

Chapter 6

Tenant Screening

Legal Tactics: Finding Public and Subsidized Housing
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Words in *italics* appear in the
Glossary in the back of this book

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Most public and subsidized landlords check out or *screen* people who apply to rental housing to help them decide if that person is likely to be a good tenant. They do this by getting various records, the most common of which are past landlord references, credit reports, and criminal records.

If you are applying for public or subsidized housing, certain types of tenant screening are required and allowed by law. The rules are different depending upon the program.

Knowing how screening works for different programs will help you decide what programs to apply to, how best to prepare your application, and how to protect yourself along the way.

How Screening Works

1. What is the purpose of tenant screening in public and subsidized housing?

In general, the purpose of *tenant screening* is not to determine your eligibility for a certain program, but to determine if you are likely to be a good tenant. A good tenant is one who:

- Pays the rent on time.
- Complies with the lease.
- Keeps an apartment in good condition.
- Does not disturb neighbors or damage property.
- Does not engage in criminal activity, including using illegal drugs.
- Provides information reasonably necessary to evaluate an application.
- Has not committed fraud in other subsidized housing programs or in the current application.

Housing authorities and owners of multifamily subsidized housing have written policies which include procedures related to tenant screening.¹

2. Who does screening?

If you are applying for **public housing**, the housing authority conducts the screening.

If you are applying for a *tenant-based* voucher through the **Section 8 voucher program**, the job of screening is generally left up to the private landlord,

though housing authorities can also screen Section 8 applicants for criminal background, prior eviction from public housing or termination from a Section 8 program, and for debts owed to a public housing authority.

If you are applying for **privately owned multifamily subsidized housing** that has a *project-based subsidy*, the individual owner or the management company that runs the housing conducts the screening.

3. If a housing agency or landlord finds negative information, will I be denied housing?

It depends what the information is and what the housing program is. There are certain situations where a housing agency or subsidized landlord has no choice and must deny you housing.

But in many situations, if there is negative information, housing agencies and subsidized landlords have the option (*discretion*) to decide whether or not to deny your application. For this reason, you need to be prepared to provide positive information that explains the negative information and shows that you will be a good tenant. This chapter gives you specific ideas about what to do regarding criminal records, credit reports, and landlord references. If you are denied housing or a voucher due to negative information, you can challenge (*appeal*) this denial. For more information the appeal process, see **Chapter 7: Challenging a Denial of Housing**.

Screening barriers for domestic violence victims

A federal law provides important protection for victims of *domestic violence* who are applying for certain **federally** assisted housing.² The law provides that being a victim of *domestic violence*, *dating violence*, or *stalking* cannot be a reason for being denied federal public housing, a Section 8 voucher, or federal multifamily housing.³

The law also provides organizations and individuals working to protect the rights of *domestic violence* victims with some new tools to address screening barriers that prevent victims from getting into assisted housing. The law recognizes that abusers frequently manipulate finances in an effort to control their partners, and, as a result, people facing abuse often lack steady income, good credit history, landlord references, and a current address—all of which are necessary to obtain long-term permanent housing.⁴ The law seeks to take away these types of barriers by:

- Requiring public housing authorities to include in their one- and five-year plans policies and programs that will help children and victims of *domestic violence* obtain and keep housing.⁵
- Providing new grant programs to develop services and policies that (a) help victims of *domestic violence* who may be disqualified because of negative rental, credit, or criminal histories become eligible for housing assistance; and (b) allow applicants to provide incomplete rental and employment histories, if providing such information would endanger their safety or the safety of their children.⁶

4. Can I find out what information a housing agency or subsidized landlord has about me?

Yes. A housing agency or subsidized landlord should share with you all of the information it has relied on to make its decision to deny your application.⁷

If you are challenging a denial of housing, ask to see your application file at the same time that you request a hearing to challenge the denial.

If the housing agency or subsidized landlord intends to deny you housing based on a *criminal offender record information* report (CORI, for short), they must provide you with a copy of the CORI that they received and give you an opportunity to challenge the accuracy or relevance of the CORI **before they make a final decision**.⁸ See **Question 17** for information about what you can do if you have a negative criminal history.

Criminal Background Checks

5. What criminal information is used to screen my application?

Housing agencies and subsidized landlords generally obtain information about your past criminal activity through questions on an application and by conducting a criminal background check. Generally, you can be denied housing or a voucher because of past criminal activity that may threaten the health and safety of others. For more about the specific reasons that you could be denied housing, see **Chapter 7: Challenging a Denial of Housing**. While a housing agency can deny you housing based on criminal activity, it must provide you with a copy of the information it relied on, and an opportunity to dispute its accuracy and relevance.⁹

For a list of programs that assist ex-offenders and individuals with criminal records go to: www.masslegalhelp.org and www.cominghomedirectory.org.

Your application

Almost all agencies ask you to provide information about any criminal activity on your housing application. You must provide accurate information. If a criminal background check shows that you provided false information, a housing authority or subsidized landlord may deny you housing because you misrepresented or failed to reveal the requested information.¹⁰

IMPORTANT: If you are not sure what ultimately happened with a criminal charge, or whether or not you were convicted, or whether a crime was a felony or misdemeanor, **say you are not sure**.

“CORI” Reports

The most common type of criminal background check is done by requesting state *criminal offender record information*—*CORI*, for short.¹¹

Massachusetts keeps a record of every criminal court appearance in the state courts. 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, from *arraignment* through all subsequent court proceedings and sentencing.¹² For this reason, there may be a lot of entries or multiple charges on a CORI report, even though there may be only one criminal incident. These reports can have errors and include information that they should not include.

CORI is kept by the Criminal History Systems Board (CHSB), a state agency. CHSB must certify that an organization or individual is allowed to request a CORI of someone else. When CHSB receives a request from a certified entity, CHSB produces a CORI report.

IMPORTANT: The CORI report you get may be different from the CORI report that a housing authority or subsidized landlord gets, so never give the housing authority or landlord a copy of the CORI you have received. In fact, it is illegal for a housing agency to require you to provide them with a copy of your Massachusetts CORI.¹³ The housing authority must get its own copy from the CHSB.

For more information about housing authority access to CORI reports, see **Question 6**.

Out-of-state records

Housing agencies which have received special certification can request certain out-of-state criminal record information through local police departments, but must follow a specific procedure.¹⁴ For information about out-of-state criminal records, see **Question 7**.

Other records

If you are applying for most **federal** housing, the housing agency is required to check if you or members of your household are subject to a lifetime sex offender registration requirement if you are applying for most types of federally funded housing.¹⁵

Housing agencies may also seek information from drug treatment facilities about whether you are a current user of illegal drugs, but your consent is required for this.¹⁶

6. How do housing authorities access my CORI report?

If you are applying for public housing, a Section 8 voucher, or a Massachusetts Rental Housing Voucher, a housing authority or regional nonprofit housing agency is allowed to get a CORI report on all members of your household who are 17 years or older. They are also allowed to get CORI on applicants who are younger than 17 who have been convicted of a crime as an adult.¹⁷

A housing agency may request CORI only with respect to applicants who are “otherwise qualified” for housing assistance.¹⁸ In other words, a housing agency must first determine that you are eligible for housing assistance and then can it do a CORI check.

A housing agency must inform you in writing that it is requesting a CORI.¹⁹ They should ask you to sign either an acknowledgment form or a *consent form* that gives them permission to request criminal records from law enforcement agencies.²⁰ If a housing agency is doing a CORI check, regulations also require them to verify your identity with a government-issued form of photo identification.²¹

The criminal records that are available to a housing agency in a CORI report are limited to two types of information:

- **Criminal convictions:** Felonies and misdemeanors, no matter how old (unless they are sealed); and
- **Open cases:** Cases that are still open and have an “O” or a “V” in the status section of the CORI report. These include cases that are *continued without a finding, on file, on appeal*, where there is a *default warrant*, or where the person is still on probation. These are open regardless of whether the person is found guilty or not.

REMEMBER: It is illegal for a housing agency to require you to provide them with a copy of your Massachusetts CORI.²² The housing authority must get it from the CHSB.

Housing agencies are NOT supposed to get CORI reports listing cases with favorable court dispositions.²³ Favorable court *dispositions* include cases which ended in a finding of not guilty, or those that have been dismissed without any punishment, such as a term in jail, a fine, or probation. For example, if your case was *continued without a finding* and then dismissed, the case should not be in a CORI report that a housing authority gets because the case was dismissed without any punishment and is no longer open.

Before the CHSB sends a CORI report to the housing authority, they should filter out all the cases with favorable *dispositions*. Unfortunately, sometimes favorable decisions get included in CORI reports by mistake. If the housing authority gets a CORI with a case that has been dismissed or otherwise ends favorably for you, you should fill out a complaint form and send it to the CHSB. To access the complaint form, see the **Directory** at the end of this chapter.

If the CORI sent to the housing authority has a mistake on it as to what happened in the case and you have the *docket sheet* from the court proving that what is on the CORI is a mistake, it may make sense to give the housing authority a copy of the docket sheet. But do not give a housing authority a docket sheet if it contains other information that would be harmful to you. You should also have such an error fixed on your CORI. See **Question 17** for more about how to fix your CORI.

