
OLR Bill Analysis

sHB 5713

AN ACT CONCERNING CONSIDERATION OF CRIMINAL CONVICTIONS OF A PROSPECTIVE TENANT.

This bill generally prohibits discrimination in rental housing on the basis of an individual's criminal record. It does so by prohibiting housing providers (e.g., landlords, property owners, and housing authorities) from:

1. refusing to rent to a prospective tenant because of his or her criminal history, except for those convicted of certain crimes as described below;
2. discriminating in the terms, conditions, or services of a rental because of a tenant's criminal history;
3. making, printing, or publishing, or causing this to be done, a notice, statement, or advertisement concerning a rental that indicates any preference, limitation, or discrimination based on criminal history or an intention to make such a preference, limitation, or discrimination on that basis; or
4. falsely representing a unit as unavailable for inspection or rental to a prospective tenant because of his or her criminal history.

The bill authorizes aggrieved individuals to report alleged violations to the Commission on Human Rights and Opportunities (CHRO).

Under the bill, the prohibition against refusing to rent to a prospective tenant on the basis of criminal history does not extend to those convicted of, or released from confinement for, committing certain misdemeanors or felonies in the preceding three and 10 years, respectively. Specifically, housing providers may, during the three or 10-year look-back periods, consider criminal convictions that would

adversely affect the health, safety, or welfare of other tenants if the applicant were to commit them again. The bill specifies the procedure housing providers must follow in denying an applicant on this basis. It creates an exception for public housing authorities (PHAs) that must, under federal law, reject applicants with certain criminal histories from public housing.

Under current law, PHAs may deny admission to individuals with specific types of criminal records (although they must consider certain mitigating factors). The bill limits their ability to do so to the three and 10-year look-back periods described above.

Lastly, the bill makes a technical change.

EFFECTIVE DATE: October 1, 2019

HOUSING PROVIDERS

The bill's prohibitions on rental housing discrimination apply to landlords and rental property owners or their agents, realtors, and property managers, PHAs, and other entities that provide housing opportunities to potential tenants (i.e., housing providers). But they do not apply to rentals of (1) rooms in single-family, owner-occupied dwellings or (2) units in multi-family dwellings that contain up to four units if one unit is owner-occupied.

REFUSING TO RENT BASED ON CRIMINAL HISTORY

Discriminatory Practice

Under the bill, housing providers may not, on the basis of an applicant's criminal record, (1) refuse to rent a unit after a person makes a bona fide offer, (2) refuse to negotiate for the rental, or (3) otherwise make unavailable or deny a rental unit or deny occupancy in the unit, except as described below.

Exception for Specified Criminal Convictions

The exception is for applicants who were convicted of, or released from confinement for, committing certain (1) misdemeanors during the three years immediately preceding the rental application or (2) felonies

during the preceding 10 years. Housing providers may only consider convictions for crimes that would adversely affect the health, safety, or welfare of other tenants if the prospective tenant were to commit them again. These include crimes involving physical violence to persons or property; illegal manufacture, sale, or distribution of drugs; injury or risk of injury to, or impairing the morals of, children; and sexual offenses.

Under the bill, a “conviction” is a judgment a court enters upon a guilty or nolo contendere plea or a finding of guilt by a jury regardless of any pending appeal or habeas corpus proceeding arising from such judgment.

Excluded Arrest or Conviction Records

The bill prohibits housing providers from basing an applicant’s rejection on expunged convictions or records of arrest or charges that did not result in a conviction. It also bars housing providers from asking consumer reporting agencies to provide criminal records other than those the bill permits them to consider.

Procedure for Denying a Rental Application on the Basis of Applicant’s Criminal Record

Under the bill, before denying a rental application based on the applicant’s criminal record, the housing provider must (1) notify the applicant in writing that his or her application warrants additional review because of his or her criminal history and (2) allow the applicant an opportunity to provide related mitigating information about the conviction and evidence that he or she would be a good tenant.

The evidence may include the following factors:

1. nature and severity of the crime,
2. facts and circumstances surrounding the crime,
3. length of time since the offense,
4. applicant’s good tenant history before or after the offense,

5. applicant's rehabilitation or good conduct since the offense, and
6. anything showing the applicant is unlikely to commit the crime again.

If, after considering the evidence related to these factors, the housing provider rejects an applicant on the basis of his or her criminal record, the provider must provide the rejection in writing. The rejection must specifically state the evidence presented and the reasons for rejection and be sent to the applicant by registered mail, to the address provided in the rental application.

CHRO COMPLAINTS

The bill authorizes anyone aggrieved by a violation of the bill's prohibition on housing discrimination to, within 180 days of the alleged discriminatory act, file a complaint with CHRO pursuant to the existing statutory procedure for doing so (see BACKGROUND).

CHRO must investigate complaint allegations within 100 days of receipt and, unless it is impractical to do so, issue a final disposition within one year. If CHRO cannot complete either within the time limits, it must provide written notification to the complainant and respondent and explain why.

The bill does not, however, make conforming changes to the statutes to allow CHRO to grant relief.

PUBLIC HOUSING AUTHORITIES

Consideration of Applicant Criminal Records in State-Assisted Public Housing

Under current law, PHAs may reject a prospective tenant for state-funded public housing if he or she has a criminal record involving (1) physical violence to people or property; (2) the sale, distribution, use, or possession of illegal drugs; or (3) acts that would adversely affect the health, safety, or welfare of other tenants. Under the bill, PHAs may still reject a prospective tenant because of the aforementioned crimes, but only if they occurred during the specified three and 10-year look-back periods.

The bill's look-back limitations do not restrict a PHAs consideration of other factors. Unchanged by the bill, state-subsidized PHAs may also reject a prospective tenant because he or she (1) abuses alcohol in a manner that gives it reasonable cause to believe the behavior may threaten other tenants' health, safety, or right to peaceful enjoyment of their premises; or (2) is subject to lifetime registration as a sex offender due to a sexually violent offense.

By law, PHAs must also consider the time, nature, and extent of the conduct and any factors indicating future improvement, such as evidence of rehabilitation or willingness to attend counseling.

Discrimination Protections not Applicable for Those Convicted of Certain Crimes Cited in Federal Law

The bill's discrimination protections do not apply to individuals applying for public housing who have been convicted of (1) manufacturing methamphetamine on federally assisted housing premises or (2) a crime that subjects them to lifetime registration on a state sex offender registry. The bill further specifies that these provisions do not limit the application of the federal laws prohibiting such individuals from public housing. It is unclear whether these provisions apply to applicants for state- or federally assisted public housing.

STATE AND LOCAL RESTRICTIONS ON MAXIMUM OCCUPANCY

The bill provides that its provisions do not limit the applicability of any reasonable state statute or municipal ordinance restricting the maximum number of persons allowed to occupy a dwelling.

BACKGROUND

Discriminatory Housing Practices

Existing law prohibits discrimination in housing because of race, religion, sex, national origin, disability, familial or marital status, age, sexual orientation, gender identity or expression, lawful source of income or veteran status. It extends to discrimination in the rental and sale of public and private housing, in housing related terms, conditions, services, loans, mortgages, and in verbal or written

statements or advertisements. Individuals who believe they have been discriminated against may file a complaint with CHRO within 180 days of the alleged incident.

Related Bill

SB 54, reported favorably by the Housing Committee, requires the Department of Housing to establish a limited period pertaining to landlords' review of prospective tenants' criminal records.

COMMITTEE ACTION

Housing Committee

Joint Favorable Substitute

Yea 11 Nay 3 (03/07/2019)