

#008

United States Senate

October 16, 2020

Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
R.J. Hughes Justice Complex; P.O. Box 037
Trenton, New Jersey 08625

Dear Judge Grant:

I write today in response to the September 16, 2020 public notice inviting comments on the proposal to amend Rule 1:38-3 (“Court Records Excluded from Public Access”). This proposed amendment would remove records of landlord/tenant matters not resulting in a judgement for possession from public access, which would help ensure that tenants that prevail in court are not unfairly prevented from accessing housing in the future.

In the United States an estimated nine out of ten landlords rely on reports prepared by thousands of private vendors from around the country to screen prospective tenants. These reports are created using publicly-available court records, which in recent years have become increasingly easily accessible online. According to the Eviction Lab at Princeton University, between 2000 and 2018, only about 40 percent of eviction filings in New Jersey resulted in a judgement for possession. However, tenant screening reports commonly fail to reflect the outcome of landlord/tenant cases. As a result, anyone who has ever been involved in a landlord/tenant court proceeding may receive a poor screening report, even if the case was dismissed or found in the tenant’s favor. Consequently, many tenants are penalized in perpetuity simply for having a complaint filed against them, which housing advocates refer to as “tenant blacklisting.”

Tenant blacklisting adversely impacts countless people throughout our nation. I have personally spoken with New Jersey residents who have struggled to find housing – sometimes for decades – due to tenant blacklisting. These individuals, and many more like them, may be equally qualified as other candidates, but are unable to find housing due to their negative tenant screening reports. The companies that create these reports are not regulated by the Fair Credit Reporting Act in the same way as the national credit bureaus which generate consumer credit reports, which is why I have introduced federal legislation on the federal level to regulate these companies and the accuracy of the reports they generate.¹ Classifying cases that do not result in a judgment for possession as confidential would be an important step toward curbing the pernicious practice of tenant blacklisting.

I appreciate your time and attention to this matter, and I commend the Judiciary’s commitment to reviewing its own processes to identify and eliminate any potential barriers to equal justice.

Sincerely,



Cory A. Booker
United States Senator

¹ Tenant Protection Act, S.1758, 115th Cong. (2017). <https://www.congress.gov/bill/115th-congress/senate-bill/1758>

115TH CONGRESS
1ST SESSION

S. 1758

To amend the Fair Credit Reporting Act to provide requirements for landlords and consumer reporting agencies relating to housing court records, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 3, 2017

Mr. BOOKER introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Fair Credit Reporting Act to provide requirements for landlords and consumer reporting agencies relating to housing court records, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tenant Protection
5 Act”.

6 **SEC. 2. TENANT BLACKLISTING.**

7 (a) DEFINITIONS.—In this section—

8 (1) the terms “consumer”, “consumer report”,
9 and “nationwide specialty consumer reporting agen-

1 cy” have the meanings given those terms in section
2 603 of the Fair Credit Reporting Act (15 U.S.C.
3 1681a); and

4 (2) the term “tenant rating agency” means a
5 nationwide specialty consumer reporting agency de-
6 scribed in section 603(x)(2) of the Fair Credit Re-
7 porting Act (15 U.S.C. 1681a(x)(2)).

8 (b) AMENDMENTS TO THE FAIR CREDIT REPORTING
9 ACT.—The Fair Credit Reporting Act (15 U.S.C. 1601
10 et seq.) is amended—

11 (1) in section 605 (15 U.S.C. 1681c), by adding
12 at the end the following:

13 “(i) HOUSING COURT RECORDS.—A consumer re-
14 porting agency may not make a consumer report con-
15 taining a landlord-tenant court or other housing court
16 record, unless—

17 “(1) the case to which the record pertains re-
18 sulted in a judgment of possession;

19 “(2) the decision of the court in the case to
20 which the record pertains is not being appealed; and

21 “(3) the record antedates the consumer report
22 by not more than 3 years.”;

23 (2) in section 611(a) (15 U.S.C. 1681i(a))—

24 (A) in paragraph (1)(A), by inserting “or
25 by submitting a notice of the dispute through

