

# All About Credit and Background Checks

In Wisconsin, landlords are allowed to do credit and background checks on possible tenants, but they must follow state and federal laws. Here are the key points:

## 1. Tenant Screening & Background Checks

**Landlord's Right to Screen:** Under Wisconsin Statutes § 704.085, landlords can require possible tenants to submit to background and credit checks before renting a property. Landlords can require applicants to undergo a credit and background check, and they can charge their actual cost, up to a maximum of \$25 for a credit check and a background check.

**Fair Credit Reporting Act (FCRA):** Landlords must follow federal law, meaning they need the tenant's written consent before running a credit check. They must get the applicant's written consent before running the check.

**Criminal Background Checks:** Landlords can consider a tenant's criminal history, but Milwaukee and Madison have local ordinances restricting how landlords can use this information.

## 2. Application Fees & Disclosure [Consumer Protection & Credit Reporting (Fair Credit Reporting Act - FCRA)]

**Application Fees:** Landlords may charge a fee equal to their actual cost and no more than \$25 each for a background check and a credit check, but under Wis. Stat. § 704.085(1)-(2), they must provide a copy of these reports if requested.

**Denial Based on Screening:** If a landlord denies a tenant based on credit or background check results, they must give an adverse action notice explaining the reason.

If a landlord denies an applicant based on credit history, they must provide an "adverse action notice" explaining the reason and giving details on how to dispute the report.

### 3. Discrimination Protections

Wisconsin Fair Housing Law (Wis. Stat. § 106.50) stops landlords from using background or credit checks to discriminate against tenants based on race, religion, disability, or other protected classes. Landlords cannot use screening to discriminate based on race, religion, gender, disability, family status, or other protected classes under the Wisconsin Fair Housing Law (Wis. Stat. § 106.50) and the Federal Fair Housing Act.

Running background checks can be an important part of carefully checking potential renters. It may help landlords see things like payment history, financial stability, and criminal records. This information helps them make better choices, leading to fewer problems, safer properties, and less turnover.

### The Rules

- Landlords can charge applicants up to \$25 for the actual cost of a credit check (a consumer credit report) unless the applicant provides a copy of their own that is no older than 30 days<sup>1</sup>.
- Landlords are also allowed to charge out-of-state applicants up to \$25 for the actual cost of a background check<sup>2</sup>.
- If a landlord charges a fee for a background or credit check, they must tell the applicant in writing about the fee before running the check.

**Tenant Background Check:** This type of check is used by landlords or property managers to verify a prospective tenant's criminal, rental, and financial history.

## Background Checks

“Background check” is a broad term that may include several items, such as:

- **Consumer Credit Report**

- A consumer credit report is a summary of your credit history, including your personal information and your credit activity. Creditors, such as banks and credit card companies, submit financial data about you to credit reporting agencies, also known as credit bureaus, who then collect and store it. Your credit report shows current and past credit card accounts, loan balances, credit limits and payment history. The report also may include public record information such as bankruptcies, liens, and foreclosures. Overdue child support payments may also appear.

- **Criminal History**

- This may involve checks across national databases, state-specific records, and county-level data to find any criminal background an applicant may have. This could include felony and misdemeanor convictions, pending charges, arrest warrants, and sometimes, incarceration records. A criminal background check will usually indicate whether a person is a registered sex offender.

- **Employment/Income Verification**

- A background check can verify a potential tenant's employment history and income to find out their ability to afford rent.

- **Rental History**

- This part checks for past rental addresses, payment behavior, and any history of evictions or landlord disputes.

- **Identity Verification**

- This makes sure the person's identity is accurate and matches the information provided.

If you believe a background check company or landlord has violated your rights, you can seek help. Contact local fair housing organizations, the state attorney general, legal aid offices, or a lawyer. You can also file complaints with HUD's Office of Fair Housing and Equal Opportunity, the Department of Justice (DOJ), the Federal Trade

Commission (FTC), or the Consumer Financial Protection Bureau (CFPB).

## **Here's what you need to know before applying and steps to take if a landlord makes a negative decision based on the background check:**

### **Before Applying:**

- Provide accurate personal information requested by the landlord.
- Be aware of any fees you must pay with the application or background check.