Once a housing agency has your CORI, it must keep this information confidential and the record must be either destroyed right away if you were admitted to housing or kept for a certain period of time if you were denied.²⁴

7. Will a housing authority check criminal records outside of Massachusetts?

Housing authorities are allowed to check for out-of-state criminal record information when screening adults applying for public and subsidized housing who otherwise qualify for assistance. But, they must follow certain procedures set out in regulations.²⁵

Under these regulations, a housing authority may submit a request to a local police department to check whether you are listed in an FBI database. The database is an index of people arrested for felonies or serious misdemeanors under laws in other states or under federal law.²⁶

After the housing authority submits its request, the police department conducts a computer search using your name and date of birth. If there is a possible match, the police department notifies the housing authority, which will then ask you to give the police department fingerprints that it will submit to determine whether there is a positive match.

If there is a match, the criminal record that matches the fingerprints will be sent to the local police department. Before giving the criminal record to the

housing authority, however, the police department must obtain any missing information about the outcome of an arrest and must remove any information that is not a criminal conviction or a pending case. The police department then forwards information about convictions and pending cases to the housing authority. All other records must be destroyed by the police department.

Because the records on this database are supported by fingerprints, this process is unlikely to bring up records which are not actually yours. However, there may be other problems with the quality of these records. The records may not contain complete information; for example, they may not show the final outcome of a criminal charge. In addition, the police department may make errors in deciding what information should be taken out and what should be released to a housing authority.

8. What criminal records are available to private landlords?

Private subsidized landlords do not have an automatic right to request CORI from the state on applicants for housing. They may do so only if they have been certified for this by the Criminal History Systems Board (CHSB).²⁷ If they are successful in getting that certification, then private owners may get the same type of CORI reports that housing authorities do (see **Question 6**). Several of the large multifamily landlords in Massachusetts are certified by CHSB to receive CORI.

Even if they do not have this certification, private landlords as a member of the public may access some CORI information. This is based on a complicated provision of the law which allows anyone to get, for \$25, a “publicly accessible” CORI report for people who are or were “under supervision” of the criminal justice system and have certain types of convictions.²⁸

Owners of **federal** multifamily subsidized housing can also request that a local housing authority get adult criminal conviction and pending record information on any member of your household who is 17 years of age or older (and on persons younger than 17 if they were tried as an adult).²⁹ The housing authority cannot turn over the conviction record to the requesting owner, but may only compare the information on it with the owner’s *tenant selection policy* and tell the owner if there is a conviction which would cause the person applying to be denied under the tenant selection policy.³⁰ If the owner denies you housing on this basis, you can *appeal* the decision through the local housing authority. Not many owners have used this method for screening.

Some private owners use private background checking or tenant screening agencies to obtain information about tenants, including public information about criminal activity. This information may be taken from daily logs of police departments (*blotter sheets*), which include arrest information and initial charges, and may also be summarized in community newspapers. The most common background screening agency is called FirstAdvantage SafeRent (see **Question 22**).³¹

Police logs do not, however, contain information about the final outcome of cases. If a management company obtains information from a police blotter or other public source, it may ask you to verify that the charge has been disposed of. If there was a positive outcome, be sure to communicate the information when you reply. If you fail to respond to such a request, this is likely to lead to a denial of housing because the management company may assume that there is a negative criminal history.

9. Can a private landlord charge me a fee to check whether I have a criminal record?

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.³² A private landlord may refuse to rent an apartment if you do not pay an extra CORI check fee, even if it is illegal. If you decide to pay a CORI 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. The receipt should explain exactly what the money is 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.

If you are applying for federally or state-funded housing, the cost of obtaining criminal or sex offender records cannot be passed on to you.³³

10. Do juvenile crimes count?

In Massachusetts, CORI reports do not include criminal record information about a person who is under 17 years of age—unless that person is considered a “youthful offender” and has been convicted as an adult.³⁴ For any person who is 17 or older, juvenile crimes cannot be reported on their CORI unless they were tried as an adult for those crimes.³⁵

If, however, a housing authority or subsidized landlord is aware of the wrongful or illegal activity of a person who is under 17 years old, it may try to use this information to show that a household member is likely to disturb neighbors. In other words, you may be denied housing based not on a CORI report, but on evidence uncovered through other public records, such as police blotters and arrest reports in newspapers. You can challenge this denial.

11. If I was charged with a crime but not convicted, will this affect my eligibility for housing?

It may. Even if you were not convicted, a housing agency or subsidized landlord can deny you housing if they have independent information that you have engaged in *illegal activity*.³⁶ This independent evidence must show that it is more likely than not that you or someone in your household engaged in illegal activity. Independent evidence might include police reports, credible eyewitness accounts, search warrant applications, and any admissions that you make about illegal activity that you engaged in.

12. Do I have to report all criminal history on my housing application?

You must provide accurate information on your application. If a criminal background check shows that you provided false or incomplete information, a housing authority or subsidized landlord may deny you admission due to misrepresentation or the failure to reveal requested information.³⁷ If you are not sure what happened with a particular charge or cannot remember, write down that you do not know.

13. What if I have a default warrant on my record?

If you have *defaulted* in a court case—which means that you failed to appear in court, failed to report to a probation officer, failed to pay a fine, or failed to perform some other obligation—your case is still open. This means it will show up on a CORI report. If you do not clear up a default, a court can issue

what is called a criminal *default warrant* for your arrest. It is better to try and clear up a *default* before it turns into a *default warrant*. You have to go to a court to address a default.

If you think there is a *default warrant* issued for your arrest, you should seek legal help from a criminal attorney before going to court on your own, since an outstanding warrant could result in your arrest if you appear in court.³⁸ You may have other reasons to want to clear up defaults, since they can also serve as a basis for denial of welfare or food stamp benefits.

How to contact a criminal defense lawyer

If you are low-income and meet certain income guidelines, you have a right to a public defender or a private attorney appointed by the court to help you remove a default. For more information, contact the Committee for Public Counsel Services (see listing in the **Directory** at the end of this chapter).

If you had a public defender or an appointed lawyer at the time of the case, you should take the following steps:

- Contact that attorney and ask if he or she is willing to assist you in getting a default removed.
- Ask that attorney to look into the matter and meet you at the courthouse to remove the default, recall the warrant, arrange for bail, or take whatever other action is necessary.
- If that appointed attorney is reluctant, ask him or her to contact the Committee for Public Counsel Services (CPCS) and request to have the Notice of Assignment of Counsel reopened for “necessary work” on the case, citing the right to counsel for a default removal.
- If that attorney is unavailable or will not reopen the matter, or you feel that the attorney did not provide you with effective assistance, you should contact the County Bar Advocate Program for the county where your case was filed, inform the program administrator that you want to remove a default, and ask when the program next has an attorney assigned to the court. You should also ask who the attorney is and ask for his or her phone number so that you can arrange to meet at the courthouse beforehand to discuss the default. See the list of County Bar Advocate Programs in the **Directory** at the end of this book.

14. What if I have a violation of probation or parole?

If you are in violation of probation or parole, you should consult a criminal attorney about how to clear up any violations, especially if you are applying for federally funded housing. Read **Question 13** for more about how to contact a criminal lawyer. While there is no specific rule that says housing authorities and subsidized landlords can deny you housing because you have violated your probation or parole, you could later be evicted or your assistance could be terminated for violations of probation or parole.³⁹ This rule applies only to all members of a household for state programs and specifically to heads of households for federal housing programs.

Getting My Own CORI

15. How can I get my own CORI?

Before you get to the top of a waiting list for housing, you should request your *CORI* to see what is in it, whether there are any errors, and to double-check that your name does not match up with someone else's criminal record. Once you see your CORI report, you may also find out about records that you may be able to have *sealed*—that is, removed from the public domain.

To request your CORI record, you must submit a CORI Request Form to the Criminal History Systems Board (CHSB). A link to the form can be found in the **Directory** at the back of this chapter.

You must sign this CORI Request Form in front of a notary public and have him or her notarize it. You can find notaries in city or town clerk's offices, local banks, real estate offices, lawyers' offices, and travel agencies. In Massachusetts, notaries may charge no more than \$1.25 for notarizing a document.

There is a fee of \$25 for your CORI. After you have the request form notarized, mail it according to the instructions along with a check or money order for the \$25 fee and a stamped envelope addressed to yourself.

If you cannot afford the fee, you can also submit an Affidavit of Indigency requesting that the fee be *waived* (not charged).⁴⁰ You qualify for a waiver if:

(A) you receive public assistance such as SSI, EAEDC, TAFDC, Medicaid/Commonhealth, or Veteran's Benefits; or

(B) Your income after taxes is under 125% of the current poverty guidelines (for 2009 Poverty Guidelines, see **Reference Materials** at the end of this chapter); or

(C) You are unable to pay the fee without depriving yourself or your family of the necessities of life such as food, shelter and clothing. If you only qualify under (C), then you must submit a Supplement to Affidavit of Indigency form with more information. You do not have to submit the Supplement if you qualify under (A) or (B) above.

The Affidavit of Indigency is attached to the CORI request form.

You should get a copy of your CORI in the mail about two weeks after submitting your request. However, processing times can vary. The CHSB website posts the current processing times at www.mass.gov/chsb.

REMEMBER: your CORI report may not match the version of your CORI report that a housing agency gets. For example, if you had a case that was dismissed or you were found not guilty, your CORI report should show these cases, but a housing agency's CORI report on you should not. Therefore, never give or show your CORI report to a housing agency, because it may reveal information that they would not otherwise find out. Also, it is illegal for a housing agency to require you to provide them with a copy of your CORI.⁴¹ They must get it themselves.

If you have an advocate, he or she can request your CORI for you, by filling out the Advocate Request Form. A link to the form is found in the **Directory** at the end of this chapter.

