



## CREDIT CHECK

In order to establish a future tenant's payment habits, as mentioned above, a landlord may enlist the services of a personal information agent (otherwise known as a "credit bureau").

For a credit check, the landlord must obtain the future tenant's consent. Once his consent has been obtained, the check may be performed with a minimal amount of personal information. In order to retrieve a personal report from a credit bureau, only the individual's first and last name, address, and date of birth are needed. The social insurance number is not necessary.

It is worth noting that, alternatively, the future tenant can request a copy of his credit report from the credit bureau and submit it directly to the landlord. This applies when a future tenant refuses to give consent to the landlord to run a credit check or when the credit bureau is unable to identify the correct file.

## THE COMMISSION'S ROLE

A person who was asked to provide unnecessary personal information can file a complaint with the Commission.

The Commission may, depending on the circumstances, provide the parties with the information required, conduct an inquiry, recommend or order any appropriate measure to ensure the protection of personal information. It is important to note that the Commission does not have the power to order a person to pay damages or compensation. The Commission's interventions generally lead to the adoption of more lawful practices.

## TO CONTACT THE COMMISSION:

**Québec (head office)**  
Bureau 1.10  
575, rue Saint-Amable  
Québec (Québec) G1R 2G4  
Telephone: (418) 528-7741  
Fax: (418) 529-3102

**Montréal**  
Bureau 18.200  
500, boul. René-Lévesque Ouest  
Montréal (Québec) H2Z 1W7  
Telephone: (514) 873-4196  
Fax: (514) 844-6170  
Fax (Legal Affairs): (514) 864-3225

**Toll-free number for both offices**  
1 888 528-7741

**E-mail**  
cai.communications@cai.gouv.qc.ca

**Website**  
www.cai.gouv.qc.ca



Commission  
d'accès à l'information  
du Québec

Publication date: 2005  
(Updated: March 2014)

## THE LEASE AND PROTECTION OF PERSONAL INFORMATION PRINCIPLES AND GUIDELINES TO OBSERVE

#InfoSheet



### TWO BASIC PRINCIPLES

#### • The right to privacy

The Commission d'accès à l'information reminds the public that, whatever circumstances are, privacy must be respected in obtaining the requested information. In Québec, this fundamental right is governed by the Act respecting the protection of personal information in the private sector<sup>1</sup>. This Act determines the rules for the collection, retention, use and communication of personal information<sup>2</sup>.

#### • The necessary character of the information collected

In general, the Commission d'accès à l'information ("Commission") considers that a landlord may collect personal information, under certain conditions, before the par-

ties enter into the lease. Section 5 of the Act respecting the protection of personal information in the private sector states that any person collecting personal information may collect only the information necessary to the object of the file. The word 'necessary' is used in the Act to indicate the indispensable nature of an action. Thus, the landlord must ensure that he only collects indispensable information in his dealings with potential tenants.

### GUIDELINES TO OBSERVE

What information may a landlord collect from a potential tenant? What information is he not allowed to request? To inform the public adequately, the Commission proposes a number of guidelines for the collection of tenants' personal information.

As spring approaches, people start looking for a new dwelling or a new tenant in anticipation of July 1, the traditional "moving day" in Québec.

This search will result in the execution of a binding contract between the tenant and the landlord: the lease.

Before the parties sign, the landlord may want to obtain information. Essentially, this is personal information. The Commission d'accès à l'information wants to clarify the principles and guidelines that people should observe in these situations.

A landlord must consider all potential tenants even if a potential tenant refuses to provide his social security number or driver's license number



<sup>1</sup> LRQ c P-39.1

<sup>2</sup> If the landlord is a public body (e.g., low-rent housing), the Act respecting access to documents held by public bodies and the protection of personal information applies in this situation. In this case, it is also necessary to account for the criteria of eligibility for programs.



