**The Silent War on Landlords That No One Is Talking About**

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It’s no secret that legislation regarding tenant screening is becoming more and more restrictive. As of this writing, 20 states and 106 localities [have passed bans on discriminating against source of income](https://www.prrac.org/pdf/AppendixB.pdf) (usually, but not limited to, Section 8) as well as a myriad of other restrictions.

**What Happened in Kansas City**

Kansas City, where I live, was the most recent to pass what its advocates [call](https://www.kcur.org/housing-development-section/2023-12-01/kansas-city-mayor-wants-to-ban-discrimination-against-people-with-housing-vouchers) “the strongest source of income discrimination ban in the country.” The bill (which you can read [here](https://marei.org/kansas-city-missouris-source-of-income-ordinance-231019/)) does more than just prohibit refusing to accept vouchers (and, of course, nothing will be done to make the notoriously slow and difficult Section 8 bureaucracy easier to work with). It also drastically interferes with the ability of property owners to screen potential residents.

As I’ve said, tenant screening is [the most important thing a property manager does](https://www.youtube.com/watch?v=Y7V1Ka8NjfQ). Without quality screening, almost [no investment property will work](https://www.biggerpockets.com/blog/biggest-landlord-mistake-screening-fail). Yet, bills like this are making it more and more difficult.

This was actually the second time such a bill had been proposed. The first was in 2019 and resulted in the [Kansas City Tenant Bill of Rights](https://www.kcmo.gov/home/showpublisheddocument/5360/637262617325600000), which did little more than restate current law. But the original draft was to ban tenant screening pretty much entirely.

This meant serious implications. Would you like to reject that serial child molester from living next door to a family with young kids? Under that law, you’d be considered a greedy slumlord engaging in oppression.

Fortunately, that was mostly eliminated in 2019 and toned down here. Still, the bill still doesn’t allow landlords “to refuse to rent to a tenant solely because of prior evictions or alleged damages” or “solely because of prior convictions or arrests” without “reference to additional information provided.”

The only exception is if the prospective tenant had an eviction in the previous 12 months. Of course, discrimination based on the prospect’s source of income is prohibited.

Because of this, [in a presentation](https://www.youtube.com/watch?v=S-nQgNYchRI) for the [KC Regional Housing Alliance](https://kcregionalhousingalliance.org/), attorney Dan Kelly recommended removing rent-to-income ratios, as such a ratio must be held constant for both market and voucher tenants. For voucher tenants, rent-to-income ratios can only be applied to the portion of the rent not covered by a voucher. Instead, he recommended using an income requirement of a fixed amount of income over and above the rent.

In addition, other than evictions under a year old, no prospect should be refused without at least two hits on their background check (for example, a felony and an eviction), and every prospect should be encouraged to provide supporting documentation or written explanations with their application if they believe it will help add context to any negative factors that come up during screening.

The fact that such vague standards effectively require landlords to violate [fair housing law](https://www.biggerpockets.com/blog/landlord-tenant-laws) by demanding landlords subjectively “review and consider additional information provided by the rental applicant,” which makes it all but impossible to have a consistent policy that would apply equally to each prospect, didn’t seem to cross the minds of this bill’s advocates and others like it.

Even still, you should make the absolute best efforts to have a consistent policy in order to stay in compliance with fair housing as best as possible. Of course, you should check with a local [attorney](https://www.biggerpockets.com/blog/why-you-need-a-real-estate-attorney) before devising any tenant screening policy, whether you are in Kansas City or elsewhere.

If you think you’re all right because you’re not in Kansas City, just wait. As noted, almost half of the states and over 100 municipalities have passed something similar, and it is likely the rest will follow suit soon enough. And even more arduous legislation is likely coming down the pike despite [the damage it will do to the real estate industry](https://www.biggerpockets.com/blog/proposed-landlord-restrictions-devastate-investors-housing-industry) and, ironically, to the affordability of housing in general.

And unfortunately, legislation is not the only problem we’re facing.