16. How do I read my CORI?

CORI reports were originally made to be used by police, courts, probation officers, and other law enforcement agencies. Now, many people and organizations are allowed access to CORI reports. But the reports are still written using law enforcement codes instead of plain language. They are often filled with abbreviations and acronyms. There is a guide to some of the common abbreviations in the **Reference Materials** at the end of this chapter.

If you cannot understand something on the CORI, you can call the probation office at the court where the case was heard and ask if one of the probation officers can explain the entry. The Criminal History Systems Board also has a useful guide on how to read a CORI on its website at www.mass.gov/chsb.

17. What can I do to make my CORI better?

There are several steps you can take to correct and improve a CORI report.

Check your CORI for mistakes

If there are errors in your CORI—for example, if your CORI says you were found guilty, but in fact your case was *continued without a finding* and later dismissed—you should try to get this corrected. The corrected version showing that the case was dismissed should not be accessible to the housing authority.

Go to the local court where the charge was handled and ask for a copy of the *docket entry sheet* which states what actually happened in the case. Take this to the probation office and ask the probation officer to change the database to show what the docket sheet says. If the probation officer agrees, the correction should be entered within 24 hours, but, because delays can happen, you may need to monitor this. Once the probation office makes a correction, the Criminal History Systems Board's database automatically changes.

If the probation office will not make the change, go to the chief probation officer of that court and request the change. If that does not work, you can file a complaint with the Office of the Commissioner of Probation (OCP) at 617-727-5300. If all of this fails, you may request that the Criminal History Systems Board review your requests and order the probation office to make the correction.⁴² For more information, see the link about Correcting a Record found in the **Directory** at the end of this chapter.

Check your CORI for misidentification or identity theft

Your CORI report may in fact have the criminal record of someone else who has a name similar to yours. If that is the case, complete the CORI complaint form provided by CHSB. A link to the form is found in the **Directory** at the end of this chapter.

In addition, someone may have used your name as an alias. If you see that the name and criminal record of another person is on your CORI, you can complete a petition to be considered a victim of identity theft.⁴³ There is a link to more information in the **Directory** at the end of this chapter.

Clear up defaults

If you failed to appear in court for a case and have a *default* on your record, talk to a criminal attorney to assess any risk in clearing it up. If you had an attorney for the original case, see if that person is willing to give you advice and help you. For more information, see **Question 13** in this chapter.

Deal with the probation or continuance without a finding

If you are on probation or your case was *continued without a finding*, you should ask the probation officer to write you a favorable recommendation telling the housing agency or landlord that you are complying with the terms of your probation. You can also ask your attorney to request the court to shorten the continued-without-a-finding or probation period, but you should be sure to discuss the pros and cons of doing that.

Ask the court to revise and revoke your sentence

Sometimes, though rarely, your criminal defense lawyer may be able to file a motion and get a sentence *revised and revoked*.⁴⁴ A motion should be filed within 60 days after a judge imposes a sentence or 60 days after any order from an appellate court.⁴⁵ For example, a guilty finding could be revised and revoked to a dismissal and then *sealed*. While this is being done, if you are challenging the denial of housing, the housing agency should hold your appeal open for up to 90 days.⁴⁶

If you are low-income and meet certain income guidelines, you have a right to a public defender or a private attorney that is appointed by the court to help you file a motion to revise and revoke. If you did not originally have a public defender or appointed counsel or you feel that that attorney was somehow ineffective or failed to adequately represent you, contact your local bar advocate program in writing and ask them to assign an attorney to you for the motion. See the list of County Bar Advocate Programs in the **Directory** at the end of this book.

Petition to seal your record

Depending on the age and nature of the offense, you may be able to seal a record. While a *sealed* record still remains as part of your record, sealing it means most requesters, including housing agencies, will not see the sealed record. See **Question 18** for more detailed information.

18. How do I seal a criminal record?

Getting a record *sealed* means that the record is moved to a separate database and is not available to most requesters. The laws relating to sealing a criminal record can be quite complicated. In addition, the law may change due to pending legislation. Consult www.masslegalhelp.org/cori for any changes or updates.

If you are on a housing waiting list, try to get eligible records *sealed* before you reach the top of the list. You may be able to get a record sealed by the court that dealt with the case if it ended favorably; or, if there was a conviction and a certain amount of time has passed, you may be able to get it sealed by the Office of the Commissioner of Probation.

Some offenses are not eligible for sealing. Sex offenders who are required to register are not entitled to relief under the sealing laws.⁴⁷ In addition, certain convictions relating to firearms, crimes against public justice, and the State Ethics Act are not sealable.⁴⁸

Sealing convictions or orders of probation

For cases where there was a conviction (where you pled guilty, were found guilty, or were sentenced), or your case was *continued without a finding* with probation, you can get the case sealed only after a certain amount of time has passed. Massachusetts law allows certain criminal records to be sealed after a waiting period. Misdemeanor convictions may be sealed after 10 years; felony convictions may be sealed after 15 years. The waiting period for each case begins at the final *disposition* of that case. The final disposition is when the case ends, such as when a person is released from prison, when probation ends, or when parole ends—whichever is later.

However, a case cannot be sealed, even if the 10 or 15 years have passed, if, in the 10 years before you ask for a case to be sealed, you have any *new* convictions, except for certain minor traffic offenses. So the waiting period for sealing a case starts with the final disposition of the most recent conviction. In addition, sometimes the Commissioner of Probation will not seal any case record of a particular person until all the cases on the record can be sealed.⁴⁹

If you are trying to get a conviction sealed after the 10- or 15-year waiting period has passed, you need to get a form called a Petition to Seal from the Sealed Records Division of the Commissioner of Probation. A link to this form is provided in the **Directory** at the end of this chapter. There is no fee for this form. Fill this form out and send it to the Commissioner of Probation.

Note: “Controlled substance” (drug) laws provide special sealing provisions.⁵⁰

Sealing cases that ended favorably

Cases that ended favorably (non-conviction cases), such as by a not guilty finding from a judge or jury, by *nol prosequere* (prosecutor’s decision not to try the case), or by a dismissal (which is not after termination of an order of probation), can be sealed as well, but you must use a different process. You must go to court and have a judge decide if the record of the case should be sealed.⁵¹

For non-conviction cases, you must get a form (which may also be referred to as a Petition to Seal) at any court or to the Office of the Commissioner of Probation. However, after you fill it out you must file it *in the court where your case was heard*. Unfortunately, the process to get these types of cases sealed has become complicated. Before taking any action, you may want to read the materials available at: www.masslegalhelp.org/cori.

Juvenile records

Juvenile records are not accessible by landlords and housing authorities, and do not appear on your CORI. However, juvenile delinquency cases can be sealed using the same Petition to Seal referenced above after a waiting period of 3 years from the final disposition of the case, as long as there are 1) no new adjudications or convictions (other than motor vehicle convictions with a fine under \$50.00); 2) no delinquency commitments or imprisonments in the last 3 years; **and** 3) the person is not required to register as a sex offender.⁵²

Convictions that can be sealed with no waiting period

If the conviction was for an offense that is no longer a crime (such as possession of less than an ounce of marijuana), it can be sealed *immediately*, unless the elements of the charged offense are a crime under a different designation.⁵³

In addition, a first time misdemeanor conviction for possession of some controlled substances in Massachusetts State Court can be sealed without a waiting period, but to do so, you must use the court process described above for cases that ended favorably.⁵⁴

19. What can I do if I have a negative criminal history or a history of substance abuse?

If you have a negative criminal history or a history of substance abuse, you can be denied housing. However, there are a number of steps you may be able to take to persuade a housing agency or subsidized landlord that you will be a good tenant.

First, ask the housing authority or subsidized landlord for a copy of any and all information they used to make this decision. You have a right to *appeal* or challenge a denial of housing. If a private landlord that has been certified to receive access to CORI intends to deny your application for housing, you

must be provided with an opportunity to challenge the accuracy or relevance of information the landlord has received before a final decision is made.⁵⁵

For more information, see **Chapter 7: Challenging a Denial of Housing**.

Challenge the accuracy and relevance of CORI

If a housing authority or subsidized landlord intends to deny your application for housing based on information in a CORI report, they must give you an opportunity to challenge the accuracy or relevance of the CORI they have received before they make a final decision. Regulations require all agencies certified to receive CORI to do the following:

- Inform you about which part of the criminal record appears to make you ineligible;
- Provide you with a copy of its CORI policy;
- Provide you with information about how to correct a criminal record;
- Upon receiving new documents from you or the Criminal History Systems Board, review the new information with you and inform you of the final decision.⁵⁶

Present helpful information

You have a right to explain to a housing agency that there are circumstances which show that you will not engage in similar wrongful conduct in the future.⁵⁷ Pull together the best information that you can to make your case. You can give this information to the housing agency before it gives you a decision about your application, and you also have a right to meet with the housing agency if they deny you housing. Information that can be helpful includes:

- Letters from counselors and social service agencies explaining that you have gone through rehabilitation.
- Evidence that shows your behavior was in self-defense or the result of *domestic violence*.
- Evidence that shows a change in circumstance—for example, the person with criminal history is no longer part of your household.
- Evidence that the offense was not serious or did not cause anyone harm.

- Evidence in a case file that shows a seemingly serious case was actually minor.⁵⁸

Be able to explain your CORI

CORI reports are difficult to read and understand. If you have a CORI with lots of entries, a housing agency or subsidized landlord may conclude, without further study or investigation, that you have a long criminal record and should not be given housing. Your ability to explain your CORI may show, for example, that many entries relate to just one incident.

