

BULLETIN UPDATE: VIRGINIA

A BRIEF REVIEW OF VIRGINIA'S AMENDED RENTAL AGREEMENT RULES AND THEIR IMPACT ON TENANT SCREENING

In direct response to the COVID-19 pandemic, the General Assembly of Virginia enacted a series of amendments to section 55.1-1245 of the Code of Virginia (the amended "Code")¹. **This Bulletin addresses the impact of these new amendments on tenant screening, but the Code addresses other housing provider responsibilities in Virginia not addressed here.** There are a series of amendments to the Code that go into effect over time. The first amendments start on March 1, 2021.

THE AMENDMENTS RESTRICT USE OF COVID-19 RELATED EVICTION AND RENTAL PAYMENT HISTORY IN TENANT SCREENING

Effective March 1, 2021 until July 1, 2028* housing providers who are subject to the amended

Code:

- Are prohibited from taking adverse action (such as denying housing or imposing different terms and conditions) against an applicant based solely on their rental payment history or an eviction action for nonpayment of rent from March 12, 2020, until 30 days after the end of any COVID-19 related state of emergency declared by the Governor of Virginia (the "COVID timeframe").
 - **Update:** RentGrow believes that the Virginia COVID timeframe ends on July 30, 2021, although the end date may be subject to further changes. Housing providers should consult their legal or compliance counsel for confirmation of the timeframe that applies to them.
- Must provide written notice to any denied applicant advising them of the right to claim that the denial was because of rental payment history or an eviction action for nonpayment of rent during the COVID timeframe. **The notice must include certain information**, including the Virginia statewide legal aid website address (<https://www.valegalaid.org/>) and phone number (1-866-LEGLAID or 1-866-534-5243).²
- Must, if the denied applicant claims that the denial was based solely on his or her rental payment history or an eviction action for nonpayment of rent during the COVID timeframe, make a good faith effort to contact the screening provider (if applicable) and confirm whether the denial was proper under the amended Code.
- Must—**depending on how notice is delivered to the denied applicant**—wait a certain time before finalizing the denial.

***Note:** *The above tenant-screening related amendments to the Code go into effect on March 1, 2021, and will expire on July 1, 2028, or seven years after the Virginia COVID-19 pandemic state of emergency expires—whichever is later. This Bulletin does not cover other requirements of the Code, including other amendments (some of which go into effect on March 1, 2021, and others on July 1, 2021). Be sure to review the Code in its entirety.*

HOW CAN LANDLORDS EVALUATE THEIR TENANT SCREENING PROCESSES IN LIGHT OF THE AMENDMENTS?

- Customize your screening procedures to ensure that you do not take adverse action against applicants based on rental payment and eviction records that occurred within the COVID timeframe. Your Account Manager can give you information on RentGrow's automatic pandemic era filters, which will exclude most of these records from consideration under your screening policy, during the COVID timeframe. Please contact your Account Manager if you wish to continue using RentGrow's automatic pandemic era filters after the specified COVID timeframe.
- Revise your adverse action notices to include the required information, including the legal aid contact information and information about the applicant's right to challenge a denial of housing based on payment history or eviction occurring during the COVID timeframe.
- And perhaps most importantly, talk to your compliance and legal teams in addition to your screening provider about your applicant qualification criteria, the quality of the data you are receiving, and the importance of ensuring you are meeting all applicable federal, state, and local laws and regulations, including the maximum possible accuracy standard under the Fair Credit Reporting Act (FCRA).

CONCLUSION

During these unprecedented times, jurisdictions around the country are enacting new and expanded laws to help consumers who are experiencing financial difficulties during the pandemic era. Some of those new and expanded laws, like Virginia's amended Code, focus on protecting consumers who have experienced housing-related consequences from the COVID-19 pandemic, such as late payments or evictions. Housing providers must

¹ See <https://law.lis.virginia.gov/vacode/55.1-1245/>

² This website address and phone number were believed to be current as of the date of this Bulletin, but you must independently confirm their accuracy before including in any required notice.



pay close attention to their screening criteria and the applicant information they consider to ensure compliance with these and expanded laws when making rental decisions.

This Brief Review was prepared for general information purposes only, does not constitute legal advice, must not be acted upon as such, and is subject to change without notice. Always consult a lawyer or qualified housing expert for legal or compliance advice.