

Keeping Up To Date for 2023- AB2559 - The Reusable Tenant Screening Report

On September 13, 2022, Governor Newsom signed into law effective January 1, 2023, AB 2559 (Ward), which enacted new Civil Code Section 1950.1 (“§1950.1”), establishing criteria governing the use and definition of Reusable Tenant Screening Reports (“RTSR”). Why is this new RTSR law important for manufactured home parks to know about? It is manufactured home industry general practice to require a prospective resident to pay an application fee and complete a residency application containing both personal and financial information to be reviewed, evaluated, processed and approved as a condition to establishing residency in a manufactured home community. Part of the approval process is for the park management to process a current credit report to determine the applicant’s credit score, credit payments and prior evictions. The new RTSR law should be of interest to manufactured home park owners as it affects whether an applicant will be required to pay management’s application fee should management elect to accept a RTSR.

According to the bill’s author, “[i]n the current rental market, renters often have to apply to multiple rental properties before their application is accepted. If a renter applies to several properties, the various background screening report fees can quickly add up to several hundred dollars. AB 2559 sets a standard for reusable screening reports to be used during the rental application process. By using a reusable screening report, renters only have to pay one time for the report that can be used many times over 30 days, thereby saving the renter many hundreds of dollars, and will allow landlords to expeditiously review verified applicant information.” (Assembly Floor Analysis – Concurrence in Senate Amendments analysis 1, June 23, 2022, pg. 4)

Assembly analysis of the bill further suggests that while a landlord’s acceptance of RTSRs is “completely voluntary, landlords who choose to do so may see potential dividends to their businesses. Today, many landlords first review an application, collect a screening fee, and then run a screening report. A reusable screening report process could consolidate this three-step process into two, eliminating the personnel costs required to collect fees from applicants and reducing the amount of time a vacant unit remains open. Also, because tenants who use a reusable screening report may correct potential errors in advance, RTSRs have the potential to be more accurate and decrease the likelihood a landlord would miss out on promising tenants due to an error in a screening report.” (*Id.*) The extent to which this analysis attempts to identify measurable tangible economic benefits to management in accepting RTSRs through elimination of an application fee and processing of a separate credit report will, of course, necessarily depend upon each community’s individual assessment of the community’s specific operating procedures.

The AB2559 legislation is primarily designed and intended to reduce the expense to prospective residential renter applicants by allowing an applicant to pay once for a screening and/or consumer credit report (15 USC Section 1681a) issued by an authorized reporting agency (e.g., Experian, etc.), RTSR, that for a period of 30-days from issuance may be made available at no charge for access or use by an unlimited number of landlords in evaluating the applicant’s application to rent, rather than the

applicant/prospective resident having to pay an application fee for each application submitted to each separate landlord. If management accepts an applicant's RTSR, management is not charged a fee to access the RTST and management cannot charge the prospective tenant an application screening fee.

This new statute, §1950.1, defines a RTSR as a report prepared within the previous 30 days by a consumer reporting agency at the request of and paid for by the applicant. Such report is further defined as having to be made directly available to a landlord for use in the rental application process or is provided through a third-party website that regularly engages in the business of providing RTSRs and complies with all state and federal laws pertaining to use and disclosure of information contained in a consumer report by a consumer reporting agency and is available to a landlord at no cost to access or use.

Information required to be provided in the RTSR regarding the applicant is as follows: a) Name, b) Contact information, c) Verification of employment, d) Last known address, and e) Results of an eviction history check to the extent allowed by law.

In addition, the RTSR must state prominently on the document the date through which the information contained in the report is correct. Moreover, it must provide that a landlord may elect to accept the RTSR and that it may require an applicant to state that there has not been a material change to the information in the RTSR. Furthermore, the RTSR must state that although existing law allows a landlord to charge an application fee, if, as noted above, an applicant provides a RTSR to a landlord that accepts RTSRs, the landlord must not charge the applicant either a fee for the landlord to access the report or an application screening fee.

Prior to enactment of AB 2559 there was minimal guidance for the use of RTSRs. The current legislation provides definitional requirements for these types of reports, clarifies temporal requirements and that there is no charge for landlord's access and/or use.

It should be noted, however, that this new statute does not require a park owner to accept a RTSR from a prospective applicant. But, take caution, if the park guidelines or other operational procedures are "silent" on RTSRs and do not reference whether or not a park will accept RTSRs, then an argument could be made that an applicant should be able to submit an otherwise compliant RTSR with their application for management's consideration. Accordingly, a park owner should discuss with its park's attorney whether the park should update park guidelines for tenant applications to address whether or not the park will accept RTSRs.

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