For more about how to read a CORI report, go to: www.mass.gov/chsb. Also, see the **Reference Materials** at the end of this chapter for some common codes to help you interpret your CORI. New codes are created all the time, however, so if you cannot find a code on this list, contact the probation office in the court where the case was heard and ask them what the code means.

Request a reasonable accommodation

If your criminal history is related to a disability, you can request a *reasonable accommodation*.⁵⁹ Alcohol dependency, past drug addiction, and mental or physical illnesses are all disabilities which may entitle you to a reasonable accommodation. A reasonable accommodation may be granted if, for example, you have a criminal history related to alcoholism but have participated in an alcohol treatment program and no longer drink alcohol. In a request for reasonable accommodation, you should show:

- The relationship between the criminal history and alcohol dependency, a mental or physical illness, or past drug addiction.
- Participation in or completion of an alcohol or drug rehabilitation program.
- Information about new mental health or other treatments or medications that address a prior problem with violent outbursts, stealing, or other criminal behavior.

Pick housing programs where you have the best chance

Review your CORI to determine the housing programs for which you might be qualified. Concentrate on applying to those programs. For example, depending upon your CORI, you could automatically be denied federal public housing, but you still could be eligible for state public housing. If you need help determining under which statute you were convicted, call the attorney who represented you in the criminal case. Probation officers and court clerks may also be helpful. For more information about specific reasons that you

may be denied housing by each housing program, see **Chapter 7: Challenging a Denial of Housing**.

There are also some housing opportunities—most often, transitional housing—for people with a criminal background or history of substance abuse. They are often small programs, and may be run by local organizations. Seek them out through your local Massachusetts Housing Consumer Education Center or your local Continuum of Care provider. More information about different housing programs is in **Chapter 1: Housing Programs in Massachusetts**.

Ask that your application be put on hold

If you are awaiting trial on a criminal case, you can ask that the housing agency not act on the application until the case is over, so that your housing application is not *prejudiced*. If, however, you believe that the criminal charge is so minor that it should not affect eligibility even if you are found guilty, you could ask the housing agency or landlord to make a decision now and not wait until final *disposition* of the criminal case.

If you are trying to have your CORI corrected, you should consider withdrawing your application until your CORI is fixed. The reason to consider doing this is that if you are denied, you may not be able to reapply for a certain amount of time, such as 18 months or longer, depending on the housing authority.

Credit Checks

20. Do housing agencies and subsidized landlords check credit reports?

Yes. Housing agencies and subsidized landlords often get credit reports to see if there is information in them about whether you will be able to pay the rent. Credit reports (sometimes called consumer credit reports) are records showing how you have borrowed money and repaid it and what money you currently owe (*debts*). Almost every adult has 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 your application.

21. What information is in my credit report?

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 what debts you owe and any amount that is due. In addition, it will include a summary of the number of times that any account was delinquent by 30, 60, and 90 days, the dates of the most recent delinquencies, and the dates of the most severe delinquencies. It will also list any accounts that have been turned over to a collection agency or for which there are any court judgments against you. It could contain public information about criminal arrests, convictions, and bankruptcies.

What information is not included in a credit report

Your credit report generally does not contain information about your race, religious preference, medical history, personal lifestyle, or political preference. It could, however, contain information about a consumer's "character" and "reputation."⁶⁰ Income and driving records are rarely included. The report does not include personal comments or opinions about you from creditors or debt collection agencies, such as notations that you are a "deadbeat" or a "lousy credit risk."

22. How can I get a copy of my credit report?

There are three national credit reporting companies: Experian (formerly TRW), Equifax, and TransUnion. There is a way to obtain a free copy of your report from all of these companies simultaneously.

Massachusetts residents are entitled to one free credit report a year from each of these credit reporting agencies.⁶¹ 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.⁶²

If you are not entitled to a free copy, the reporting agencies cannot charge you more than \$8 for a copy of your credit report.⁶³

There is also a national consumer reporting company called First Advantage SafeRent that provides information to multifamily housing providers. Its consumer reports contain information from public record sources and creditors and may also contain information about whether a person has been sued, has filed for bankruptcy, or has a criminal or civil court record. To obtain a free copy of your consumer report from First Advantage SafeRent, you must fill out a Consumer Disclosure Request Form. 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 contact information for all of these reporting companies, see the **Directory** at the back of this chapter.

23. How do I correct errors or old information on my credit report?

Once you get a copy of your credit report, take a careful look at it. Check to see if there are any mistakes or old information. 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. Or there may be information about a debt that is more than 7 years old.

Information about your accounts can only be reported for 7 years from the date that you failed to pay a debt, except for information about bankruptcies, which can remain on your report for 10 years.⁶⁴ Criminal convictions never become obsolete for credit report purposes.

If you believe that your credit report contains incorrect or old information, you have a right to challenge the accuracy of the report.⁶⁵ To do this, write a letter to each reporting company that has reported incorrect information. Tell the credit reporting company 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.⁶⁶ Keep a copy of your letter and the originals of any supporting documents.

By law, the credit reporting company must reinvestigate and correct erroneous information.⁶⁷ In most circumstances, the agency is required to get back to you with the results of the investigation within 30 days.⁶⁸ You should also contact the company that provided the inaccurate or incomplete information to the credit bureau and request a correction of its records. The creditor who supplied the information has a duty to correct and update the information.⁶⁹

If the credit reporting company 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.⁷⁰ This statement must be attached to your credit report and provided to anyone who accesses your report in the future.⁷¹

If the credit reporting company modifies or removes bad information from your file, you have a right to request that they send the new credit report to any person who has received your report within the past six months.⁷² The agency must send a corrected report within 15 business days of your request. The agency cannot charge a fee for this service.⁷³

If you have bad credit 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/.

24. If I have bad credit but have always paid my rent on time, can I get public or subsidized housing?

Your rent payment history is what is most important to a landlord. For some programs, it is a rule that you should not be denied housing based on bad credit if you can show that you always pay your rent on time.⁷⁴ In order to demonstrate your rental payment history, ask for a copy of your rent ledger or a letter from former landlords, transitional living programs, or shelters (where a program fee was charged), or gather cancelled checks or money order receipts which demonstrate on-time rent payments. If you have paid your rent, you should always appeal a denial of housing based on poor credit history.

25. If I have bad credit, can a credit repair agency help me?

No. No one can 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 agencies, go to: www.ftc.gov/bcp/online/pubs/credit/repair.htm.

Note: Credit repair agencies are not the same as credit counseling services. 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 to consumers. You can find the office nearest you by checking the white pages of your telephone directory under “Consumer Credit Counseling Service.”

26. If I have bad credit, how can I improve my chances of getting housing?

Make minimal payments

Offer to make minimal payments to previous landlords to whom you owe money and to creditors who have reported debts that you still owe. Paying even \$5 per month on time shows that you are making an effort to repay the debt and can improve your credit, even if it does not significantly reduce the debt. Concentrate on previous landlords and those creditors who report to the credit bureaus.

Supply positive but unreported payment history

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 companies do not usually include this information in their reports. Many, however, will add these accounts at your request—for a fee. But instead of paying the fee, you can supply the information directly to the housing agency where you are applying.

Explain damaging information

When you are applying for housing and you know the landlord will do a credit check, include a letter and documentation 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, 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 and larger, city landlords 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.

27. If I don't have any credit history, can I get housing?

If you have never borrowed money from any entity that reports to credit reporting agencies, you will have no credit history. No credit history is not the same as bad credit history. You should not be denied public or subsidized housing for lack of any credit history.⁷⁵ But you may have to convince a housing authority or subsidized landlord that you can afford to pay the rent.

Housing History

28. What information about my past housing will I need when I apply for housing?

Many housing agencies and subsidized landlords get information from current and prior landlords to determine whether you will be a good tenant. They may ask you to list every place you have lived in recent years, including addresses and contact information for the landlord. They may also ask you to sign a form giving them permission to contact your former landlords in order to ask for information about you as a tenant.

If you leave out a prior landlord on your housing application and this is discovered, a housing agency may deny your application due to misrepresentation or failure to provide requested information. If you are worried about a bad landlord reference, read **Question 32**.

If there were times when you were not renting an apartment, you should identify these gaps in your rental history on your application. A housing agency or landlord may deny you housing if they believe any gaps to be an attempt to hide a negative landlord reference. So you should be sure to explain gaps in your rental history, such as if you were living with family or friends, living in a shelter, were homeless, or some other situation.

You may likely be asked for documents to support the information you put on the application about your past housing.⁷⁶ It helps to get documents together ahead of time and make several copies, so you always have a set of what you need on hand. Although housing authorities should accept your application even if you do not have all of your supporting documents, it is best to submit as much documentation as possible with your original application.

Keep in mind that while a housing agency or subsidized landlord can ask for documents to support the information you put on your application, under state law they can only request documents that are reliable and **reasonably obtainable**.⁷⁷

29. How do I prove where I lived before?

A housing agency or subsidized landlord may send a form to each of your former landlords asking them for a reference about you as a tenant. As long as the landlord returns this form, you should not need any more proof that you lived there. If the landlord does not return this form or if there is information on the form that is not clear or needs follow-up, the housing agency or subsidized landlord may want to call the previous landlord. If you were living in an institution or group home, you can ask the agency that ran the institution or group home to verify the dates you lived there and send it to the housing agency or subsidized landlord. For this reason, make sure that you have as good information as possible about your landlords' names, addresses, and phone numbers.

