

# TENANT SCREENING CHECKLIST

## CREATE A WRITTEN POLICY & TENANT SCREENING PROCEDURES

### POLICY REQUIREMENTS:

- ☐ In writing
- ☐ Give to all agents
- ☐ Have agents sign for it
- ☐ Make sure it does not have a disparate impact on any protected classes

### OK TO ASK ABOUT:

- ☐ Pets
- ☐ Who will live in the unit
- ☐ Income
- ☐ Employment
- ☐ Credit report
- ☐ Eviction history

### OTHER CONSIDERATIONS:

- ☐ Document retention policy
- ☐ Send "adverse action letter" specifying reason for rejecting an application
- ☐ Don't forget about the Fair Credit Reporting Act requirements

### ALWAYS FOLLOW THE POLICY!

- ☐ Not enough to just have a policy - must always implement it the same for everyone
- ☐ Periodically review for legal compliance
- ☐ DO NOT SCREEN OVER THE PHONE

## SPECIAL CONSIDERATIONS FOR CONDO ASSOCIATIONS

### CAN CONDOS SCREEN?

- ☐ MAYBE!
- ☐ Condo associations (boards or their designees) cannot screen tenants without first establishing tenant screening procedures in their governing documents, or "declaration" (F.S. 718.104)

### BYLAWS:

- ☐ CAN include "reasonable restrictions concerning the use, occupancy, and transfer of units" (F.S. 718.112(3)(b), Coquina Club, 342 So. 2d 112)
- ☐ MUST grant board authority to approve/deny tenants (Cool Space, 292 So. 2d 769)

### TENANTS SCREENING MUST BE UNIFORM:

- ☐ OK to screen if governing docs and bylaws allow it, but must be a uniform process (Woodside Vill. Condo. Ass'n, 806 So. 2d 452)
- ☐ Cannot inconsistently apply certain restrictions within screening and application process (White Egret Condo., 379 So. 2d 346)

## CRIMINAL RECORDS & CREDIT SCORES

### CRIMINAL RECORDS:

- ☐ If considering it, look at this last
- ☐ Establish reasonable look-back period
- ☐ Look at convictions, not arrests
- ☐ Consider mitigating factors
- ☐ No blanket bans

### CREDIT SCORES:

- ☐ Credit reports are not always a reliable indicator of a tenant's ability to pay rent or their eviction history
- ☐ Best practice: consider holistic review of all other factors instead; do not require arbitrary credit scores or income amounts

### LEGALLY SUFFICIENT JUSTIFICATION:

- ☐ There could be times when the policy regarding criminal records does have a disparate impact on a protected class - if it does, make sure that the policy is justified and necessary to achieve a substantial, legitimate, nondiscriminatory interest (and that there are no alternatives)

## DON'T FORGET - TENANTS' BILL OF RIGHTS WAS PREEMPTED BY HB 1417 (2023)

### HB 1417 (2023):

- ☐ Effective 7/1/23
- ☐ Preempts (gets rid of) the local ordinances that modified the Florida Landlord Tenant Act (Ch. 83, Part II, Fla. Stats.)
- ☐ Creates uniformity throughout the state

### WHAT THIS MEANS FOR YOU:

- ☐ Florida Landlord Tenant Act and leases are what govern tenancies
- ☐ DO NOT need to use the "Notice of Tenant Rights" in Miami-Dade County!
- ☐ The other requirements are also moot

### FAIR HOUSING LAWS STILL APPLY:

- ☐ Even though the different versions of the "Tenants' Bill of Rights" were preempted by HB 1417 (2023) throughout the state, fair housing laws still apply

## WHEN IN DOUBT, CALL YOUR ATTORNEY OR THE FLORIDA REALTORS LEGAL HOTLINE

### LAWYER REFERRAL SERVICES:

- ☐ Florida Bar (800.342.8011)
- ☐ Miami-Dade Bar (305.371.2200)

### FLORIDA REALTORS LEGAL HOTLINE:

- ☐ 407.438.1409
- ☐ [www.floridarealtors.org/tools-research/legal-hotline](http://www.floridarealtors.org/tools-research/legal-hotline)

### OTHER RESOURCES:

- ☐ HOPE Fair Housing (305.651.4673)
- ☐ Legal Services of Greater Miami (305.576.0080)

