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Notices For Landlords

Kansas Tenants Handbook

Kansas Landlords Handbook

Model Lease and Move-In Inventory

Kansas Residential Landlord and Tenant Act

Relevant Court Cases and Local Ordinances

Screening and Fair Housing Booklet with Application

Mobile Home Parks Residential Landlord and Tenant Act



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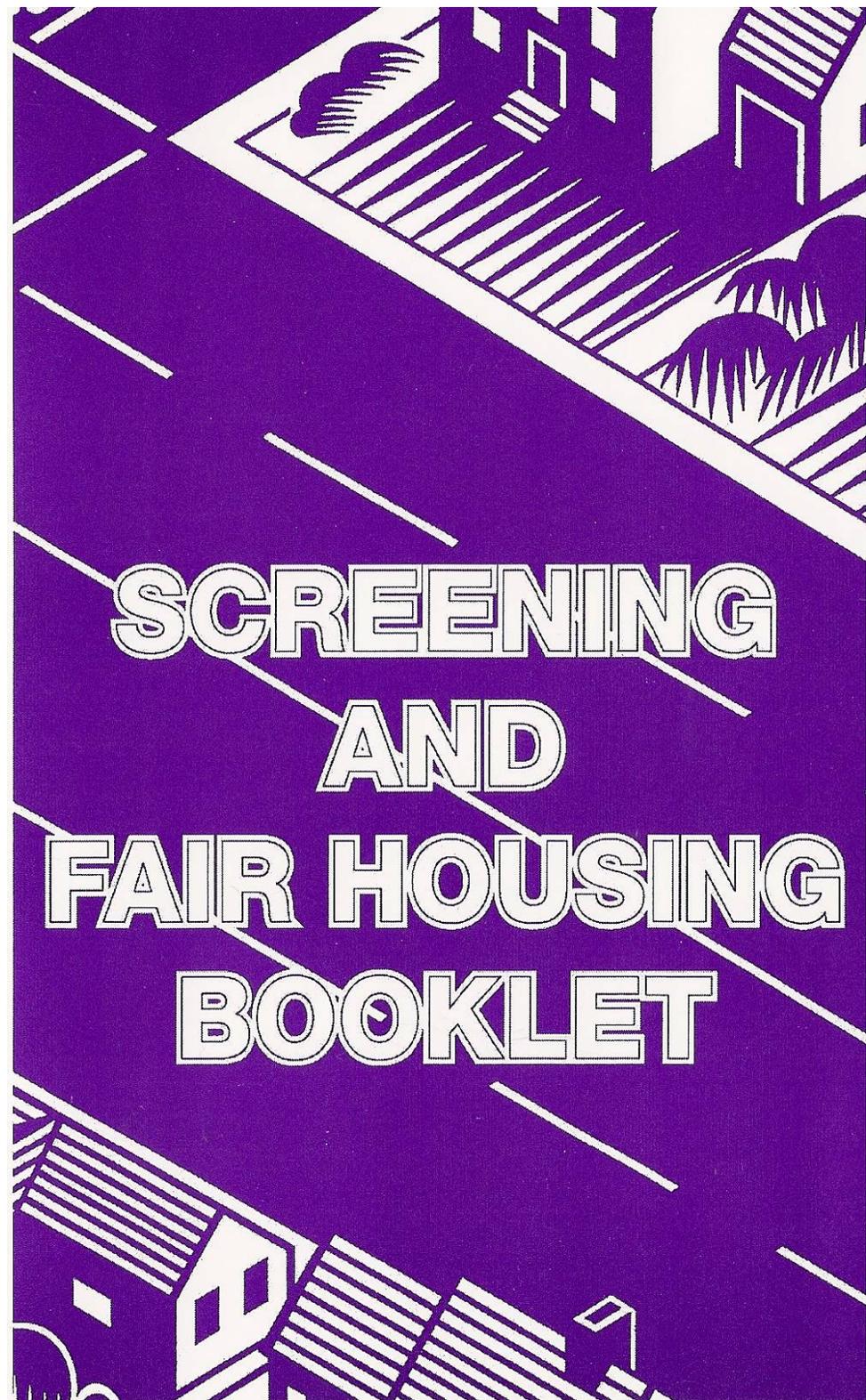
Housing and Credit Counseling, Inc.

1195 SW Buchanan, Suite 101

Topeka, Kansas 66604

(785) 234-0217 or (800) 383-0217

www.hcci-ks.org



VI. NOTES

One Final Note! Detailed publications on fair housing law, the Kansas Landlords Handbook, a Model Lease and Move-in Inventory, copies of the Kansas Residential Landlord and Tenant Act, model notices, and other publications are available individually or a complete packet of information, the Landlord Collection, is available from Housing and Credit Counseling, Inc. See back cover for ordering information or visit our website www.hcci-ks.org.