To prove where you have lived, you can use rent receipts, mail, bills (such as utility bills), bank statements, medical records, driver's licenses, passports, or other business documents listing your previous addresses. Some of these documents proving where you lived or stayed may be found in welfare, food stamp, medical, or school records.

If you have no documents like these, get written statements from friends, family, neighbors, clergy, or anyone else who can say where you stayed during a particular time. For example, if you did not have your own apartment because you were living in someone else's home, you should get a written statement from that person saying that you lived with her and what bills you paid, such as room and board, telephone, or a share of the utilities. The statement should include the dates that you stayed there. Although you do not have to, you can ask that the person who wrote the statement have it *notarized*. This means that the person who wrote the statement swears under the pains and penalties of perjury in front of the *notary public* that everything in the statement is true. The housing agency may ask you for an address and phone number for this person in case follow-up is required.

If you cannot get a written statement from someone you were living with because, for example, you were living in your boyfriend's apartment and he abused you, explain this to the housing agency. They should not require you to contact the abuser. You may need to provide proof that this is the case, such as a copy of a restraining order, a letter from a social worker at a battered women's program, or the District Attorney's office if your abuser is being prosecuted.

30. When do I have to try to contact my former landlord for a reference?

If you are applying for state-funded housing and a housing agency sends a request to your former landlord for a reference but the landlord does not respond, the housing agency or subsidized landlord can ask that you use your “best efforts” to get the landlord to send the reference to the housing agency.⁷⁸

“Best efforts” means that you try to get current contact information for the former landlord or make direct contact and ask him or her to provide the requested reference to the housing authority. It is a good idea to document your efforts to contact your former landlord.

Note: There is no similar requirement to use “best efforts” if you are applying for federally funded housing.

It is often a good idea to contact former landlords and tell them that they will be receiving a reference request from the housing provider and ask them to complete and return it promptly. This also may give you a “heads up” if your former landlord is going to give any negative information in the reference, so that you can be prepared to counteract it.

If you use your best efforts to get a former landlord to reply and she does not, you will need to cooperate with the housing agency or landlord to provide other information that you will be a good tenant. For example, you can get letters from employers, clergy, shelter staff, doctors, or social workers to show that you are responsible and will meet the terms of the lease.⁷⁹ Keep in mind that under state law a housing agency can only request documents that are reliable and **reasonably obtainable**.⁸⁰ If you do not use your best efforts, a housing agency or landlord can deny you housing.

31. How do housing agencies find out if I have been evicted before?

Many landlords and housing authorities subscribe to services that report evictions filed in court. These services collect information from courts. The information they collect can be incomplete, inaccurate, and misleading. One such reporting service is a national company called First Advantage SafeRent. It collects information from sources such as public records and landlord-tenant court filings. Before you begin your housing search, you should obtain your own copy of your consumer report from First Advantage

SafeRent to make sure there is no inaccurate or incomplete information (see **Question 22** and the **Directory** at the end of the chapter). If, for example, the report shows that there was an eviction case filed against you, it may not show that the case was dismissed or that the landlord allowed you to stay in your apartment under an agreement or that you won the case.

If your report does not show the complete picture, go to the appropriate courts to make copies of all documents that show that the information that First Advantage SafeRent has in the report is inaccurate. Keep a copy for yourself (to use with housing applications) and mail a copy to First Advantage SafeRent, with a request that First Advantage SafeRent correct its records.

If an eviction case is reported, you have the right to have the reporting service attach a statement to all reports explaining your side of the case. For example, in your statement you should distinguish whether an eviction was for “fault” or was “*no-fault*” (where a landlord is evicting a tenant who has done nothing wrong). Also, if it was a “fault” eviction and the case was settled or there was an agreement for judgment and the court never made a determination that the tenant was at fault, this should be noted in a statement. In addition, if the case is more than 7 years old, it should not be listed at all. For more information about how to correct errors or misleading information in your report, see **Question 23**.

32. What steps can I take if I think that I may get a bad landlord reference?

If you know that a particular landlord will give you a bad reference, it may be tempting to leave that landlord off the list. However, if you leave off a landlord and the housing agency or subsidized landlord finds out about that landlord, you may be denied housing based on fraud, misrepresentation, or failure to provide complete information on your housing application.

You will be given an opportunity to challenge a denial of housing and present evidence to show that you would be a good tenant in spite of a bad landlord reference or other problems on your application.⁸¹ For more information, see **Chapter 7: Challenging a Denial of Housing**.

Negotiate a simple reference

If you are afraid that a former landlord may unfairly give you a bad reference in retaliation for something you did—for example, calling the board of health—one thing to do is to try to negotiate with that landlord to get a very simple reference letter that says you paid the rent on time.

Show the landlord is being unfair

If the landlord refuses to give you a simple reference, you can collect information or documents that show your side of the story and how the prior landlord's bad reference is unfair. Be ready to give copies to the housing agency or subsidized landlord if the issue comes up. Remember always to keep copies for yourself.

Show circumstances have changed

You can also gather evidence that would show certain circumstances that explain a bad landlord reference, for example:

- You did not pay rent for a certain period of time because of poor conditions in the apartment.⁸² Gather photographs, board of health reports, or statements from people who saw the condition of the apartment.
- A medical or financial problem that caused you to get behind in your rent that has been resolved.
- Disturbances in your apartment happened because of abuse you were facing. Gather statements of counselors who knew about your situation, police reports, or restraining orders.
- Circumstances in your family have changed and a household member who caused disturbances no longer lives with you.
- You have given away a pet that you had in violation of a no-pet rule.
- You are now receiving social services which will enable you to comply with your lease.

Ask for a reasonable accommodation

If a bad landlord reference is related to a disability, you can request *reasonable accommodation* from the housing agency to address concerns about your application. Although the law does not clearly define what reasonable accommodation means, in general it requires landlords to make changes in rules, policies, or practices so that a tenant may make full use of his or her home.⁸³

Alcohol dependency, past drug addiction, and mental or physical illnesses are all disabilities that may entitle you to a reasonable accommodation. In a request for reasonable accommodations, you explain a bad landlord reference by describing how your disability affected your past tenancy and the relationship between you and your previous landlord. You can also give the

housing authority or subsidized landlord information about how circumstances have changed; for example, new treatments or medications. For more information, see **Chapter 10: Reasonable Accommodations**.

33. Can a landlord ask me about my utility payment history?

If you will be required to pay for gas or electricity in the public or subsidized housing unit, a housing agency or landlord can ask you for information about your history of paying your utility bills. But remember that under state law they can only request documents that are reliable and **reasonably obtainable**.⁸⁴

If your payment history shows that your utilities were shut off for nonpayment, be prepared to show that you will pay the utility bills if you get an apartment in public or subsidized housing. For example, one reason you may not have been able to pay utility bills in the past was because you could not afford them and your high rent at the same time. When your rent is set at the lower public or subsidized housing level, you will be able to afford the utilities.

Other factors affecting your future ability to pay for utilities might be that your household's income may be higher now, or that someone else who was responsible for paying the utilities but failed to do so is no longer a member of your household.

If the reason for the utility nonpayment was related to a disability, you can ask a housing agency to consider that your prior nonpayment was caused by your disability. Inform them that since then you have taken steps to get treatment for the disability or to otherwise make sure that your bills will be paid, such as by having a *representative payee* for your disability benefits.⁸⁵ The housing agency's or landlord's agreement would be considered a *reasonable accommodation*.

34. What if I am afraid that a landlord reference will lead to my abuser's finding out where I am?

If you are afraid that information that you are applying for housing in a particular community will pass from a former landlord to a person who has abused you and the abuser will find you, you can ask the housing agency or landlord to *waive* this part of the application process with this particular landlord for safety reasons. You will need to provide proof about why you want to contact a particular landlord, such as a copy of your restraining order or a letter from a social worker at a battered women's program or from the District Attorney's office if your abuser is being prosecuted.

35. What if I have no landlord history?

The purpose of a landlord's checking your rental history is to be assured that you will be a good tenant. If you have no prior rental history, you can use other sources of information to show that you will pay rent on time, will keep your apartment in good condition, and will not disturb your neighbors or destroy property.

For example, regular payment of other bills, such as cell phones, medical payments, car loans or insurance, can demonstrate your ability and willingness to pay rent on time. You can also get letters of reference regarding your character and reliability from employers, clergy, shelter staff, doctors, or social workers to show that you will pay your rent and meet the other terms of the lease, including taking care of your apartment and respecting the rights of others.

36. What if I owe money to a public housing authority?

Housing authorities may reject your application because of a prior debt you owe to it or to any other housing authority. These debts are usually related to a claim that you failed to pay rent or repair charges when you lived in public housing. The federal Section 8 rules expressly allow denial of an application

for debts owed to housing authorities,⁸⁶ but there are no federal regulations dealing with this issue for other programs. For other programs, the housing authorities may consider whether your debt to a housing authority indicates that you are a poor credit risk or are otherwise an undesirable tenant.

In practice, most housing authorities will tell you that prior debt to a housing program must be paid off in order to be eligible for assistance. Unfortunately, housing authorities often wait until you are at the top of the waiting list to tell you about the debt, leaving a short period of time to pay it off. Therefore, if you have ever lived in public housing, it is a good idea to check with your former housing authority about prior debts when you are beginning the process of applying for housing. This way, if you find out that you owe a debt, you can arrange to gradually pay it off while you are on waiting lists.

