November 3, 2021

Secretary Marcia L. Fudge
U.S. Department of Housing and Urban Development (HUD)
451 7th Street, S.W.
Washington, DC 20410

Via email

Re: Removing credit reports and credit scores as a barrier to public and subsidized housing; request for meeting

Dear Secretary Fudge:

The undersigned organizations urge you to take action to ensure that individuals who qualify for public or subsidized housing can successfully secure a home. In particular, we urge you to prohibit public housing authorities (PHAs) and multifamily subsidized housing providers, including providers managing developments undergoing Rental Assistance Demonstration (RAD) conversions and developments receiving Project Based Vouchers (PBV) or Project Based Rental Assistance (PBRA), from considering credit reports and credit scores. We also urge you to strongly discourage landlords reviewing applicants with housing choice vouchers (HCV) from considering this information.

Even after qualifying for public or subsidized housing, many renters still will struggle to find housing due to their credit reports and scores. As one woman who was granted an HCV but was repeatedly rejected from housing explained, “Everything is credit . . . . Oftentimes, they don’t even let you see a property until you tell them your credit score.”[1] One housing provider refused to allow the sister and primary caregiver of a severely mentally handicapped woman with an HCV to move into her sister’s apartment because of her “poor credit and rental history.”[2] The housing provider maintained its position even though, under the HCV program, it would continue to receive the same rent regardless of whether the primary caregiver moved in. The primary caregiver also had paid monthly rent on time and without incident until the housing provider refused to accept further payments.[3]

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[1] Ashley Balcerzak, *Credit scores affect affordable housing eligibility. NJ lawmakers consider bill to help renters*, NorthJersey.com (Apr. 16, 2021).
[2] Martinez by Martinez v. Lexington Gardens Assocs., 336 F. Supp. 3d 270, 275, 280 (S.D.N.Y. 2018).
[3] *Id.* at 280.

Housing providers' reliance on credit reports and scores also can lock survivors of domestic violence out of affordable housing. Domestic violence includes economic abuse,[4] which often results in significant amounts of coerced debt. Coerced debt includes abusive partners fraudulently opening accounts in a survivor's name, lying about paying bills in a survivor's name, overcharging credit accounts, or coercing survivors into signing for loans, credit lines, or other expenses.[5] Coerced debt therefore destroys credit reports and scores and can cripple a survivor's ability to secure housing. The inability to access housing can lead survivors to stay in abusive relationships.[6]

Requiring a credit score or report creates an unnecessary hurdle to securing housing because rental assistance programs are designed to make sure that the tenant can pay rent. As HUD has stated, benefits for landlords who participate in the HCV program include full rental payments and financial protection because, if a tenant's income decreases, the public housing authority will pay a larger portion of the rent.[7] HUD also has busted the myth that HCV tenants are problem tenants, emphasizing that they are "typically long-term tenants" and that there are "no documented statistics showing that HCV participants are any more likely to . . . not pay rent than are non-HCV tenants."[8]

Moreover, credit reports and scores are not intended to gauge whether someone will be a good tenant. As the Consumer Financial Protection Bureau (CFPB) has explained,[9] credit scores are specifically designed to predict the likelihood that a borrower will become 90 days late on a *credit obligation*—not rent, which is not credit. What's more, credit reports tell a story about *past* ability to pay in particular instances, not *current* ability to pay rent, and rent is a high-priority bill that families will pay before all others.[10]

Credit scores and credit reports are an especially poor predictor of tenant performance in subsidized housing. Due to the severe lack of affordable housing throughout the U.S., over 18 million renter households are rent-burdened and about 10.4 million are severely

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[4] Researchers estimate that between 94 and 99% of women seeking services for intimate partner violence have experienced economic abuse, which involves behaviors that control a person's ability to acquire, use, or maintain economic resources, therefore undermining that person's financial security. Adrienne E. Adams et al., *Development of the Scale of Economic Abuse*, 14 Violence Against Women 563, 564, 580 (2008); Judy L. Postmus et al., *Understanding Economic Abuse in the Lives of Survivors*, 27 J. of Interpersonal Violence 411, 424 (2011).

[5] *See* Angela Littwin, *Coerced Debt: The Role of Consumer Credit in Domestic Violence*, 100 Calif. L. Rev. 951, 953–54 (2012).