Screening And Fair Housing Booklet

Written and Produced by
Housing and Credit Counseling, Inc.
1195 SW Buchanan, Suite 101
Topeka, Kansas 66604

www.hcci-ks.org
(785) 234-0217
(800) 383-0217

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11. Reference Checks

It is critical that you have a broad release such as the one in the application, and that you have all adults sign it. You have the right to check with both listed and unlisted references. If you deny an applicant, you are not required by law to tell the applicant why, though it is a good idea. Without disclosing sources, you can generally state the problem area and the tenant will confirm it. If one reference was particularly bad, you can name it and offer the applicant the chance to check with the source and correct anything erroneous. Give a deadline if this happens.

Your occupancy standards, as long as you are consistent and do not discriminate, will support your acceptance or rejection of an applicant. Remember, keep the information you gather to yourself. The Fair Credit Reporting Act says you have the right to use this information only for your own use.

V. BUSINESS PRACTICES

Developing good business practices is a must if you are going to have a business relationship with your tenants. After you have completed a thorough screening, it is important to follow through with these business practices:

- Put agreements in writing.
- Keep copies of agreements and correspondence. Verify that you have sent copies to the tenant.
- Keep a file on each tenant that will contain all agreements and other correspondence that applies to the tenant or unit.
- Conduct a beginning inventory with the tenant. Both of you should sign it agreeing to the condition at move-in. Provide a copy to the tenant and keep a copy in the tenant's file.

8. Cars – How Many

- a. What are their drivers license numbers?
- b. What is the make, year, and license number of each vehicle.

This information will help you to cross-check references and determine parking arrangements. Ask to see a drivers license at this point or when the application form is complete to see if photo, address, number, and signature match.

9. Physical Modifications Requested

People with disabilities have the right to reasonable accommodations and modifications to rental housing in order to allow full access to and use of the dwelling. If the tenant has requested modifications for which he or she is responsible:

- a. Can the tenant afford the work personally or otherwise secure necessary financing?
- b. Are the proposed workers reputable and do the materials meet your standards (if the tenants do the hiring)?

In private housing the landlord does not have to pay for accessibility modifications, but must allow them upon request and at the tenant's expense.

The landlord may require, when physical changes to the dwelling are needed, that the work is done in a professional manner.

10. Emergencies

- a. Who is a close relative or friend who lives outside the home and could respond to an emergency?
- b. What is the contact information for that person?

It is very important for landlords to have someone to contact who can respond to a personal emergency that involves a tenant (i.e. illness/injury of a tenant that requires hospitalization).

I. PURPOSE OF BOOKLET

This *Screening and Fair Housing Booklet* has been compiled for your convenience with information that coincides with the HCCI model rental application. Its purpose is to answer landlord questions that commonly arise before renting out property. Its aim is to provide guidelines that will enable landlords to select prospective tenants and ensure they have not violated the fair housing laws. Housing and Credit Counseling, Inc. seeks to provide all possible information regarding screening procedures and fair housing guidelines which will contribute to safeguarding your rental housing as one of your, and our state's, most important assets.

II. OCCUPANCY STANDARDS

A. A Need for

A landlord is entitled to assurances that a prospective tenant will be a desirable resident. The key to avoiding problems with civil rights claims is to have routine standards that are not discriminatory. If an applicant does not meet your standards, you may deny admission while showing that you have applied the same standard to all your tenants.

Make sure policies are clearly spelled out in written form. Be willing to discuss these terms or have copies available. Be sure that situations which will warrant an exception to your policies are also noted.

B. Fair Housing Detail

The federal Fair Housing Act, most recently amended in 1988, prohibits discrimination against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities because of race, sex, religion, national origin or ancestry, color, familial status, and disability.

“Familial status” or **“Families with children”** means that limiting your tenants to adults only is not allowed unless you operate an **elderly complex**. Elderly complex means either one intended for, and solely occupied by, persons 62 years of age or older, or one which is intended and operated for occupancy by at least one person 55 years of age or older per unit in at least 80% of the units and with special facilities, services, policies, and procedures for seniors.

“Disability” or **“Handicap”** refers to a person with a physical or mental impairment which substantially limits one or more of a person’s major life activities, who has a record of having had such an impairment, or who is regarded as having such an impairment. The law provides that if tenants need physical modifications to a unit and can pay for them, prospective disabled tenants cannot be denied as long as they meet other screening requirements. Generic alterations such as widening of doors are to stay when the tenant leaves; other items such as removal of base cabinets may be returned to their original condition at the tenant’s expense.

When considering a tenant, it is important to make decisions based on performance, not presumptions. Penalties for violating federal fair housing law can go as high as \$100,000 per violation.