If the debt owed is old, there may be some arguments that it shouldn't be relied on as a reason to deny you.⁸⁷

37. What if I was evicted from public or subsidized housing or terminated from the Section 8 program?

It depends on the circumstances. Section 8 programs must deny applicants who were previously in the Section 8 program and evicted for a serious lease violation.⁸⁸ Federal public housing program must deny applicants who were previously evicted from federally assisted housing for drug related activity (within three years) or for being convicted of manufacturing methamphetamine there.⁸⁹ But generally, if the eviction was related to nonpayment, or to some negative activity, housing programs are allowed to deny applicants. For more information, see **Chapter 7: Challenging a Denial of Housing**.

Reference Materials

38. Government Poverty Guidelines

Every year, the federal government establishes poverty guidelines to determine who is financially eligible for particular programs. The chart below tells you the yearly poverty income guideline cut-offs for 100% and 125% of poverty. If you are requesting your own CORI record and cannot afford the \$25 fee and your income is below 125% of the Federal Poverty Guidelines, you may ask to waive the fee by filling out the Affidavit of Indigency portion of the request form (see **Directory** for a link to the form).

These figures change every year around February and are available at <http://aspe.hhs.gov/poverty>.

Household Size	100% of Poverty	125% of Poverty
1	\$10,830	\$13,538
2	\$14,570	\$18,213
3	\$18,370	\$22,963
4	\$22,050	\$27,563
5	\$25,790	\$32,238
6	\$29,530	\$36,913
7	\$33,270	\$41,588
8	\$37,010	\$46,263
For each additional person	\$3,740	\$4,675

Source: Federal Register, Vol. 74, No. 14, January 23, 2009, pp. 4199-4201.

39. CORI Codes

CORI reports include many abbreviations, and these lists are to help you decipher what the report says. For complete information on how to read a CORI, go to:

[www.mass.gov/?pageID=eopssubtopic&L=5&L0=Home&L1=Crime+Prevention+%26+Personal+Safety&L2=Background+Check&L3=Criminal+Offender+Record+Information+\(CORI\)&L4=How+to+Read+a+Criminal+Record&sid=Eeops](http://www.mass.gov/?pageID=eopssubtopic&L=5&L0=Home&L1=Crime+Prevention+%26+Personal+Safety&L2=Background+Check&L3=Criminal+Offender+Record+Information+(CORI)&L4=How+to+Read+a+Criminal+Record&sid=Eeops)

Status Codes

Status codes are in the right-most column of the CORI report.

Code	Description
C	Case Closed
O	Opening or Pending Case
V	Individual is in violation of terms or condition of supervised pre-trial probation or probation following disposition
W	Outstanding Warrant
VPH	Violation of Probation Hearing
WPD	Wanting Police Department, if warrant is active, PD is named

Disposition Codes

The disposition codes are listed on the left for each stage of a case and will tell you what happened in the case. Common codes are:

CWOF or CWF = Continued without a finding: not considered a conviction. The court allows the defendant to "save" his record and not have a guilty finding entered as long as he completes a period of probation without further criminal charges and complies with the terms of probation. Most often occurs where the defendant has admitted to sufficient facts (see above).

DF = Default: failure by the defendant to appear in court during criminal case; a warrant will be entered for his/her arrest.

DISM = Dismissed: the court may dismiss a case for various legal reasons. The commonwealth has the remedy of appeal if a case is dismissed over its objection.

G = Guilty: conviction of criminal charge; a finding by judge or jury beyond a reasonable doubt that defendant committed crime(s) charged by the Commonwealth.

G FILED = Guilty filed: conviction of criminal charge without a period of incarceration or probation.

NG = Not guilty: finding by judge or jury that the evidence presented by the Commonwealth did not prove beyond a reasonable doubt that the defendant committed the crimes as charged.

NOLO = Nolo contendere: Latin translation is "I do not wish to contend"; formerly used in the Commonwealth in which a defendant enters a plea in a criminal proceeding who does not admit guilt but states that he will offer no defense against the charges. The defendant may then be declared guilty, yet retain the right to deny the validity of the finding in related proceedings.

NP = Nolle Prosequi (or Nol Prossed): motion by the Commonwealth to dismiss charges as if they were never brought in the first place because of insufficient evidence.

PROB = Probation: the court may order the defendant to be supervised by the probation department with certain conditions and/or programs to be completed during a specific period of time; this may be following a period of incarceration, with a suspended sentence, or straight probation.

SDP = Sexually Dangerous Person: formal adjudication as a sexually dangerous person. Pursuant to G.L. c. 123A, s. 14, if after a trial an individual is found to be a SDP, such person shall be committed to the treatment center for an indeterminate period of a minimum of one day and a maximum of such person's natural life until discharged pursuant to the provisions of section 9.

VAC = Vacated: usually refers to the removal of default entered on an individual's criminal record.

Crime Glossary

A&B	Assault and Battery
ARM	Armed
ATT	Attempted or Attempting To
B&E	Breaking and Entering
BR	Breaking
CNW	Common Night Walker
CONT	Controlled
CSA	(Possession of a) Controlled Substance, Schedule A
CSB	(Possession of a) Controlled Substance, Schedule B
CSC	(Possession of a) Controlled Substance, Schedule C
DIS	Disorderly or Disturbing
DIS PERS	Being a Disorderly Person, i.e., Disorderly Conduct
FL	Failure (to)
HAZ	Hazardous
LAR	Larceny
LESS	In an Amount Less Than (usually \$250)
MAL	Malicious
MFG	Manufacturing, Manufacture of
MORE	In an Amount Exceeding (usually \$250)
MV	Motor Vehicle
NEG	Negligent(ly)
OBSTRUCT	Obstruction of
OFF	Offense
OP	Operate, Operating
O/T	Other Than, as in "O/T heroin"
OUI	Operating Under the Influence (of drugs or alcohol)
POSS	Possession
PROP	Property
PROST	Prostitution
REC	Receiving
REV	Revocation
ROB	Robbery
SUBST	Substance
TRES	Trespass(ing)
UNLIC	Unlicensed

Directory & Forms

CORI Assistance

**CORI Project at
Legal Advocacy Resource Center (LARC)**..... 617-603-1700
www.larcma.org

Criminal History Systems Board..... 617-660-4600
200 Arlington St., Suite 2200, Chelsea MA 02150
www.mass.gov/chsb

- **CORI Request Form and Affidavit of Indigency**
www.mass.gov/Eeops/docs/chsb/cori_request_personal.pdf

- **Advocate Request Form**
www.mass.gov/Eeops/docs/chsb/cori_request_advocate.pdf

- **Complaint Form**
www.mass.gov/Eeops/docs/chsb/CORI%20Complaint%20form.pdf

- **Correcting a Record**
www.mass.gov/Eeops/docs/chsb/cori_process_correcting_criminal_record.pdf

- **Enrollment in Identify Theft Index**
[www.mass.gov/Eeops/docs/chsb/cori_identity_theft_cover_letter_affidavit co nsent.pdf](http://www.mass.gov/Eeops/docs/chsb/cori_identity_theft_cover_letter_affidavit_co nsent.pdf)

**Sealed Records Division of the
Commissioner of Probation** 617-727-5300, ext. 261
1 Ashburton Place, Room 405, Boston MA 02108

- **Petition to Seal**
www.mass.gov/courts/probation/sealingpetition.pdf

Committee for Public Counsel Services (CPCS) 617-482-6212
44 Bromfield St., Boston MA 02108
www.publiccounsel.net

Credit Information

Annual Credit Report Request Service (all three companies)

PO Box 105281, Atlanta, GA 30348 **877-322-8228**

www.annualcreditreport.com

Equifax Customer Information Service Center **800-685-1111**

www.equifax.com

Experian National Consumer Assistance Center **888-EXPERIAN**

www.experian.com

TransUnion Corporation **877-FACT-ACT**

www.transunion.com

Resident Screening Services

First Advantage SafeRent **800-811-3495**

7300 Westmore Rd, Suite 3, Rockville MD 20850

www.residentscreening.com

Endnotes

¹ **Federal public housing:** 24 C.F.R. § 960.202 (requiring tenant selection policies); **Federal multifamily housing:** 24 C.F.R. § 5.655(b)(2) (requiring tenant selection plan); *HUD Multifamily Occupancy Handbook* 4350.3 REV-1, CHG-3 (June 2009), Chapter 4 (requiring applicant screening criteria); **State public housing:** 760 C.M.R. § 5.08 (setting forth tenant selection standards to be applied).

² The Violence Against Women and Department of Justice Reauthorization Act of 2005 (“VAWA 2005,” Pub. L. No. 109-162, 119 Stat. 2960).

³ **Section 8 vouchers:** 42 U.S.C. § 1437f(o)(6)(B); **Federal public housing:** 42 U.S.C. § 1437d(c)(3); **Project-based Section 8:** 42 U.S.C. § 1437f(c)(9)(A). See also HUD Notice H 2009-15 (October 1, 2009). VAWA does not apply to all federally assisted housing.

⁴ 42 U.S.C. § 14043e.

⁵ 42 U.S.C. § 1437c-1.

⁶ 42 U.S.C. § 14043e-4(f)(2).

⁷ **Federal:** 24 C.F.R. § 5.903(f) (criminal records); **State:** 760 C.M.R. § 5.13(1)(e); generally The Massachusetts Fair Information Practices Act, G.L. c. 66A, § 2(i), 1st sentence. See also 760 C.M.R. §§ 8.01 and 8.04(6), which provide that a local housing authority, redevelopment authority, or any other person or entity which has a written contract or agreement with a local housing authority or redevelopment authority must give a “data subject” or his/her duly authorized representative access to any personal data concerning him/her.