[6] *See id.* at 955.

[7] U.S. Dept. of Hous. & Urban Dev., Housing Choice Voucher (HCV) Myth-Busting and Benefits Fact Sheet.

[8] *Id.*

[9] Consumer Fin. Prot. Bureau Office of Research, Data Point: Credit Invisibles 7 (2015).

[10] Matthew Desmond, The Rent Eats First, Even During a Pandemic, NY Times (Aug. 29, 2020); *see also* Andrew Aurand & Daniel Threet, Nat'l Low Income Hous. Coal., The Road Ahead for Low Income Renters 2 (2021).

rent-burdened (spending more than 50% of income on housing).[11] In most cases, access to affordable housing will enable these households to keep their rent at about 30% of their income—in many cases for the first time in many years, or ever. Credit reports and scores that reflect the difficulty these renters faced in paying their consumer accounts while rent-burdened has little value in assessing their fitness for housing and simply penalizes these households for their poverty.

Further, credit reports are riddled with errors, which makes them an unreliable tool whether for housing providers or others. As found in a Federal Trade Commission study, 20% of consumers had verified errors in their reports, with 5% having an error so serious that it would cause them to be denied credit or pay more for credit.[12] In 2020, complaints about credit reporting to the CFPB more than doubled from 2019, to almost 320,000, with the majority of those complaints having to do with "incorrect information on your report."[13]

Finally, reliance on credit reports and scores perpetuates historic racial inequities and injustices. The economic consequences of the nation's long history of racial discrimination—including in housing (redlining)[14] and debt collection (debt collection lawsuits are far more common in Black communities than white ones)[15]—are the foundation of the data in credit reports. As a result, Black consumers have lower credit scores as a group than white consumers.[16] Allowing housing providers to use credit data to determine whether to accept an applicant amplifies these inequities and discriminatory outcomes.[17]

Congress is currently considering a landmark bill that would provide robust funding for rental assistance and public housing.[18] However, this initiative and others like it will only be effective solutions to our ongoing affordable housing crisis if people who qualify for public or subsidized housing are actually able to secure housing. HUD has the tools to

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[11] Nat'l Low Income Hous. Coal., The Gap: A shortage of affordable rental homes 7 (Mar. 2021).
[12] Fed. Trade Comm'n, Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003 (2012).
[13] Consumer Fin. Prot. Bureau, Consumer Response Annual Report 20–21 (2021).
[14] *See generally* Richard Rothstein, The Color of Law (2017).
[15] Paul Kiel & Annie Waldman, *The Color of Debt: How Collection Suits Squeeze Black Neighborhoods*, ProPublica (Oct. 8, 2015).
[16] *See* Nat'l Consumer Law Ctr., Past Imperfect: How Credit Scores and Other Analytics "Bake In" and Perpetuate Past Discrimination (2016).
[17] Natalie Campisi, *From Inherent Racial Bias to Incorrect Data--The Problems With Current Credit Scoring Models*, Forbes (Feb. 26, 2021); *see also* Lisa Rice & Deidre Swesnik, *Discriminatory Effects of Credit Scoring on Communities of Color*, 46 Suffolk U. L. Rev. 935 (2013) (discussing how credit scoring has a discriminatory impact and is also not the best measure of risk).
[18] Build Back Better Act, H.R. 5376, 117th Cong. (2021).

ensure that credit checks do not bar these qualified candidates from access to safe and affordable housing.

We urge you to prohibit the consideration of credit reports and scores for those who qualify for public housing and multifamily subsidized housing. At a minimum, HUD should prohibit PHAs and multifamily subsidized housing providers from denying applicants solely due to poor credit history or low credit scores and also strongly discourage the use of credit reports and scores by landlords reviewing applicants with HCVs.

We thank you for your consideration and respectfully request a meeting to discuss these issues. Please contact Ariel Nelson at anelson@nclc.org or 805-432-3993 to schedule the meeting.

Sincerely,

National Consumer Law Center (on behalf of its low-income clients)
National Housing Law Project
National Low Income Housing Coalition
Center for Survivor Agency and Justice (in support of domestic violence survivors across the nation)

CC:
Lopa Kolluri
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