### **Information Included in Background Checks:**

- Personal details like your name, Social Security number, and addresses.
- Work and income history.
- Credit card status and payment history.
- Housing court records, including eviction actions.
- Criminal records.

### **Your Rights if Rejected:**

- Receive an "adverse action" notice from the landlord, which includes contact information for the background check company.
- Request a copy of the background check report.
- Dispute any errors on the report.
- Background check companies must investigate disputes within 30 days.

### **Other Steps to Take:**

- Check your credit report for errors.
- Ensure accuracy of housing court records.
- Explore options to seal or expunge records if possible.

### **Your Rights Against Discrimination:**

- The Fair Housing Act prohibits discrimination based on race, national origin, color, sex, religion, disability, or familial status.
- Landlords cannot reject applicants based on discriminatory criteria.
- Seek legal assistance if you suspect discrimination.

### **Where to Get Help:**

- Contact local legal aid offices, fair housing organizations, or the state attorney general.
- File complaints with HUD, DOJ, FTC, or CFPB.
- Explore additional protections provided by federal or local laws.

In Wisconsin, tenants have certain rights regarding background checks and credit checks conducted by their landlords. Here's a summary:

**1. Fair Credit Reporting Act (FCRA) Compliance:** Landlords must comply with the Fair Credit Reporting Act (FCRA) when doing background checks and credit checks. This federal law regulates how consumer reporting agencies handle and use consumer information, including tenant screening reports.

**2. Disclosure of Adverse Actions:** If a landlord takes adverse action against a tenant based on information obtained from a background check or credit check, they are required to provide the tenant with a written notice of the adverse action. This notice should include the name, address, and phone number of the consumer reporting agency that provided the report, as well as information about the tenant's rights to dispute the accuracy of the information.

**3. Right to Dispute:** Tenants have the right to dispute any inaccurate information contained in their background check or credit check report. They can do so by contacting the consumer reporting agency that provided the report and providing evidence to support their dispute.

**4. Protection Against Discrimination:** Tenants are protected against discrimination based on certain characteristics such as race, color, national origin, religion, sex, familial status, and disability. Landlords cannot use background checks or credit checks as a pretext for discriminating against tenants on any of these grounds.

**5. Reasonable Accommodations:** Landlords are required to provide reasonable accommodations for tenants with disabilities. This includes making adjustments to the tenant screening process to accommodate the needs of disabled tenants.

**6. Local Laws:** In addition to federal laws like the FCRA and the Fair Housing Act, tenants in Wisconsin may also be protected by local laws governing tenant rights and landlord-tenant relationships. These laws may provide additional protections and regulations regarding background checks and credit checks.

It's important for tenants in Wisconsin to be aware of their rights regarding background checks and credit checks and to seek legal advice if they believe their rights have been violated.

Wisconsin, prohibits landlords from charging a tenant credit report fee if the applicant provides their own credit report that's less than 30 days old.

Even the best background check sites aren't 100% accurate and an error can have serious consequences on your ability to get a job or secure a rental. Knowing some of the most common errors in these types of reports can help you spot and dispute them.

Some common background check errors include:

- inaccurate name spellings
- incorrect dates (date of birth, employment dates, etc.)
- missing information or details (about past employment or education)
- confusion with another individual (similar name)
- outdated information
- identity theft
- incorrect criminal records

Under the provisions of the FCRA, an employer or landlord must provide you with a copy of the report along with the name and contact information for the background check company.

You should examine the report carefully and address any inaccuracies with the background check provider. If a background check company refuses to investigate the issue, you can file a complaint with the Federal Trade Commission (FTC), as this refusal may violate federal law.

Reviewing your credit report periodically can also help you spot errors or inaccuracies so you can dispute these quickly.

### **What should you do in case of a background check error?**

If you notice an error in your report, contact the background check company and file a dispute. From that point forward, the company has 30 days to correct or remove the error. If the background check company refuses to do so, you have the right to file a complaint with the Federal Trade Commission (FTC). There's a chance they could investigate and fine the company if it did violate the FCRA.

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