If the property is multifamily subsidized housing administered by MassHousing, ask for a copy of its Tenant Selection Plan to see whether there is a provision that the owner must disclose records in accordance with the state privacy act. This provision may state “The Agent shall not disclose any personal information contained in its records to any persons or agencies other than the Massachusetts Housing Finance Agency or other authorized government agency unless the individual about whom information is requested has given written consent to such disclosure, or unless disclosure is otherwise in accordance with provisions in the state or federal privacy acts.” There may also be a provision that states: “It is the policy of the Agent to guard the privacy of individuals in accordance with the Federal Privacy Act of 1974 and the Massachusetts Privacy Act, and to ensure the protection of records maintained by the property concerning the applicants or tenants.”

⁸ 803 C.M.R. § 6.11. See also 803 C.M.R. § 6.06 (1), which allows an individual named in a CORI to give his or her written authorization to a third party, including but not limited to a person’s attorney and family members, to inspect and copy the CORI pertaining to that individual.

⁹ 42 U.S.C. § 1437d(q)(2); 24 C.F.R. § 5.903(f) (criminal records); 24 C.F.R. § 5.905(d) (sex offender registration information).

¹⁰ HUD Notice H 2002-22 (issued Oct. 29, 2002, expired Oct. 31, 2003), pp. 8-9.

¹¹ For more about CORI generally, see www.masslegalhelp.org/cori and www.masslegalservices.org.

¹² While G.L. c. 6, § 167 calls for CORI to include information on the history of each criminal charge, from arrest through court proceedings to sentencing and release, in

actual practice, the only part of this information which is kept by the CHSB is court-generated information, which has nothing about arrest or when a person was released from jail or prison or discharged from parole.

- ¹³ G.L. c. 6, § 172, ¶ 5, 3rd sentence, which states: “Except as authorized by this chapter it shall be unlawful to request or require a person to provide a copy of his criminal offender record information.”
- ¹⁴ 42 U.S.C. § 1437d(q)(1)(A). See also HUD Notice PIH 2003-11 (HA), which, even though it expired on April 30, 2004, is still used by housing authorities. Every housing authority that has federal public housing or a Section 8 program must have a Section 8 Administrative Plan and a PHA Annual Plan that tells you what its policy is in terms of where it gets criminal records.
- ¹⁵ 24 C.F.R. § 5.905(a)(1).
- ¹⁶ 42 U.S.C. § 1437d(t)(1). A housing agency can get this information only if it seeks it either for all applicants or for all applicants with criminal records or poor landlord references based on destruction of property, violent activity, or interference with other tenants’ peaceful enjoyment. 42 U.S.C. § 1437d(t)(3)(B).
- ¹⁷ **State:** G.L. c. 6, § 167. Housing authorities also have access to criminal record information after someone moves into public or Section 8 housing for purposes of continued eligibility. **Federal:** 42 U.S.C. § 1437d(q)(1)(C); 24 C.F.R. § 5.903(a). This applies also to housing subsidized by project-based assistance under Section 8 new construction, and substantial and moderate rehabilitation programs. This information can be used for screening, lease enforcement, evictions, and screening new household members.
- Note:** While 24 C.F.R. § 5.902 says that criminal record information can be obtained for a person who is 18 years or older, it also says that it can be obtained for anyone who has been convicted as an adult. In Massachusetts, 17-year-olds charged with crimes, if convicted, are convicted as adults and therefore automatically fit into this definition.
- ¹⁸ 803 C.M.R. § 3.05(3). In addition, 803 C.M.R. § 5.05(3)(a) states that “requests for CORI shall not be made prior to the final application screening process including compliance with all provisions relating to applicant screening in regulations of the Massachusetts Department of Housing and Community Development.”
- ¹⁹ 803 C.M.R. § 5.05(1).
- ²⁰ Acknowledgments are required by G.L. c. 6, § 172, ¶ 5, 4th sentence. Consent forms are required under 24 C.F.R. § 5.903(b).
- ²¹ 803 C.M.R. § 3.05(3)(d).
- ²² G.L. c. 6, § 172, ¶ 5, 3rd sentence, which states: “Except as authorized by this chapter it shall be unlawful to request or require a person to provide a copy of his criminal offender record information.”
- ²³ G.L. c. 6, § 168, ¶ 3 (providing that housing agencies may receive conviction data and data concerning arrests and pending criminal charges).
- ²⁴ **State:** 803 C.M.R. § 5.05(6) states that CORI shall be destroyed when the applicant has been housed or received a subsidy. If the applicant has been determined ineligible, the CORI shall be destroyed three years from the date of the application’s rejection or after administrative or judicial challenges of the denial, whichever is later. **Federal:** 42 U.S.C. § 1437d(q)(4); 24 C.F.R. § 5.903(g).

²⁵ 803 C.M.R. § 5.06. Also, under federal law, housing authorities administering federal public housing and/or Section 8 housing may check out-of-state and federal criminal records through the FBI's National Crime Information Center (NCIC) as set out in 42 U.S.C. § 1437d(q)(1)(A). A public housing authority may also make a request for information on behalf of an owner of federally funded project-based housing, but cannot make the actual information available to the owner. Instead, the housing authority must determine whether the information is consistent with the owner's screening and lease policies.

Housing authorities or owners requesting housing authorities to obtain criminal record information must pay to obtain records through the NCIC. The cost of obtaining the records cannot be passed on to tenants. See 24 C.F.R. §§ 5.903(c)(2) and (d)(4).

²⁶ The database is called the Interstate Identification Index. For more about the index, go to www.search.org/programs/policy/iii.

²⁷ G.L. c. 6, § 172, ¶ 1, clause (c). Certification may be granted if the public interest in disclosure outweighs the CORI subject's privacy interest in non-disclosure. Certification lasts for two years. For more information about certification, go to: www.mass.gov/chsb and click on: Criminal Offender Record Information (CORI) Services (on the left column); Certification to Access CORI; General Information; general grant (in first paragraph); Housing.

²⁸ G.L. c. 6, § 172, ¶¶ 6 and 7. The details of this are more precisely explained in *The CORI Reader*, p. 7, ¶ 6, in the section that starts with the heading: "Any member of the general public, when the 'CORI curtain is up.'" See *The CORI Reader* (updated July 14, 2006), produced by the Massachusetts Law Reform Institute. To access *The CORI Reader*, go to www.masslegalservices.org; click on Search Our Library (on the left column) and search for "The CORI Reader."

²⁹ 42 U.S.C. § 1437d(q)(1)(B); 24 C.F.R. § 5.903(d).

³⁰ 42 U.S.C. § 1437d(q)(1)(B); 24 C.F.R. §§ 5.903(d)(1)(ii), (iii), (e)(1)(i).

³¹ A background checking agency can also petition the CHSB to receive Massachusetts CORI reports. First Advantage SafeRent does have such certification, but it can only request a CORI report on behalf of a housing agency or subsidized landlord that has also been certified to receive CORI. See October 25, 2005 letter from Massachusetts Criminal History Systems Board to First Advantage SafeRent, approving its application for access to CORI (on file with Massachusetts Law Reform Institute).

³² G.L. c. 186, § 15B(1)(b).

³³ Under state law, a housing authority can obtain CORI reports free of charge. 803 C.M.R. § 5.04. If a federal housing authority seeks federal criminal records, it must pay a fee, but it cannot pass that fee on to the applicant. 24 C.F.R. § 5.903(d)(4) (criminal records); 24 C.F.R. § 5.905(b)(5) (sex offender registration information).

³⁴ 803 C.M.R. § 2.04(2). For a definition of "youthful offender," see G.L. c. 119, §§ 52 and 58.

³⁵ G.L. c. 6, § 167; 42 U.S.C. § 1437d(q)(1)(C); 24 C.F.R. §§ 5.902 and 5.903.
Note: While 24 C.F.R. § 5.902 says that criminal record information can be obtained for a person who is 18 years or older, it also says that it can be obtained for anyone who has been convicted as an adult. In Massachusetts, 17-year-olds charged with crimes are convicted as adults and therefore automatically fit into this definition.

