

PASSED: SENATE BILL 147

RESTRICTIONS ON ASSOCIATION
UNIT OWNER REQUIREMENTS
FOR LANDLORDS

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In significant part, Senate Bill 147 (S.B. 147) places restrictions on what information an Association can request from a landlord in relation to the landlord's tenants. These new restrictions were spawned by the fear, real or imagined, that some Associations have been demanding information, with or without rule or authority in the governing documents, about tenants that is a violation of federal law or simply overreaching.

One such example occurs when an Association demands from a landlord the credit information of the tenant. While a landlord may have obtained the approval from the tenant to access such credit information, that approval does not extend to the Association. If an Association demands the credit information it may violate federal privacy and credit reporting laws. Another example is where an Association asserts the right to approve a tenant without having a lawful right to do so under the Association's governing documents, such as the right to verify the age of a tenant in a community for persons 55 and over.

These sometimes real, and sometimes imagined, abuses by Associations led the Utah Apartment Association and others to seek the assistance of the legislature. Fortunately, the Legislative Action Committee of the Utah Chapter of the Community Associations Institute (L.A.C.) had built enough rapport with these groups that they sought the L.A.C.'s assistance in drafting the legislation. Meetings were held and this issue debated, sometimes hotly. Eventually though, a sensible approach was agreed upon which prohibits Associations from making unlawful or overreaching demands. At first blush, an Association may feel like S.B. 147 takes some of their "rights" away. On closer review, however, it is clear that the approach taken by the L.A.C. and the other groups actually helps protect Associations from themselves. For example, more than one Association has faced discrimination charges for wrongfully disapproving a tenant that is part of a federally protected class. Nevertheless, there is legitimate information that an Association needs and has the right to obtain, including copies of leases, names and contact information of the occupants, the number of occupants and other pertinent information not prohibited by S.B. 147.

So, what does S.B. 147 prohibit? An Association of unit owners may not require that the Landlord:

- (a) obtain the association of unit owners' approval of a prospective renter; or*
- (b) give the association of unit owners:*
 - (i) a copy of a rental application;*
 - (ii) a copy of a renter's or prospective renter's credit information or credit report;*
 - (iii) a copy of a renter's or prospective renter's background check; or*
 - (iv) documentation to verify the renter's age.*

S.B. 147 does carve out legitimate exceptions to these prohibitions and allows an Association to demand and receive such documents (i) when required by court order or as part of discovery in a lawsuit and (ii) if an association of unit owners' declaration lawfully prohibits or restricts occupancy by a certain class of individuals and the information is used by Association to help it determine whether the renter's occupancy complies with the declaration.

The bill was signed into law April 1 by the governor. Associations should now carefully review their policies and practices to conform to the requirements of S.B. 147.