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**Reporting Problems Is Problematic**

We recently learned that several prospective tenants we had placed had previous evictions that did not show up on their background checks. Our first instinct was to demand a refund and then fire the company we paid to do background checks. But, after talking with four different screening companies, we learned this problem is systemic.

There is [no federal database on evictions](https://prospect.org/infrastructure/housing/missed-measurement-we-have-no-idea-how-many-evictions-there-are/), and [the national criminal database is a mess](https://www.themarshallproject.org/2023/07/13/fbi-crime-rates-data-gap-nibrs), with most law enforcement agencies not reporting to the national level. Many state-level databases [are also incomplete](https://www.imperativeinfo.com/whats-missing-from-your-national-background-check/). Thus, for both evictions and criminal records, screening companies tend to look at databases that come directly from various counties.

Yet even these are tricky. For example, the biggest county in the Kansas City metro area is Jackson County, and from what we’ve been told, it is slow in reporting anything to any of the databases that many screening companies use. This is why we got clean reports back from several prospects with spotty histories.

Fortunately, you can find the eviction and criminal records for anyone in Missouri at [courts.mo.gov](https://www.courts.mo.gov/cnet/welcome.do) (which is also how we found out about this problem in the first place).

On the Kansas side of the Kansas City metro area, it’s trickier. You can find that information [online for Johnson County](https://public.jococourts.org/), the second-largest county on the Kansas side.

But there is no such site for Wyandotte County, the second-largest county overall in the Kansas City metro area. Instead, Wyandotte County charges $125 per applicant to obtain such records! That, of course, would more than double our application costs and fees.

Across the country, different counties have different rules and regulations and different levels of quality in terms of what and how fast they report. And each screening company acquires such information in a slightly different way. While you can find several complaints about this problem across the country in the [BiggerPockets forums](https://www.biggerpockets.com/forums" \t "_blank) (like [on this thread](https://www.biggerpockets.com/forums/52/topics/174684-tenant-background-check-didnt-show-he-was-a-felon), [this one](https://www.biggerpockets.com/forums/897/topics/1054434-warning-do-not-trust-zillow-background-checks), and [this one](https://www.biggerpockets.com/forums/52/topics/781494-noisy-tenant-heavy-drinker)), I suspect most [landlords](https://www.biggerpockets.com/blog/what-is-a-landlord) are oblivious about how much they’re actually missing.

And as far as we can tell, this problem is getting worse across the board as time goes on.

**Tips to Maintain High-Quality Screening**

Right now, many landlords and property managers are almost certainly unknowingly violating the law in their screening practices. It’s critical to talk to a local attorney to make sure you’re up-to-date on what is and is not permissible. Furthermore, many managers are almost certainly approving prospects they wouldn’t have otherwise because of inaccurate background reports.

It is definitely worth calling your screening company to figure out which counties in your area they can get data from, which are spotty, and which charge extra to get that information. Indeed, it’s worth calling several.

It’s critical to know what information you are getting and not getting in order to make wise leasing decisions. But remember, your criteria need to be the same for everyone. We cannot apply more scrutiny to applicants who have lived in Wyandotte County than those who lived in Johnson County because the information we get for Johnson is more reliable.

It’s also worth including credit reports in your screening and increasing the amount of importance you place on them; not just the raw scores, but more specifically the number of late pays and charge-offs a prospect has. Credit reports used to be the least important thing we looked at, but now they are close to the top. Credit reports will also show any open balances to previous landlords despite not showing evictions.

Just remember, if you live in a place like Kansas City, you cannot decline someone exclusively because of a bad credit report.

We also are relying more on landlord and rental references. Just make sure to send a form to the manager or employer for them to fill out and send back. If you simply call, a prospective tenant could just give you their friend’s number and have that person pretend to be the manager/employer.

Overall, screening is becoming more fraught with risk and difficulty, both from antagonistic legislation and bureaucratic inefficiencies. It’s critical to know what these laws and issues are and come up with a plan on how to address them. Because no matter how hard it becomes, buy-and-hold real estate investing simply doesn’t work without vigilant tenant screening.