Commission  
d'accès à l'information  
du Québec

## PERSONAL INFORMATION THAT MAY BE REQUESTED

When negotiating a lease, a landlord may request certain information from a potential tenant in order to establish his identity, prove his conduct or establish his payment habits.

### 1. Personal information to establish the identity of a future tenant

A landlord may request the last name, first name and current address of a future tenant.

It is important to note that in order to establish the identity of a potential tenant the landlord **may ask to see a valid identity document**, with or without a picture such as a driver's license, health insurance card or social insurance card. However, a landlord cannot collect this information. Therefore, he **cannot make a photocopy of this document and retain it** in the leasing file.

### 2. Personal information to verify the conduct of a future tenant

In order to verify the conduct of a future tenant in how he discharges his responsibilities as a tenant, a landlord may request the contact information of a current or previous landlord.

To prove his conduct, a future tenant may also provide the landlord with a document from a previous landlord attesting to compliance with his obligations.

### 3. Personal information to establish a future tenant's payment habits

To establish a future tenant's payment habits, the landlord, with the future tenant's consent, may:

- Collect information from current or previous landlords, as well as their contact information.

- Carry out a credit check. The landlord only needs the future tenant's first and last name, current address and birth date. For more information, see the "Vérification de crédit" section.

Also, to establish his payment habits, the future tenant may also provide the landlord with:

- A credit report from his financial institution
- A letter of recommendation from his current or previous landlord
- Any other document attesting that he honours his obligations from an organization or business of goods or services that requires payments over time (e.g., Bell, Hydro-Québec, Vidéotron, etc.)
- Relevant excerpts from his credit report

## ASSIGNMENT OF A LEASE

The personal information a landlord may request from a sublessor or the sub-tenant is the same as that for a potential tenant.

## EXAMPLES OF PERSONAL INFORMATION THAT CANNOT BE REQUIRED

For information purposes only, the following examples of personal information cannot be collected by a landlord.

### 1. Social insurance number

The social insurance number is issued by the federal government, essentially for employment and taxation purposes. This number has little meaning in itself. However, the Commission discourages the collection of this identifier because it is not necessary to the analysis of a leasing file. Additionally, this number is the entry key to several government databases. Therefore, providing a social insurance number represents a serious risk to a person's right to privacy.

### 2. Driver's licence and its number

Section 61 of the Québec Highway Safety Code<sup>3</sup> specifies that the holder of a licence cannot be required to produce his licence except when so required by a peace offi-

cer or the Société d'assurance automobile du Québec. d'assurance automobile du Québec.

However, the holder of a driver's licence may use this document to prove his identity and to validate the information provided, specifically his last name, given name, address and date of birth. However, this validation process does not require the collection of this information.

### 3. Health insurance card and its number

Section 9.0.0.1 of the Québec Health Insurance Act<sup>4</sup> specifies that no person may be required to produce a health insurance card or a health eligibility card except for purposes relating to the dispensing of services or the provision of goods or resources in the field of health or social services.

However, the holder may use this document to validate his last name, given name and date of birth. However, this validation process does not require the collection of this information.

