
OLR Bill Analysis

sHB 5242

AN ACT CONCERNING THE COLLATERAL CONSEQUENCES OF CRIMINAL RECORDS ON HOUSING OPPORTUNITIES.

SUMMARY

This bill generally bans discrimination in the rental of housing based on a person's criminal conviction status. It classifies certain related actions as discriminatory housing practices and prohibits housing providers (e.g., landlords and housing authorities) from refusing to rent to a person because of his or her criminal conviction, with certain exceptions.

Housing providers may generally consider an applicant's felony criminal conviction that occurred (1) during the three years before the rental application or (2) more than three years before the rental application, if the applicant's period of incarceration due to the conviction was at least three years and he or she was released up to one year before making the rental application. But before denying a rental application on this basis, housing providers must determine that an applicant is not suitable for tenancy based on certain considerations. The bill specifies the procedure housing providers must follow in doing so.

The bill also specifies that its discrimination protections do not apply to public housing applicants who have been convicted of certain crimes that make them ineligible for tenancy under federal Housing and Urban Development (HUD) regulations. It generally limits housing authorities' ability to consider an applicant's criminal history to the time 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 way it does for other discriminatory

housing practices under existing law.

Additionally, the bill's 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.

Lastly, the bill makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2024

HOUSING PROVIDERS

The bill's prohibitions on rental housing discrimination apply to landlords and rental property owners or their agents, real estate agents, property managers, housing authorities, and other entities that provide dwelling units to tenants or prospective 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 CONVICTION STATUS

Discriminatory Practices

The bill classifies several actions as discriminatory housing practices and requires CHRO to enforce them (see below). It makes it a discriminatory housing practice to do the following based on a person's criminal conviction:

1. refuse to rent a dwelling unit after making a bona fide offer or negotiate for the unit (or otherwise make unavailable or deny a unit or occupancy in the unit);
2. discriminate in the terms, conditions, or privileges of a unit, or in providing related services or facilities;
3. make, print, or publish a unit-related notice, statement, or advertisement showing any preference, limitation, or discrimination (or causing or intending this); or
4. falsely represent a unit as unavailable for inspection or rent.

It also makes it a discriminatory housing practice to ask about an applicant's prior arrests, criminal charges, or convictions on an initial rental application unless required by federal law.

Exception for Certain Felony Criminal Convictions

The bill allows housing providers to consider an applicant's felony criminal convictions within specified time periods immediately before the rental application. Specifically, providers may consider a felony conviction that occurred (1) during the three years before the rental application (including if the applicant's period of incarceration due to the conviction was less than three years) or (2) more than three years before the rental application, if the applicant's period of incarceration due to the conviction was at least three years and he or she was released up to one year before making the rental application.

during the (1) three years before the application, if the applicant's period of incarceration due to the conviction was less than three years, or (2) year before the application, after the applicant is released from a period of incarceration due to the conviction that lasted at least three years.

Before denying a rental application on these grounds, a housing provider must first consider the following factors:

1. the nature and severity of the crime,
2. the relationship between the crime and the prospective tenancy,
3. information about the applicant's rehabilitation, and
4. the time since his or her conviction.

Under the bill, a "conviction" is a judgment a court enters for a guilty or nolo contendere plea or a finding of guilt by a jury or court 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 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 (see BACKGROUND); or
4. convictions for the applicant's conduct as a minor.

Procedure for Denying Applications Based on Conviction Status

Under the bill, before denying a rental application based on an applicant's criminal conviction, the housing provider must (1) notify the applicant in writing that his or her application needs additional review because of the conviction and (2) give the applicant at least five business days to respond and provide related mitigating information about the conviction and evidence that he or she would be a suitable 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. information produced by or on behalf of the applicant about his or her rehabilitation, good character, or good conduct since the offense; and

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

The bill requires CHRO, by November 1, 2024, 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 expressly authorizes anyone aggrieved by a violation of its prohibition on certain discriminatory housing practices 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 way it would for other discriminatory housing practices (see BACKGROUND).

HOUSING AUTHORITIES

Current law allows housing authorities, in determining eligibility for public housing units, to set criteria and consider information about an applicant's (or any proposed occupant's) criminal history related to crimes (1) of physical violence to people or property; (2) involving the manufacture, sale, distribution, use, or possession of illegal drugs; or (3) that would adversely affect the health, safety, or welfare of other tenants. The bill requires housing authorities to limit their consideration of an applicant's criminal history to the time periods discussed above, except as otherwise provided by law.

Under existing law, unchanged by the bill, housing authorities may also consider an applicant's (1) alcohol abuse, if it has reasonable cause to believe the behavior may threaten other tenants' health, safety, or right to peaceful enjoyment of their premises or (2) lifetime registration as a sex offender due to a sexually violent offense.

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 methamphetamines 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 public housing applicants who have been convicted of these crimes. It also specifies that it does not limit the applicability of these or related HUD regulations.

BACKGROUND

Erased Criminal History

By law, eligible convictions are generally subject to erasure seven years (for misdemeanors) or 10 years (for felonies) after the person's most recent conviction (CGS § 54-142a).

Existing law prohibits certain kinds of housing discrimination based on the erased criminal history record information of (1) a buyer or renter (or potential one as applicable); (2) anyone associated with them; or (3) someone residing in, or intending to reside in, the dwelling after it is sold, rented, or made available (CGS § 46a-80c).

CHRO Investigations of Discriminatory Housing Practices

Existing law prohibits housing discrimination based on certain characteristics (e.g., race, religion, sex, national origin, disability, familial or marital status, age, sexual orientation, gender identity or expression, lawful source of income, and veteran status).

People 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.).

COMMITTEE ACTION

Housing Committee

Joint Favorable

Yea 9 Nay 5 (02/29/2024)