

By Mr. Albano, a petition (accompanied by bill, Senate, No. 56) of Salvatore R. Albano and Joseph K. Mackey for legislation to regulate the information that may be distributed by consumer reporting agencies in relation to applicants for rental housing. Commerce and Labor.

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**The Commonwealth of Massachusetts**

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In the Year One Thousand Nine Hundred and Eighty-Six.

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AN ACT ENSURING FREEDOM OF INFORMATION FOR TENANT ACCESS TO RECORDS COMPILED BY CONSUMER REPORTING AGENCIES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Title This Act may be cited as the "Tenant  
2 Credit Reporting Act".

1 SECTION 2. Findings and Purpose

2 (a) Findings.— The Massachusetts State Senate hereby finds  
3 that —

4 1) there is an acute shortage of rental housing in Massachusetts,  
5 and such shortage has put tenant applicants at a competitive  
6 disadvantage in obtaining such housing;

7 2) the use of consumer reporting agencies for evaluating the  
8 credit worthiness, rental history, and general reputation of tenants  
9 and prospective tenants has become a common practice;

10 3) consumer reports on matters and/or affecting tenants are  
11 different in nature than credit reports on other consumer activities;

12 4) the use of consumer reports by landlords for selecting tenants  
13 creates the opportunity for unfair discrimination against tenants  
14 who chose to exercise their legal rights to challenge the actions of  
15 landlords, and in some cases could discourage tenants from assert-  
16 ing their legal rights;

17 5) there is a need to protect tenants from consumer reports  
18 concerning legally protected activities;

19 6) there is a need to further protect tenants and prospective

20 tenants from false and misleading reports that may unfairly impair  
21 their ability to obtain decent, safe, and sanitary rental housing; and

22 7) tenants, of low and moderate incomes, on fixed incomes, and  
23 of minority groups have been identified as those consumers most  
24 likely to be affected by inaccurate tenant reports.

25 (b) Purpose.— It is the purpose of this Act to amend the Con-  
26 sumer Reporting Agency Act (M.G.L. Chapter 93, sections 50-68),  
27 to require that consumer reporting agencies retaining information  
28 and furnishing consumer reports with respect to tenants and pro-  
29 spective tenants follow procedures that are fair to such individuals,  
30 while fulfilling the needs of property owners for relevant informa-  
31 tion concerning such individuals.

### 1 SECTION 3. Definitions

2 (a) Consumer Reports.— The first sentence of Section 50 of  
3 Chapter 93, if amended by inserting after “(3)” the following:  
4 “rental of any property as a principal place of residence”.

5 (b) Adverse Rental Action.— Section 50 of Chapter 93, is  
6 amended by adding at the end thereof the following new subsection:  
7 “Adverse Rental Action”, means any of the following actions  
8 taken with respect to a consumer who rents, or seeks to rent, a  
9 property as a principal place of residence:

10 “(1) refusal to rent, to continue to rent, to the consumer;

11 “(2) requiring the consumer to pay rent, a security deposit, or a  
12 fee or deposit for a key, or to make an advance payment of rent, not  
13 normally required, or in excess of the amount not normally  
14 required to be paid or made, with respect to such property;

15 “(3) inclusion of a provision in the rental agreement providing  
16 for an acceleration of rent payments in case of a failure by the  
17 consumer to perform in accordance with the terms of such  
18 agreement;

19 “(4) requiring the consumer to pay an amount, charged by any  
20 person as a fee for finding a rental property for a consumer, that  
21 exceeds the amount normally required to be paid with respect to  
22 such property;

23 “(5) reporting the existence or substance of a dispute involving  
24 the consumer arising out of the rental of property as a principle  
25 place of residence, including any alleged damage to property, fail-  
26 ure to vacate the property, failure to pay rent due, failure to  
27 maintain the property, or other failure to perform in accordance  
28 with the terms of a written or oral rental agreement.”

## 1 SECTION 4. Permissible Purposes of Reports

2 Section 51 of Chapter 93 is amended: —

3 (1) by redesignating subparagraph (E) as subparagraph (F); and

4 (2) by inserting after subparagraph (D) the following new  
5 paragraph:6 “(E) intends to use the information in connection with the rental  
7 of any property by the consumer as a principal place of residence;  
8 or”.

