §52. Note: There is also a federal law that regulates consumer reports and provides protections for consumers called the Federal Fair Credit Reporting Act, 15 U.S.C. §1681 et seq. For more information about this law, see Fair Credit Reporting, published by the National Consumer Law Center and available for sale online at: <https://shop.consumerlaw.org/index.asp> under "Publications for Lawyers."
2. [15 U.S.C. §1681m\(a\)](#).
3. Laws that regulate credit reporting agencies do not apply to a prospective landlord obtaining a reference from your prior landlords or from another source, such as the Massachusetts Trial Court's online database.
4. A landlord may also see a credit score in addition to the credit report. A **credit score** estimates your creditworthiness based specific factors that each are weighted differently when viewing your credit report. A **credit report** shows how you have paid each of your debts. While consumers have a right to receive a free copy of their credits reports once every 12 months, you may have to pay for a credit score. In some mortgage transactions, you will receive credit score for free from the mortgage lender.
5. [15 U.S.C. §1681a\(d\)](#).
6. [G.L. c. 93, §59\(d\)](#).
7. [15 U.S.C. §§1681j\(b\)-\(c\)](#); [G.L. c. 93, §59\(a\)](#) (denied credit within last 60 days).
8. [G.L. c. 93, §59\(c\)](#).
9. [15 U.S.C. §1681c\(a\)](#); [G.L. c. 93, §56\(b\)](#), ¶ 3.
10. [15 U.S.C. §1681e\(b\)](#) and [§1681i\(a\)](#); [G.L. c. 93, §§56\(b\)](#) and 58.
11. [15 USC 1681j\(b\)](#).
12. [G.L. c. 93, §§ 56\(b\)](#). See also [57\(a\)-\(b\)](#) for how consumer reporting agencies must make disclosures to the consumer.
13. [15 U.S.C. §1681i\(a\)\(1\)](#); [G.L. c. 93, §58](#).
14. [15 U.S.C. §1681i\(a\)\(1\)](#); [G.L. c. 93, §58](#). Within ten days of completing the investigation, the company must notify you that the investigation is complete and send you a copy of your credit report if it has been revised. [G.L. c. 93, §58\(e\)](#).
15. [G.L. c. 93, §58\(c\)](#). The 3 business day requirement was added in 1995 and would not be pre-empted by federal law under the preemption provision in 15 USC 1681t(b)(1)(B) which preempts state laws "relating to the time by which a consumer reporting agency must take any action, including the provision of notification to a consumer or other person, in any procedure related to the disputed accuracy of information in a consumer's file, except that this subparagraph shall not apply to any State law in effect on September 30, 1996." See Acts and Resolves of 1995, Chapter 125, Section 8.
16. [15 U.S.C. §1681s-2\(b\)](#); [G.L. c. 93, §54A](#).
17. [15 U.S.C. §1681i\(b\)-\(c\)](#). See also [G.L. c. 93, §58\(d\)](#) ("If the reinvestigation does not resolve the dispute, the consumer may file a statement setting forth the nature of the dispute.").

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18. [15 U.S.C. §1681i\(c\)](#); [G.L. c. 93, §58\(f\)](#) (providing that whenever a statement of dispute is filed, the consumer reporting company shall, in any subsequent consumer report containing the information in question, clearly note that it is disputed by the consumer and provide the consumer's statement as part of its report).
 19. [15 U.S.C. §1681i\(d\)](#).
 20. [G.L. c. 93, §58\(e\)](#) requires a corrected report be provided to the consumer in 10 business days. [G. L. c. 93, §58\(g\)](#) requires a company to send the corrected report to previous users in 15 business days. The 10 and 15 business day requirements were added in 1995 and would not be pre-empted by federal law under preemption provision in 15 USC 1681t(b)(1)(B) which preempts state laws "relating to the time by which a consumer reporting agency must take any action, including the provision of notification to a consumer or other person, in any procedure related to the disputed accuracy of information in a consumer's file, except that this subparagraph shall not apply to any State law in effect on September 30, 1996. See [Acts and Resolves of 1995, Chapter 125, Section 8](#).
 21. <https://www.masscourts.org/eservices/home.page.2>.
 22. See generally, [G.L. c. 6, §§167-178](#).
 23. [Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions \(April 4, 2016\)](#).
 24. [803 C.M.R. §2.05\(4\)](#).
 25. This includes criminal cases that are continued without a finding. [803 C.M.R. §2.05\(4\)\(a\)\(1\)](#).
 26. [803 C.M.R. §2.05\(3\)\(b\)\(1\)](#).
 27. "Any landlord, property management company, real estate agent, or public housing authority that annually conducts five or more criminal background investigations, whether CORI is obtained from DCJIS or any other source, shall maintain a written CORI policy, which must meet the minimum standards of the DCJIS model CORI policy." [803 C.M.R. §5.07\(1\)](#).
 28. [803 C.M.R. §5.15\(1\)](#).
 29. [803 C.M.R. §5.04\(2\)](#), [§ 5.05\(3\)](#).
 30. [803 C.M.R. §11.12](#).
 31. [803 C.M.R. §5.15\(2\)](#).
 32. [G.L. c. 6, §175](#), 1st ¶, 2nd and subsequent sentences.
 33. [Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions \(April 4, 2016\)](#).
 34. [G.L. c. 186, §15B\(1\)\(b\)](#).