

2022 -- S 2641

LC005192

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO PROPERTY -- FAIR CHANCE IN HOUSING ACT

Introduced By: Senators Kallman, Quezada, Euer, Archambault, Cano, Acosta, Miller,
Burke, and Bell

Date Introduced: March 10, 2022

Referred To: Senate Judiciary

(Lieutenant Governor)

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 34 of the General Laws entitled "PROPERTY" is hereby amended by
2 adding thereto the following chapter:

3 CHAPTER 58

4 FAIR CHANCE IN HOUSING ACT

5 **34-58-1. Short title.**

6 This act shall be known and may be cited as the "Fair Chance in Housing Act".

7 **34-58-2. Definitions.**

8 When used in this chapter, the following terms shall have the following meanings:

9 (1) "Applicant" means any person considered for, who requests to be considered for, or
10 who requests to be considered for tenancy within a rental dwelling unit.

11 (2) "Conditional offer" means an offer to rent or lease a rental dwelling unit to an applicant
12 that is contingent on a subsequent inquiry into the applicant's criminal record, or any other
13 eligibility criteria that the housing provider may lawfully utilize.

14 (3) "Criminal record" means information collected by criminal justice agencies on
15 individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments,
16 or other formal criminal charges, and any disposition arising therefrom, including acquittal,
17 sentencing, correctional supervision, release or conviction, including, but not limited to, any
18 sentence arising from a verdict or plea of guilty or nolo contendere, including a sentence of
19 incarceration, a suspended sentence, a sentence of probation, or a sentence of conditional discharge.

1 (4) "Housing provider" means a landlord, an owner, lessor, sublessor, assignee, or their
2 agent, or any other person receiving or entitled to receive rents or benefits for the use or occupancy
3 of any rental dwelling unit.

4 (5) "Pending criminal accusation" means an existing accusation that an individual has
5 committed a crime, lodged by a law enforcement agency through an indictment, information,
6 complaint, or other formal charge.

7 (6) "Rental dwelling unit" means a dwelling unit offered for rent by a housing provider for
8 residential purposes, other than a dwelling unit in an owner-occupied premises of not more than
9 three (3) dwelling units.

10 **34-58-3. Restriction on use of criminal record.**

11 (a)(1) A housing provider shall not require an applicant to complete any housing
12 application that includes any inquiries regarding an applicant's criminal record prior to the provision
13 of a conditional offer.

14 (2) A housing provider shall not make any oral or written inquiry regarding an applicant's
15 criminal record prior to making a conditional offer.

16 (3) An applicant may provide evidence to the housing provider demonstrating inaccuracies
17 within the applicant's criminal record or evidence of rehabilitation or other mitigating factors.

18 (b) Notwithstanding the provisions of subsection (a) of this section, if an applicant
19 discloses any information regarding the applicant's criminal record, by voluntary oral or written
20 disclosure, prior to the conditional offer, the housing provider may make inquiries regarding the
21 applicant's criminal record prior to making the conditional offer.

22 (c) Prior to accepting any application fee, a housing provider shall disclose in writing to
23 the applicant:

24 (1) Whether the eligibility criteria of the housing provider include the review and
25 consideration of criminal history; and

26 (2) A statement that the applicant, pursuant to subsection (a) of this section, may provide
27 evidence demonstrating inaccuracies within the applicant's criminal record or evidence of
28 rehabilitation or other mitigating factors.

29 (d) After the issuance of a conditional offer to an applicant, a housing provider may only
30 consider a criminal record in the applicant's history that:

31 (1) Has occurred within the ten (10) years immediately preceding the issuance of the
32 conditional offer; and

33 (2) Consists of a pending criminal accusation or a criminal conviction that, pursuant to
34 chapter 1.3 of title 12, is not eligible for expungement.

1 (e)(1) A housing provider may withdraw a conditional offer based on an applicant's
2 criminal record only if the housing provider determines, on balance, that the withdrawal achieves
3 a substantial, legitimate, nondiscriminatory interest.

