
OLR Bill Analysis

sHB 6431

AN ACT CONCERNING HOUSING OPPORTUNITIES FOR JUSTICE-IMPACTED PERSONS.

SUMMARY

This bill generally bans discrimination in the rental of housing based on an individual's criminal record. It establishes several discriminatory housing practices and prohibits housing providers (e.g., landlords, property owners, and housing authorities) from refusing to rent to a person because of his or her criminal record, with certain exceptions.

Specifically, housing providers may consider criminal convictions for committing (1) misdemeanors during the three years immediately preceding a rental application (hereafter "lookback period") or (2) felonies during a seven-year lookback period. But before doing so, housing providers must determine that a prospective tenant is not suitable for tenancy based on certain considerations. The bill specifies the procedure housing providers must follow in denying an applicant on this basis.

The bill also specifies that its discrimination protections do not apply to individuals applying for public housing who have been convicted of certain crimes that make them ineligible for tenancy under Federal Housing and Urban Development (HUD) regulations. It also generally limits housing authorities' ability to consider a prospective tenant's criminal history to the lookback periods described above unless doing so would conflict with existing law.

The bill authorizes aggrieved individuals to file a complaint with the Commission on Human Rights and Opportunities (CHRO) and allows CHRO to grant relief in the same manner that it does for other discriminatory housing practices under existing law.

Lastly, the bill makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2021

HOUSING PROVIDERS

The bill's prohibitions on rental housing discrimination apply to landlords and rental property owners or their agents, realtors, property managers, housing authorities, and other entities that provide dwelling units 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 with up to four units if one unit is owner-occupied.

REFUSING TO RENT BASED ON CRIMINAL RECORD

Discriminatory Practices

The bill establishes several discriminatory housing practices and requires CHRO to enforce them (see below). It makes it a discriminatory housing practice to do the following:

1. based on an individual's criminal record, (a) refuse to rent a unit after making a bona fide offer, (b) refuse to negotiate for the rental unit, or (c) otherwise make unavailable or deny a dwelling unit or deny occupancy in the unit;
2. discriminate in the terms, conditions, or privileges of a rental dwelling unit, or in the provision of services or facilities in connection with the unit, because of a tenant's criminal conviction status;
3. make, print, or publish, or cause this to be done, a notice, statement, or advertisement concerning a rental dwelling unit 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;
4. falsely represent a dwelling unit as unavailable for inspection or rental to any person because of his or her criminal history; or

5. inquire about an applicant's prior arrests, criminal charges, or convictions on an initial rental application unless required by federal law.

Exception for Criminal Convictions During Lookback Periods

The bill's prohibition on refusing to rent to or negotiate with prospective tenants based on criminal record does not cover those convicted of committing certain offenses during specified lookback periods immediately preceding a rental application, with certain exceptions. The exceptions apply to applicants who were convicted for committing a (1) misdemeanor during a three-year lookback period or (2) felony during a seven-year lookback period.

Before denying a rental application on these grounds, a housing provider must first consider certain factors to determine the prospective tenant's suitability for tenancy. Specifically, the provider must consider the following:

1. the nature and severity of the crime,
2. the relationship between the crime and the prospective tenant,
3. information related to the prospective tenant's degree of rehabilitation, and
4. the amount of time that has passed since the prospective tenant's conviction or release.

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 the judgment.

Excluded Arrest or Conviction Records

The bill requires housing providers to comply with all applicable laws, including the federal Fair Credit Reporting Act, when determining whether an applicant has committed a crime. Additionally, the bill prohibits housing providers from basing an

applicant's rejection on the following:

1. official or unofficial arrest records, charges, or other allegations of a criminal conduct that did not result in a conviction;
2. violations of a probation or parole condition that are otherwise not considered criminal conduct;
3. erased conviction records; or
4. convictions for conduct that occurred when the applicant was a minor.

Procedure for Denying Rental Applications and Maintaining Applications on File

Under the bill, before denying a rental application based on an 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 at least five business days to respond to the notice and provide related mitigating information about the conviction and evidence that he or she would be a good tenant.

The evidence may include various factors, such as the following:

1. nature and severity of the crime;
2. facts and circumstances surrounding the criminal conduct;
3. applicant's age at the time of the offense;
4. length of time since the offense;
5. applicant's good tenant history before or after the offense;
6. applicant's employment status;
7. applicant's current or past volunteer or charitable activities;
8. information produced by or on behalf of the applicant about his or her rehabilitation, good character, or good conduct since the

offense; and

9. anything showing the applicant is unlikely to commit the crime again.

If, after considering the evidence related to these factors, a housing provider rejects an applicant's rental application due to his or her criminal conviction, the provider must send the applicant a written explanation specifically stating the evidence presented and the reasons for rejection. The bill requires the housing provider to (1) send the explanation by registered mail to the address provided in the application and (2) retain a copy for at least two years from the date it was sent.

Under the bill, if a dwelling unit becomes unavailable after the housing provider has received a rental application but before the provider has determined whether to deny it based on the applicant's criminal record, the provider must continue the evaluation to make this determination. If the determination to deny the application violates the bill's lookback limitations or other requirements, the provider must consider the applicant for their next-available dwelling unit. The bill requires housing providers to retain, for at least two years after receipt, (1) any rental application received and (2) records of how each application was handled.

The bill requires CHRO, by November 1, 2021, to post and update as necessary, a model form on its website for housing providers to use in evaluating evidence and information received from applicants.

CHRO COMPLAINTS

The bill authorizes anyone aggrieved by a violation of its prohibition on housing discrimination to, within 180 days of the alleged act, file a complaint with CHRO pursuant to the existing statutory procedure for doing so. CHRO must investigate and grant relief in the same manner as it would for other discriminatory housing practices (see BACKGROUND).

By law and under the bill, discriminatory housing practice

violations are a class D misdemeanor, punishable by up to 30 days in prison, up to a \$250 fine, or both (CGS § 46a-64c(g)).

HOUSING AUTHORITIES

Under current law, housing authorities receiving state assistance may reject a prospective tenant's application for project-based public housing if he or she has a criminal record involving (1) physical violence to people or property; (2) the manufacture, 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, housing authorities may still reject a prospective tenant because of the aforementioned crimes, but only during the specified lookback periods and except as otherwise provided by law.

The bill's lookback limitations do not restrict a housing authority's consideration of other factors. Under existing law, unchanged by the bill, housing authorities 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, housing authorities 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.

Housing Authorities Administering Certain Federal Programs

HUD regulations prohibit housing authorities administering certain federal housing programs from admitting tenants convicted of specified crimes, including (1) manufacturing or producing methamphetamine on the premises of federally assisted housing or (2) a crime that subjects them to a lifetime registration requirement under a state sex offender registration program.

The bill specifies that its discrimination protections do not apply to individuals applying for public housing who have been convicted of these crimes. (It is unclear whether this provision applies to state-

assisted public housing.) It also specifies that it does not limit the applicability of these or related HUD regulations.

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 people allowed to occupy a dwelling.

BACKGROUND

CHRO Investigations of 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. The prohibition 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 after the alleged incident. When CHRO finds reasonable cause that discrimination occurred, it negotiates a settlement agreement between the parties. If an agreement cannot be reached, it conducts an administrative hearing (CGS § 46a-82 et seq.).

Related Bill

SB 355, reported favorably by the Housing Committee, requires the Department of Housing to adopt regulations establishing a limited time period immediately preceding a rental application during which landlords and housing authorities may consider a prospective tenant's criminal records in evaluating his or her application.

COMMITTEE ACTION

Housing Committee

Joint Favorable Substitute

Yea 11 Nay 4 (03/11/2021)