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- ³⁶ See G.L. c. 121B, § 32; 760 C.M.R. § 5.08(1)(d); and 42 U.S.C. § 13661(c), which require disqualification for having engaged in criminal activity, and do not require the individual to have been convicted of criminal activity.
- ³⁷ 760 C.M.R. § 5.08(1)(h).
- ³⁸ It is a good idea to clear up default warrants because the federal rules provide that tenants in federal public housing or in the Section 8 voucher, moderate rehabilitation, or project-based programs can be evicted or have their assistance terminated for fleeing to avoid prosecution or incarceration or violations of probation or parole.
- Public housing:** 42 U.S.C. §§ 1437d(1)(9), 1437f(d)(1)(B)(v); 24 C.F.R. § 966.4(1)(5)(ii)(B); **Section 8 Vouchers:** 24 C.F.R. § 982.310(c)(2)(ii); **Section 8 Moderate Rehabilitation:** 24 C.F.R. § 882.518(c)(2)(ii); **Project-Based Section 8:** 24 C.F.R. § 5.859(b).
- ³⁹ **Public housing:** 42 U.S.C. §§ 1437d(1)(9), 1437f(d)(1)(B)(v); 24 C.F.R. § 966.4(1)(5)(ii)(B); **Section 8 Vouchers:** 24 C.F.R. § 982.310(c)(2)(ii); **Section 8 Moderate Rehabilitation:** 24 C.F.R. § 882.518(c)(2)(ii); **Project-Based Section 8:** 24 C.F.R. § 5.859(b).
- ⁴⁰ The Affidavit of Indigency and Supplement were adapted from the form prescribed by the Chief Justice of the SJC under G.L. c. 261, § 27B.
- ⁴¹ G.L. c. 6, § 172, ¶ 5, 3rd sentence.
- ⁴² G.L. c. 6, § 175; 803 C.M.R. § 6.08.
- ⁴³ Identity theft cases are different and should be handled slightly differently. At this point, the Criminal History Systems Board's position is that if someone has stolen your identity in connection with a criminal case, you need to correct this by filing a motion in court to purge your name and other identifying information from the criminal record of the identity thief or perpetrator. You may have to contact the Office of the Commissioner of Probation to find out when and in which court your name became associated with the criminal record of the identity thief. Then you need to file a motion in that court. If a judge allows your motion, bring this order to the probation office in that court and ask them to make the correction in the Probation Central File. If a judge denies your motion, then you should write the Criminal History Systems Board using the sample letter in the **Reference Materials** in this chapter. You can also go to the CHSB's website for more information about this. Go to: www.mass.gov/chsb.
- ⁴⁴ Massachusetts Rules of Criminal Procedure, Rule 29.
- ⁴⁵ There have been instances in which courts have accepted motions to revise and revoke even after the conclusion of the 60-day period.
- ⁴⁶ 803 C.M.R. § 5.05(10).
- ⁴⁷ G.L. c. 6, § 178G.
- ⁴⁸ For firearm offenses, see G.L. c. 140, §§ 121-131H; for crimes against the public, see G.L. c. 268; for state ethics violations, see G.L. c. 268A.
- ⁴⁹ G.L. c. 276, § 100A, ¶¶ 1-4. G.L. c. 276, § 100B, permits juvenile delinquency files or records to be sealed after a three-year period.
- ⁵⁰ See G.L. c. 94C, §§ 34 and 44.
- ⁵¹ G.L. c. 276, § 100C; *Globe Newspaper Co. v. Pokaski*, 868 F.2d 497, 510 (1st Cir. 1989); *Commonwealth v. Doe*, 420 Mass. 142, 150 (1995).

⁵² G.L. c. 276, § 100B and G.L. c. 6, § 178G.

⁵³ G.L. c. 276, § 100A.

⁵⁴ G.L. c. 94C, § 34.

⁵⁵ 803 C.M.R. § 6.11.

⁵⁶ 803 C.M.R. § 6.11.

⁵⁷ G.L. c. 121B, § 32, ¶ 12; 760 C.M.R. § 5.08(2); 24 C.F.R. § 5.903(f).

⁵⁸ 760 C.M.R. § 5.08(2). The housing authority is to consider all relevant circumstances, including the severity of the conduct and the danger it caused, how much time has elapsed, and the likelihood of its recurring. See also G.L. c. 121B, § 32, ¶ 12.

⁵⁹ Even a request for a reasonable accommodation does not mean that an applicant will be admitted into housing. See *Hoose v. Boston Housing Authority*, Dkt. No. 08-CV-240, Boston Housing Court, October 20, 2008 (court found that the BHA exercised reasonable discretion in denying applicant; disabled applicant was not entitled to a reasonable accommodation from screening rules because he had numerous convictions involving acts of violence, and the most recent conviction was less than a year old).

⁶⁰ 15 U.S.C. § 1681a(d).

⁶¹ G.L. c. 93, § 59(d).

⁶² 15 U.S.C. §§ 1681j(b) and (c); G.L. c. 93, § 59(a) (denied credit within last 60 days).

⁶³ G.L. c. 93, § 59(c).

⁶⁴ 15 U.S.C. § 1681c(a); G.L. c. 93, § 56(b), ¶ 3.

⁶⁵ 15 U.S.C. § 1681e(b) and § 1681i(a); G.L. c. 93, §§ 56(b) and 58.

⁶⁶ G.L. c. 93, §§ 56(b) and 57(a) and (b).

⁶⁷ 15 U.S.C. § 1681i(a)(1); G.L. c. 93, § 58.

⁶⁸ 15 U.S.C. § 1681i(a)(1); G.L. c. 93, § 58. Within ten days of completing the investigation, the agency 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).

⁶⁹ 15 U.S.C. § 1681s-2(b); G.L. c. 93, § 54A.

⁷⁰ 15 U.S.C. § 1681i(b) and (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.”).

⁷¹ 15 U.S.C. § 1681i(c); G.L. c. 93, § 58(f), providing that whenever a statement of dispute is filed, the consumer reporting agency 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.

⁷² 15 U.S.C. § 1681i(d).

⁷³ G.L. c. 93, § 58(g).

⁷⁴ MassHousing’s Model Tenant Selection Plan, Rev 9/09, pp. 10-11, https://www.masshousing.com/portal/server.pt/gateway/PTARGS_0_2_4618_0_0_18/TenantSelectionPlan_Highlights.pdf. *In re Oksentowicz*, 314 B.R. 638 (Bankr. E.D.

Mich. 2004), which found that a privately owned apartment complex participating in a subsidized housing program regulated by the federal government was a “governmental unit,” subject to the anti-discrimination provisions of the Bankruptcy Code which were violated when it rejected plaintiff-debtor’s housing application because the debtor filed Chapter 7 bankruptcy.

⁷⁵ MassHousing’s Model Tenant Selection Plan, Rev 9/09, page 11, makes this clear. See https://www.masshousing.com/portal/server.pt/gateway/PTARGS_0_2_4618_0_0_18/TenantSelectionPlan_Highlights.pdf. In other programs, lack of credit history is simply not one of the reasons listed for disqualification. See also *HUD Multifamily Occupancy Handbook* 4350.3 REV-1, CHG-3 (June 2009), Chapter 4.

⁷⁶ **Federal:** 42 U.S.C. § 1437f(k); 24 C.F.R. §§ 960.203 and 960.259; **State:** 760 C.M.R. § 5.12.

⁷⁷ **State:** 760 C.M.R. § 5.12(1); **Federal:** 24 C.F.R. § 960.259.

⁷⁸ 760 C.M.R. § 5.12(2).

⁷⁹ 760 C.M.R. § 5.12(2).

⁸⁰ **State:** 760 C.M.R. § 5.12(1); **Federal:** 24 C.F.R. § 960.259.

⁸¹ **Federal public housing:** 24 C.F.R. § 960.208(a) (applicant must be presented with opportunity for hearing); **Section 8 voucher program:** 24 C.F.R. § 982.554(b) (applicant shall be given opportunity for review and opportunity to present objections to adverse decision); **State:** 760 C.M.R. § 5.08(2) (applicant must be permitted to show mitigating circumstances prior to disqualification); 760 C.M.R. § 5.13(1) (applicant shall be entitled to private conference).

⁸² *Huezo v. Chelsea Hous. Auth.*, 25 Mass. L. Rptr. 22 (Mass. Super. 2008) (Housing Authority cannot deny applicant for previous nonpayment of rent where evidence shows that rent was withheld in response to poor housing conditions under M.G.L. c. 239, § 8).

⁸³ The federal Fair Housing Act requires “reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.” 42 U.S.C. § 3604(f)(3)(B). For examples of reasonable accommodations, see 24 C.F.R. § 100.204. The concept of “reasonable accommodations” was drawn from § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (see 53 Federal Register 45003, Nov. 7, 1988), which prohibits discrimination against disabled people in federally assisted housing.

State law, at G.L. c. 151B, § 4(7A), also includes the failure to make reasonable accommodations as an act of illegal discrimination. This means, as under the federal law, that a person with a disability has a right to expect her landlord to reasonably adjust rules or policies when necessary to allow her to live comfortably in her home.

⁸⁴ **State:** 760 C.M.R. § 5.12(1); **Federal:** 24 C.F.R. § 960.259.

⁸⁵ **Federal:** 24 C.F.R. § 100.204; **State:** G.L. c. 151B, § 4(7A)(2).

⁸⁶ Federal regulations for the Section 8 program expressly allow denial for this ground. 24 C.F.R. § 982.552(c)(1)(v) and (vi). There are no regulations addressing this issue for other programs. However, a housing authority may consider that a debt owed to a housing authority is indicative of a poor credit history.

⁸⁷ See 24 C.F.R. § 982.552(c)(1)(v), giving discretion to PHAs to deny assistance based on rent “currently” owed. A federal court in Pennsylvania held that a Housing Authority could not rely on an almost 20 year-old debt to deny an applicant, where the Housing

Authority did not pursue collection of the debt. *Solomon v. Hous. Auth. of Pittsburgh*, 2:06-CV-01155 (W.D.Pa. September 18, 2006). See also 49 Federal Register 12233 (Mar. 29, 1984) (providing that past debt to a PHA is not grounds for denial of assistance: “The PHA may not deny assistance if the debt has been paid, or is not valid for any reason (e.g. a rent claim extinguished by the statute of limitations)”), reaffirmed by 60 Federal Register 34660 (July 3, 1995). In Massachusetts, the statute of limitations in general is six years for a contract, but twenty years if a housing authority received a court ordered judgment concerning the debt.

⁸⁸ 24 C.F.R. § 982.552(b)(2).

⁸⁹ 42 U.S.C. § 1437n(f); 24 C.F.R. § 960.204(a)(3); 24 C.F.R. § 960.204(a)(1). See also 24 C.F.R. § 5.100 for definition of “drug-related criminal activity,” and 21 U.S.C. §802, which defines the term “controlled substance.”