## 1 SECTION 5. Prohibited Information

2 Section 52 of Chapter 93 is amended by adding at the end thereof  
3 the following new subsection: —4 “(c) No consumer reporting agency may include, in any consu-  
5 mer report information indicating whether or not there has  
6 been —7 “(1) any membership or other involvement by the consumer in  
8 any tenants organization or other activity on behalf of tenants;9 “(2) any notification by the consumer with respect to any  
10 alleged violation by the property owner of state and local require-  
11 ments relating to the safety, habitability, or sanitation of such  
12 property;13 “(3) any request by the consumer for maintenance or repair of  
14 such property;15 “(4) any withholding or abatement of rent by the consumer, if  
16 permitted by and carried out in accordance with state and local  
17 law; or18 “(5) any judicial action or administrative proceeding involving  
19 the consumer and a property owner or property owner’s agent  
20 arising out of the rental of any property of such owner by the  
21 consumer, including any alleged damage to property, failure to  
22 vacate the property, failure to pay rent due, failure to maintain the  
23 property, or other failure to perform in accordance with the terms  
24 of the rental agreement between such persons, unless —25 “(A) the property owner or property owner’s agent is adjudged  
26 the prevailing party with respect to each claim to relief asserted by a  
27 party in such judicial action or administrative proceeding, and any  
28 judicial review to such adjudication is completed or barred; and29 “(B) the date on which such judicial review is completed or  
30 barred occurs not more than 1 year before the date of the consumer  
31 report.”.

32 “(6) any ‘adverse rental action’ involving the consumer which  
33 did not result in a judicial action or administrative proceeding and  
34 which occurred more than one year prior to the date of the con-  
sumer report.”

1 SECTION 6. Additional Disclosures To Tenants

2 In General. —The Consumer Reporting Agency Act (M.G.L.  
3 Ch. 93), is amended by inserting after Section 56 the following new  
4 section:—

5 “93:56A. Additional Disclosure To Tenants

6 “(a) A consumer reporting agency that after the date of the  
7 enactment of the Tenant Credit Reporting Act, records or retains  
8 any information on a consumer shall make a clear and accurate  
9 disclosure to the consumer of the following:

10 “(1) the name and address of the consumer reporting agency;

11 “(2) the contents of the file being recorded and/or retained on  
12 the consumer, and any subsequent addition to that file;

13 “(3) the right of the consumer to request the additional disclo-  
14 sures provided for in Section 56; and

15 “(4) the right of the consumer under Section 58, to dispute the  
16 accuracy of any item of information in the file of the consumer and  
17 to have the inaccurate information deleted from the file.

18 “(b) A consumer reporting agency furnishing a consumer report  
19 to a person requesting the consumer report in connection with the  
20 rental by a consumer of any property as a principal place of  
21 residence shall make a clear and accurate disclosure to the consu-  
22 mer of the following:

23 “(1) that a consumer report has been furnished in connection  
24 with the rental of property by the consumer as a principal place of  
25 residence;

26 “(2) the contents of the consumer report which is being fur-  
27 nished;

28 “(3) the name and address of the person to whom the consumer  
29 report has been furnished;

30 “(4) the name and address of the consumer reporting agency;  
31 and

32 “(5) the right of the consumer to request the additional disclo-  
33 sures provided for in Section 56

34 “(c) The disclosures required in subsection (a) shall be made at  
35 no cost to the consumer in a written notice mailed, or otherwise

36 delivered, to the consumer not later than 3 business days after the  
37 recording and/or retaining of the information;

38 “(d) The disclosures required in subsection (b) shall be made at  
39 no cost to the consumer in a written notice mailed, or otherwise  
40 delivered, to the consumer not later than 1 business day after the  
41 furnishing of the report to a landlord;

1 SECTION 7. Requirements on Users of Consumer Reports

2 (a) Adverse Actions Based on Information from Consumer  
3 Reporting Agencies — Section 62a of Chapter 93 is amended —

4 (1) by striking out “or” the fourth place it appears and inserting  
5 in lieu thereof a comma;

6 (2) by inserting after “increased” the following: “, or an adverse  
7 rental action is taken,” and

8 (3) by inserting after “taken” the following: “, and the reason or  
9 reasons why such action has been taken.”.

10 (b) Adverse Action Based on Information From Other Per-  
11 sons. — Section 62b of Chapter 93 is amended —

12 (1) by striking out “or” the second place it appears and inserting  
13 in lieu thereof a comma; and

14 (2) by inserting after “increased” the following: “, or an advance  
15 rental action is taken,”.



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