5. Character References

- a. How long has the reference known the applicant? In what capacity (socially, work, church)?
- b. Ask the reference about the prospective tenant’s housekeeping and how well they take care of other people’s property.
- c. Ask how many people are in the household, and how many vehicles are there. Do they have pets?
- d. How much company do the tenants usually have, and for how long of a period do the visitors stay?
- e. Are there things I should be aware of that the applicant and I might have to work on?
- f. Ask the reference to tell you why they think this person would make a good tenant. (End interview positively.)

Character references are a good source of information regarding a person’s ability to be a good tenant and can confirm that this tenant has or has not had a stable lifestyle.

6. Convictions

- a. Has any occupant of the household been convicted of a felony? How long ago?
- b. What was the conviction for?
- c. Has the person continued to exhibit similar criminal behavior?

Landlords have the right to take into consideration a person’s felony convictions. Check at the courthouse for this type of information.

7. Pets

Landlords have the right to refuse pets, except service animals, or to limit type and size.

- b. Have they lived there longer than one year? If not, why?
- c. Question former landlords about the tenant's rental history, housekeeping habits, amount of company, pets, neighborliness, and if proper notice to terminate was given.

Double-check residence history as well as each item from the Occupancy Standards list with each prior landlord. You may want to cross-check other categories from the application form itself as well. Remember, the current landlord may really want these folks out, so your second and third landlords back could be your better references.

3. Employment and Income

- a. How long have they worked for their current employers? (If less than one year find out why, and if the work is seasonal, is the income also seasonal?)
- b. What is their net income?
- c. Is the job expected to last at least 90 days?
- d. Are there other sources of income?

Length of time on the job also can show stability and that income is fairly steady.

4. Bank History and Credit References

- a. Does the applicant have a checking or savings account?
- b. Is the information given correct?
- c. Have they paid their credit obligations on time?

Bank and credit references will help you determine if applicants pay their bills and will give you valuable references in the unlikely event you have to later trace this person or garnish assets.

C. Sample Policy

1. Equal Opportunity Statement – No person(s) shall be denied the opportunity to apply for available housing nor be denied the opportunity to lease or rent any suitable dwelling if they have been determined eligible.

(Owner, Manager, or Name of Complex)

shall not discriminate because of race, sex, religion, national origin or ancestry, color, familial status, and disability in leasing or other disposition of housing or related facilities included in any developments under its jurisdiction.

2. Occupancy Standards – The following are standards that prospective tenants must meet to rent in my/our properties. Applicants whose screening or reference information indicates they do not meet these standards should expect to be denied occupancy. However, before such determination is made, consideration shall be given to favorable changes in the family's pattern of behavior, lapse of time since the offense, or other extenuating circumstances which offer reasonable assurance that the tenants can meet these Occupancy Standards.

Accuracy in Application Information – We expect all application information to be complete and true. Any falsification of application information will result in rejection; additionally it is a criminal offense.

Rent On Time and In Full – History of chronic late payment or non-payment of rent is not acceptable.

Proper Notices – Tenants who have not given proper notices prior to maintenance complaints, for change in lease status, for notice to terminate, and in other lease-required or appropriate situations will be rejected unless adequate explanation can be made.

Good Housekeeping – “Clean” will be defined to mean free of dirt, grease, impurities, or extraneous matter. Establishment that the prospective tenants were responsible for any condition that seriously affected neighbors by causing infestations or foul odors, accumulation of trash/garbage, and/or serious neglect of premises (including but not limited to the creation of fire hazards or severe damage to premises and equipment) will be cause for rejection.

Good Neighbors – We expect patterns of behavior from our tenants, members of their households (including pets, if allowed), and their express or invited guests which do not endanger the life, safety, or welfare of other persons. This includes:

- Physical violence, gross negligence or irresponsibility which damages the equipment or premises in which the tenant or others reside.
- Threats or behavior indicating an intent to assault other tenants, neighbors, a landlord, or representatives of a landlord.
- Neglect of children which endangers their health, safety, or welfare
- History of objectionable conduct resulting from alcohol or substance abuse or frequent loud parties
- Other situations which have created serious disturbances to family or neighbors.

The following application and reference procedure follows the sections of the HCCI Rental Application form. As you ask these questions, remember all landlords are covered by the Fair Credit Reporting Act. Information gathered by you is to be used by you in your business only and should not be shared by you with others.

1. Applicant Information

- a. Who will be listed as leaseholders or responsible parties?
- b. Who will be listed as authorized occupants?
- c. What are the exact names of all adults and children who will live full-time in the household?
- d. What are the household members’ birth dates and ages?
- e. What is the gender of each member?
- f. What are their social security numbers?
- g. What is their marital status?

It is important to know who will be occupying your premises and who is just visiting. Social security numbers, sex and ages of household members will help you to identify the right person if you do a credit and/or reference check. Date of birth can help you determine if a 17 year old is about to reach the age of majority. Check marital status for clues as to whether there are other family members not listed as the members of the household, or where there might be unsolicited creditor problems related to a recent separation. Get social security numbers and do a background check on all listed occupants 16 years old and over.