4 (2) The housing provider's determination of a nondiscriminatory interest shall be
5 reasonable in light of the following factors:

6 (i) The nature and severity of the criminal offense;

7 (ii) The age of the applicant at the time of the occurrence of the criminal offense;

8 (iii) The time which has elapsed since the occurrence of the criminal offense;

9 (iv) Any information produced by the applicant, or produced on the applicant's behalf, in
10 regard to the applicant's rehabilitation and good conduct since the occurrence of the criminal
11 offense;

12 (v) The degree to which the criminal offense, if it reoccurred, would negatively impact the
13 safety of the housing provider's other tenants or property; and

14 (vi) Whether the criminal offense occurred on or was connected to property that was rented
15 or leased by the applicant.

16 (f)(1) If a housing provider withdraws a conditional offer, the housing provider shall
17 provide the applicant with written notification that includes, with specificity, the reason or reasons
18 for the withdrawal of the conditional offer and a notice that advises the applicant of the applicant's
19 right to file a complaint with the attorney general pursuant to § 34-58-5.

20 (2) The applicant may request, within twenty (20) days after the housing provider's notice
21 of the withdrawal, that the housing provider afford the applicant a copy of all information that the
22 housing provider relied upon in considering the applicant, including criminal records. A housing
23 provider shall provide the information requested free of charge, within ten (10) days after receipt
24 of a timely request.

25 (g) Nothing set forth in this act shall be construed to prohibit a housing provider from
26 requiring an applicant to complete a housing application that includes any inquiries regarding an
27 applicant's criminal record after the conditional offer is provided or from making any oral or written
28 inquiries regarding an applicant's criminal record after the conditional offer is provided. The
29 provisions of this section shall not preclude a housing provider from refusing to provide housing
30 to an applicant based upon the applicant's criminal record, unless the criminal record or relevant
31 portion thereof has been expunged or erased through executive pardon; provided that, such refusal
32 is consistent with other applicable laws, rules and regulations.

33 (h) Unless otherwise permitted or required by law, a housing provider shall not knowingly
34 or purposefully publish, or cause to be published, any housing advertisement that explicitly

1 provides that the housing provider will not consider any applicant who has been arrested or
2 convicted of one or more crimes or offenses.

3 **34-58-4. Applicability.**

4 This act shall not apply:

5 (1) If a federal law or regulation requires the housing provider to consider an applicant's
6 criminal records for residential leasing purposes; or

7 (2) If a federal law or regulation otherwise allows for the denial of an applicant due to
8 certain criminal convictions.

9 **34-58-5. Civil liability.**

10 (a) A person claiming to be aggrieved pursuant to § 34-58-3 may file a complaint or action
11 in the superior court of Rhode Island alleging a violation of this chapter.

12 (b) Any housing provider who violates this chapter shall be liable for a civil penalty in an
13 amount not to exceed one thousand dollar (\$1,000) for the first violation, five thousand dollars
14 (\$5,000) for the second violation, and ten thousand dollars (\$10,000) for each subsequent violation
15 collectible by the attorney general.

16 **34-58-6. Consideration of rental applications -- Credit history -- Denial notice.**

17 (a) If a landlord uses credit history as criteria in consideration of a rental application, the
18 landlord shall not consider any credit history beyond seven (7) years immediately preceding the
19 date of the application.

20 (b) If a landlord denies a rental application based upon credit history, the landlord shall
21 provide the prospective tenant a written notice of the denial that states the reason for denial. The
22 landlord shall make a good-faith effort to do so not more than twenty (20) calendar days after
23 making the decision to deny the prospective tenant's rental application.

24 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PROPERTY -- FAIR CHANCE IN HOUSING ACT

1 This act would limit the use of certain criminal records and credit history reports in denying
2 housing to prospective applicants, provides fines for failure to comply and requires notice of denials
3 be sent to the prospective tenants.

4 This act would take effect upon passage.

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