1 the centralized source described in section
 2 612(a)(1)(B) or the centralized source required
 3 to be established under section 2(e) of the Ten-
 4 ant Protection Act” after “through a reseller”;
 5 and

6 (B) in paragraph (2)—

7 (i) in subparagraph (A)—

8 (I) by striking “or a reseller”
 9 and inserting “a reseller, or a central-
 10 ized source”; and

11 (II) by striking “or reseller” and
 12 inserting “reseller, or centralized
 13 source”; and

14 (ii) in subparagraph (B), by striking
 15 “or the reseller” and inserting “the re-
 16 seller, or the centralized source”;

17 (3) in section 615 (15 U.S.C. 1681m), by add-
 18 ing at the end the following:

19 “(i) ADDITIONAL DUTY OF USERS TAKING ADVERSE
 20 ACTIONS ON THE BASIS OF HOUSING COURT RECORDS
 21 CONTAINED IN CONSUMER REPORTS.—If any person
 22 takes any adverse action with respect to a consumer that
 23 is based in whole or in part on a landlord-tenant court
 24 or other housing record contained in a consumer report,
 25 the person shall provide to the consumer a free copy of

1 the consumer report used by the person in taking the ad-
2 verse action.”; and

3 (4) by adding at the end the following:

4 **“SEC. 630. CIVIL LIABILITY FOR CREATING REPORTS WITH**
5 **INACCURATE HOUSING COURT RECORDS.**

6 “Any person who willfully makes a consumer report
7 with respect to a consumer that contains an inaccurate
8 landlord-tenant court or other housing record is liable to
9 the consumer in an amount equal to the sum of—

10 “(1) any actual damages sustained by the con-
11 sumer as a result of making that consumer report
12 or damages of not less than \$500 and not more than
13 \$1,500;

14 “(2) such amount of punitive damages as the
15 court may allow; and

16 “(3) in the case of any successful action to en-
17 force any liability under this section, the costs of the
18 action together with reasonable attorney’s fees as de-
19 termined by the court.”.

20 (c) REGULATIONS APPLICABLE TO CLEARINGHOUSE
21 SYSTEM.—Not later than 1 year after the date of enact-
22 ment of this Act, the Bureau of Consumer Financial Pro-
23 tection shall issue regulations—

24 (1) applicable to tenant rating agencies to re-
25 quire the establishment of—

1 (A) a centralized source through which
2 consumers may—

3 (i) obtain a consumer report from
4 each such tenant rating agency once dur-
5 ing any 12-month period, using a single re-
6 quest, and without charge to the consumer,
7 as provided in section 612(a) of the Fair
8 Credit Reporting Act (15 U.S.C.
9 1681j(a)); and

10 (ii) submit a notice of a dispute of in-
11 accurate information, as provided in sec-
12 tion 611(a) of the Fair Credit Reporting
13 Act (15 U.S.C. 1681i(a)); and

14 (B) a standardized form for a consumer to
15 make a request for a consumer report under
16 subparagraph (A)(i) or submit a notice of dis-
17 pute under subparagraph (A)(ii) by mail or
18 through an Internet website; and

19 (2) to provide that a consumer may submit a
20 notice of dispute of inaccurate information through
21 the centralized source established in accordance with
22 section 211(e) of the Fair and Accurate Credit
23 Transactions Act of 2003 (15 U.S.C. 1681j note), as
24 provided in section 611(a) of the Fair Credit Re-

1 porting Act (15 U.S.C. 1681i(a)), using the stand-
2 ardized form described in paragraph (1)(B).

3 (d) REPORT.—Not later than 1 year after the date
4 of enactment of this Act, the Bureau of Consumer Finan-
5 cial Protection shall conduct a study and submit to Con-
6 gress a report on the status of tenant rating agencies and
7 the compliance of tenant rating agencies under the Fair
8 Credit Reporting Act (15 U.S.C. 1601 et seq.), including
9 a gap analysis of laws and resources to deter noncompli-
10 ance with the intent and purpose of the Fair Credit Re-
11 porting Act (15 U.S.C. 1601 et seq.).

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