### 4. Passport

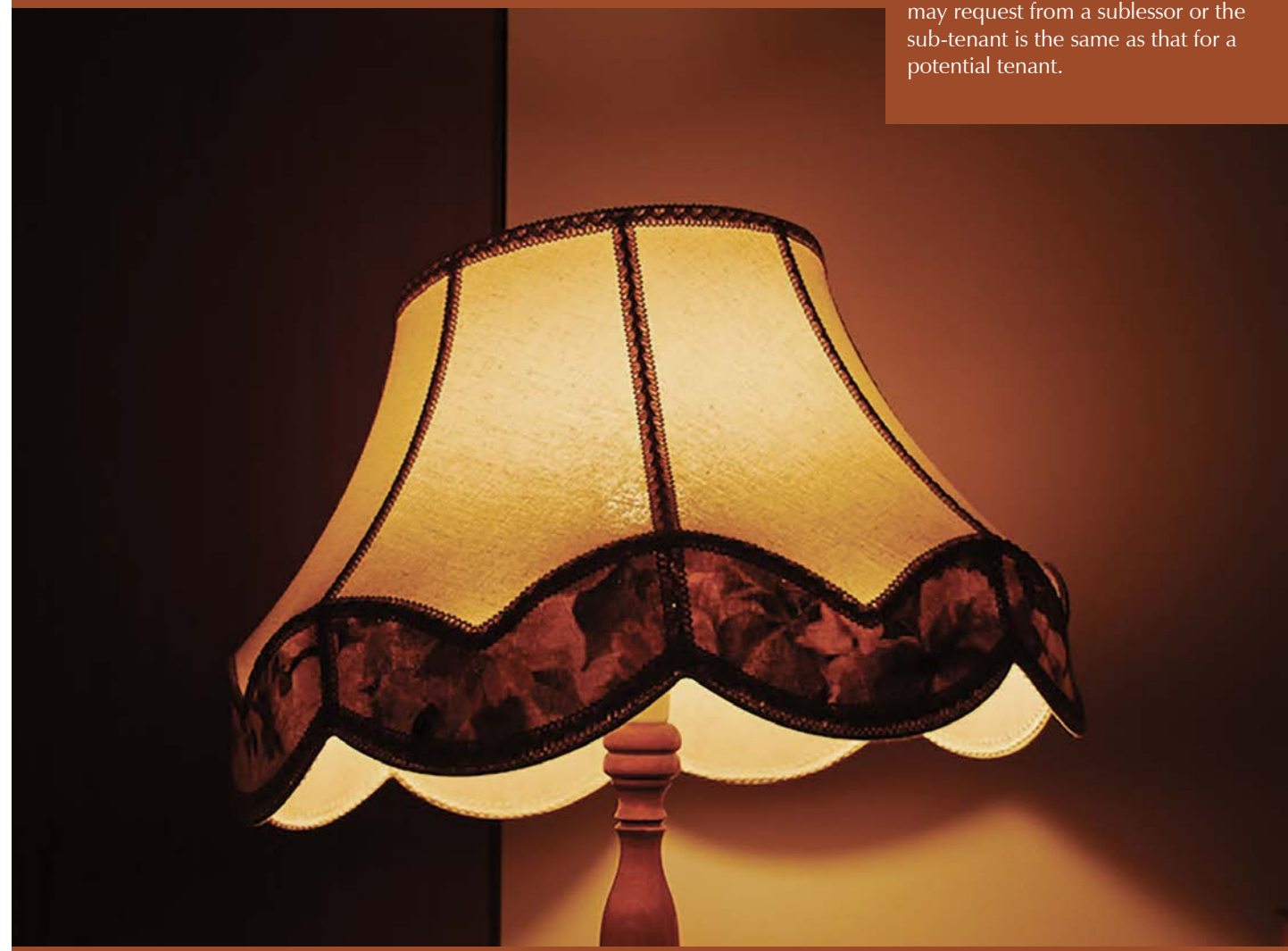
Like the identity documents described above, a landlord may ask to see a future tenant's passport in order to confirm his identity. However, the landlord cannot collect any information contained in this document, nor make a photocopy.

Moreover, the analysis of a leasing file does not require a prospective tenant to mention his occupation, his employer's name or contact information, his years of employment or his salary. Nor can he be asked to provide the make and colour of his car, his license plate number, the contact information for his financial institution or be required to provide a void cheque.

The social insurance number is not required for a credit check.

## STUDENTS AND NEWCOMERS

Persons, whether they are students or newcomers to Québec, who do not have any history as a tenant or do not have a credit history, are not relieved of the obligation to prove their good payment habits. In this case, it is the responsibility of the parties to determine the documents or means that will allow the landlord to evaluate their payment habits, while in compliance with the various legislations in effect.



<sup>3</sup> LRQ c C-24.2.  
<sup>4</sup> LRQ c A-29.