2. Residence History

- a. Where are the last three places they have resided? If they didn’t live together, get separate references.

Screening techniques vary from landlord to landlord. Some just look people in the eye, talk to them a little, and make a decision to accept or reject them. Some just note a few references and make a phone call or two. Others have tenants fill out application forms, make phone calls, and/or pay for credit checks. The 1988 Fair Housing Amendments established new administrative and judicial enforcement mechanisms that provide for monetary penalties for acts of discrimination. Therefore, it is more important than ever for landlords to document how they accept or reject an applicant.

Copies of written agreements and lists of rules or regulations should be available for prospective tenants to review. Any special agreements desired or problems with the property should be explained; any related written documents should be offered for review.

Professional screening is done by having all prospective tenants informed about your property and policies, having them complete a thorough application form, actually confirming a selected number of references, and comparing both written and verbal reference information to your set of occupancy standards.

For a charge, private investigative companies can screen your applicants for you. Check your local directory.

IV. APPLICATIONS AND REFERENCES

Before you start the application process, review fair housing considerations and your occupancy policies. Once you have thought these things through, you can ask more specific questions.

History of Recent Serious Criminal Activity Not Acceptable – This includes cases in which a member of the applicant’s family was or is engaged in prostitution, sale of narcotics, or other criminal activity (includes property loss or damage and physical violence or sexual crimes). Involvement in some activities may not be grounds for denial if activity or crime occurred more than five years prior to the application and there is no evidence this behavior has continued.

Special Considerations for Particular Properties – If the tenant is to be responsible for particular tasks – lawn mowing and shoveling snow for instance – landlord will expect appropriate skill or financial ability to hire the work done as well as reliability to see that the task(s) are completed in a timely manner.

3. Occupancy/Unit Size – To comply with the Fair Housing Act, any reasonable local, state, or federal code will apply in determining the amount of habitable space required to accommodate a person and/or family of a given size and composition. In the absence of a local or state code, the landlord has the right to establish **reasonable** occupancy codes – not family based – with a maximum acceptable number of occupants per unit.

- 4. Leasing of Dwelling Unit**
- a. **Rental Term** – Choose weekly, monthly, 6 mo., 1 yr.
 - b. **Lease Type** – a written lease shall be agreed to and/or signed by a responsible adult member of the family who has been accepted as a resident and the landlord or landlord’s designated agent.

- c. **Rules and Special Conditions** – Any rules and regulations must, by Kansas law, be disclosed to tenants before they move in. Other special conditions such as a basement that leaks, or common area lighting that is connected to an electric or gas meter for which the tenant will pay the bill must also be disclosed.
- d. **Lease Change** – If at any time during the term of the lease agreement a change in the resident’s status (i.e. birth of child, death of household member, divorce) results in the need for changing or amending any provision of the lease, a new lease agreement or lease addendum will be signed.

5. **Application Fee** – A non-refundable application fee may be required when the application is accepted.

6. **Security Deposit** – If a deposit is collected and the landlord denies an applicant, the landlord must return the full deposit. If a deposit is collected and an applicant withdraws after the screening process has begun, the landlord has the right to recover his/her damages. The landlord is responsible for providing the applicant a written accounting for the deposit if all or part is withheld.

III. ADVERTISING AND SCREENING PROCEDURES

Determine how you will **advertise**. You can advertise any way you want: word-of-mouth, sign in the window, sign in the yard, newspaper ad, whatever. Be careful to be accurate. Misrepresentation can come back to haunt you.

Under federal law it is unlawful to advertise in a way that would indicate any preference, limitation, or discrimination because of race, sex, religion, national origin or ancestry, color, familial status, and disability.

Wrong Way to Advertise:

Adult Living, Condo, 2 BR, 2 bath, W/D hookup, private balcony, storage and parking, clubhouse, pool, \$540 mo. + elec. avail. now

Right Way to Advertise:

Condo, 2 BR, 2 bath, W/D hookup, private balcony, storage and parking, clubhouse, pool, \$540 + elec. avail. now

When prospective tenants begin to call or come by, **make a practice of noting the date, time, name, and phone numbers**. This serves two purposes: (1) If a discrimination complaint is ever filed against you, you will be able to show how you processed the applications, and (2) If someone backs out of a commitment to rent your unit, you can go back to your other prospects, possibly getting a replacement tenant without having to advertise again.

Be careful not to “pool” applications in order to select the “best.” It could be discriminatory. The **first person who meets your standards** should be housed.

Make sure you **screen** prospective tenants and remember to treat everyone who contacts you the same. **“Screening” means to evaluate each applicant based on your particular set of criteria.**