



# **SOURCE OF INCOME IS PROTECTED** **FREQUENTLY ASKED QUESTIONS**



## **WHAT IS A PROTECTED SOURCE OF INCOME?**

“Source of Income” includes any lawful, verifiable income paid directly to a tenant, representative of a tenant, or housing provider on behalf of a tenant. This includes rental assistance from any federal, state, local, or nonprofit-administered program. This could be subsidies like Section 8 Housing Choice Vouchers (Section 8 Vouchers), or other programs that provide rental assistance, homeless assistance, security deposit assistance, or rapid rehousing.

## **WHO MUST COMPLY WITH THE LAW?**

The law applies to all housing providers who rent property to tenants in California, except homeowners who live in their house, condominium or other single-family unit and rent out a single room/space within that dwelling to no more than one person. Exempt housing providers still cannot make discriminatory statements in advertisements.

## **ARE LANDLORDS REQUIRED TO RENT TO ANY PERSON WHO RECEIVES RENTAL ASSISTANCE?**

No. Landlords cannot decline a tenant based on the household receiving rental assistance. However, landlords still have the right to screen applicants according to lawful criteria. All fair housing laws still apply, ensuring that tenant selection is never based upon race, color, national origin, religion, sex, familial status, disability, or any other discriminatory factors under federal, state or local law.

## **DOES THE SOURCE OF INCOME LAW RESTRICT RENT AMOUNTS?**

No. For a Section 8 Voucher tenancy, the local public housing agency determines whether the rent requested by the landlord is reasonable. Rents for existing Section 8 Voucher tenants may not exceed the rents charged for units with tenants who do not receive rental assistance. Other rent increase laws may also apply.

## **WHAT PRACTICES ARE NOT ALLOWED?**

Common violations may include: refusing to rent to Section 8 Voucher holders or recipients of other forms of rental assistance, steering rental assistance recipients to other properties or certain areas within a property, refusing to comply with rental assistance program requirements (i.e., not providing a W9), requiring additional deposits / fees / rent, improper application of a financial / income standard, enforcing a separate set of rules for tenants receiving rental assistance, falsely representing that a rental unit is not available, denying an applicant based on credit without offering to consider alternative proof of ability to pay, and refusing / delaying repairs or improvements for tenants who receive rental assistance.

## **WHAT IF A LANDLORD HAS INCOME REQUIREMENTS TO RENT A PROPERTY?**

A landlord is required to consider all sources of income for an applicant. If a landlord has a financial / income standard (i.e., requirement to make 2.5 times the rent), they must use the tenant’s portion of the rent – not the full contract rent – to determine eligibility. Credit requirements may be improper when processing a rental application for a Section 8 Voucher holder whose tenant portion is \$0.

## **WHAT IF A LANDLORD CHOOSES ANOTHER APPLICANT BECAUSE SECTION 8 TOOK TOO LONG?**

The law requires landlords to comply with the requirements of any public assistance, rental assistance, or housing subsidy program. Such requirements may include completing documents, providing a W9, or allowing inspection for housing quality standards. Sometimes these procedures take more time than renting to a person without a subsidy. However, landlords that refuse to comply, impose strict timelines to sign a lease, or prioritize applicants without a subsidy, may violate the law.



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## **FREQUENTLY ASKED QUESTIONS**



### **I HAVE DISABILITIES THAT MAKE IT DIFFICULT TO FIND HOUSING. WHAT CAN I DO?**

Persons that receive rental assistance are disproportionately members of other protected classes, including disability. Persons living with a disability have the right to request a reasonable accommodation for an exception to a rule, policy, or procedure. If a landlord refuses to rent to an applicant for a seemingly nondiscriminatory reason (i.e., negative credit or eviction history), but the underlying reason is connected to a disability, the applicant may be entitled to request a reasonable accommodation to still be deemed qualified for the housing.

Example: a person with a mental health disability is denied a rental unit after applying due to negative credit history. However, that negative credit history was from a period of distress when their condition was undiagnosed and untreated, which resulted in missed payments that harmed their credit. But the person is now receiving treatment, just started a new job, and has a housing subsidy from a nonprofit to help pay the first six months of rent. The person requests as a reasonable accommodation that the landlord make an exception to the credit requirement and consider other proof of ability to pay rent.

### **HOW ARE FAIR HOUSING LAWS ENFORCED?**

**Administrative complaints:** People may file fair housing complaints with the California Civil Rights Department or U.S. Department of Housing and Urban Development.

**Lawsuits:** People may seek monetary damages as well as an injunction against the landlord. The Court has the power to award punitive damages and attorney's fees and costs.

**City of San Diego only:** The City of San Diego also has a local source of income ordinance. If a court determines a landlord has violated the ordinance with respect to a property in the City of San Diego proper, it must award damages equal to three-times the monthly rent of the unit at the time of the violation.

### **CAN A LANDLORD DENY A SECTION 8 APPLICANT BASED ON POOR CREDIT? WHAT IS SENATE BILL 267?**

Beginning January 1, 2024, under SB 267, for persons with a housing subsidy, it is unlawful for landlords to use an applicant's credit history without offering the chance of providing alternative evidence that they can pay their portion of the rent. If the applicant chooses to provide alternative evidence, the landlord must then provide reasonable time to respond AND reasonably consider that alternative evidence instead of credit.

### **WHAT ARE SOME EXAMPLES OF ALTERNATIVE EVIDENCE THAT A LANDLORD MUST CONSIDER INSTEAD OF CREDIT?**

Alternative evidence may include, but is not limited to, proof of government benefit payments, pay stubs/records, or bank statements. Other lawful, verifiable alternative evidence of ability to pay the tenant's portion of rent must also be considered.

### **CAN THE LANDLORD REQUEST ADDITIONAL FINANCIAL INFORMATION?**

Landlords may still request information or documentation needed to verify employment, request landlord references, or to verify the identity of an applicant, according to existing laws and as long as they do so in a non-discriminatory manner.

### **CAN A LANDLORD ASK WHERE A PERSON'S INCOME COMES FROM?**

Yes, a landlord is still allowed to make written or oral inquiries concerning the level or source of income of the applicant.

### **WHERE CAN I ASK FOR HELP?**

**FAIR HOUSING CENTER LEGAL AID SOCIETY OF SAN DIEGO**  
**110 S. EUCLID AVENUE, SAN DIEGO, CA 92114**  
**1764 SAN DIEGO AVENUE, SUITE 100, SAN DIEGO, CA 92110**  
**100 E. SAN MARCOS BLVD., STE. 308, SAN MARCOS, CA 92069**  
**TEL: (844) 449-3500**  
**TTY: (800) 735-2929**  
**[WWW.LASSD.ORG](http://WWW.LASSD.ORG)**