

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO PROPERTY

Introduced By: Senators Kallman, Euer, Mack, Lawson, Acosta, Lauria, Quezada,
McKenney, and Burke

Date Introduced: February 01, 2023

Referred To: Senate Judiciary

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 18.3

4 FAIR CHANCE IN HOUSING ACT

5 **34-18.3-1. Short title.**

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

7 **34-18.3-2. Definitions.**

8 For purposes of this chapter, the following terms shall have the following meanings:

9 (1) "Applicant" means any person considered for or who requests to be considered for
10 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
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 **34-18.3-3. 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, except that a housing provider may inquire as provided in § 34-18.3-4.

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, except that a housing provider may inquire as
16 provided in § 34-18.3-4.

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

19 (b) Prior to accepting any application fee, a housing provider shall disclose in writing to
20 the applicant:

21 (1) Whether the eligibility criteria of the housing provider includes the review and
22 consideration of criminal history; and

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

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

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

30 (2) Is murder, manslaughter, first degree arson, kidnapping with intent to extort, robbery,
31 first degree sexual assault, second degree sexual assault, first and second degree child molestation,
32 assault with intent to murder, assault with intent to rob, assault with intent to commit first degree
33 sexual assault, burglary, entering a dwelling house with intent to commit murder, robbery, sexual
34 assault, or larceny, human trafficking, drug-related criminal activity for the manufacture or

1 production of methamphetamine on the premises of any residential housing or federally assisted
2 housing, or any crime that resulted in lifetime registration in a state sex offender registry.

3 (d) A housing provider shall not, either before or after the issuance of a conditional offer,
4 evaluate an applicant based on any of the following types of criminal records:

5 (1) Arrests or charges that have not resulted in a criminal conviction;

6 (2) Expunged convictions;

7 (3) Convictions erased through executive pardon;

8 (4) Vacated and otherwise legally nullified convictions;

9 (5) Juvenile adjudications of delinquency; and

10 (6) Records that have been sealed.

11 (e)(1) A housing provider may withdraw a conditional offer based on an applicant's
12 criminal record only if the withdrawal is justified by a substantial, legitimate, nondiscriminatory
13 interest.

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

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

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

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

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

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

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

26 (f)(1) If a housing provider withdraws a conditional offer, the housing provider shall
27 provide the applicant with written notification that includes, with specificity, the reason or reasons
28 for the withdrawal of the conditional offer and a notice that advises the applicant of the applicant's
29 right to file a complaint with the Rhode Island Commission for Human Rights pursuant to § 34-
30 18.3-5.

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

1 of a timely request.

2 (g) Nothing set forth in this chapter shall be construed to prohibit a housing provider from
3 requiring an applicant to complete a housing application that includes any inquiries regarding an
4 applicant's criminal record after the conditional offer is provided or from making any oral or written
5 inquiries regarding an applicant's criminal record after the conditional offer is provided.

6 (h) Unless otherwise permitted or required by law, a housing provider shall not knowingly
7 or purposefully publish, or cause to be published, any housing advertisement that explicitly
8 provides that the housing provider will not consider any applicant who has been arrested or
9 convicted of one or more crimes or offenses.

10 **34-18.3-4. Applicability.**

11 This chapter shall not apply:

12 (1) If, and only to the extent, a federal law or regulation requires the housing provider to
13 consider an applicant's criminal records for residential leasing purposes; or

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

16 **34-18.3-5. Civil liability.**

17 (a) A person claiming to be aggrieved pursuant to § 34-18.3-3 may file a complaint with
18 the Rhode Island commission for human rights pursuant to chapter 37 of title 34.

19 (b) Any housing provider who violates this chapter shall be liable for a civil penalty in an
20 amount not to exceed one thousand dollars (\$1,000) for the first violation, five thousand dollars
21 (\$5,000) for the second violation, and ten thousand dollars (\$10,000) for each subsequent violation
22 collectible by the attorney general.

23 (c) The Rhode Island commission for human rights is empowered and directed to prevent
24 any person from violating any of the provisions of § 34-18.3-3; provided that, before instituting a
25 formal hearing it shall attempt by informal methods of conference, persuasion, and conciliation, to
26 induce compliance with those sections. Upon the commission's own initiative or whenever an
27 aggrieved individual or an organization chartered for the purpose of combating discrimination or
28 of safeguarding civil liberties or rights of persons, the individual or organization being hereinafter
29 referred to as the "complainant", makes a charge to the commission that any person, agency, bureau,
30 corporation or association, hereinafter referred to as the "respondent", has violated or is violating
31 any of the provisions of § 34-18.3-3, the commission may proceed in the same manner and with
32 the same powers as provided in §§ 34-37-5 and 34-37-6.

33 **34-18.3-6. Discriminatory advertising prohibited.**

34 (a) A housing provider shall not knowingly or purposefully publish, or cause to be

1 published, any housing advertisement that explicitly provides that the housing provider will not
2 consider any applicant who has been arrested or convicted of one or more crimes or offenses, except
3 for that criminal activity as provided for in § 34-18.3-4.

4 (b) A housing provider shall not print, publish, circulate, issue, display, post, or mail, or
5 cause to be printed, published, circulated, issued, displayed, posted or mailed any statement,
6 advertisement, publication or sign, or use any form of application for the rental, lease, or sublease
7 of any real property or part or portion thereof or make any record or inquiry in connection with the
8 prospective rental, lease, or sublease of any real property or part or portion thereof which expresses,
9 directly or indirectly, any unlawful limitation, specification or discrimination as to criminal record,
10 except as permitted by this chapter, and except for that criminal activity as provided for in § 34-
11 18.3-4.

12 (c) Unless otherwise required by law, a housing provider shall not:

13 (1) Distribute or disseminate an applicant's criminal record to any person who is not
14 expected to use the criminal record for the purpose of evaluating the applicant in a manner
15 consistent with this chapter; or

16 (2) Use an applicant's criminal record for a purpose that is not consistent with this chapter.

17 **34-18.3-7. Drug and alcohol testing prohibited.**

18 Except as may be required under federal law or as a condition of occupancy for any
19 residential treatment facility, a housing provider shall not require an applicant to submit to a drug
20 or alcohol test, or request the applicant's consent to obtain information from a drug abuse treatment
21 facility.

22 **34-18.3-8. Unlawful acts by housing providers; retaliation prohibited.**

23 It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the
24 exercise or enjoyment of, or on account of the person having exercised or enjoyed, or on account
25 of the person having aided or encouraged any other person in the exercise or enjoyment of, any
26 right granted or protected by this chapter. No housing provider under this chapter or any agent of
27 that individual shall discriminate in any manner against any person because the person has opposed
28 any practice forbidden by this chapter, or because the person has made a charge, testified, or
29 assisted in any manner in any investigation, proceeding, or hearing under this chapter.

30 **34-18.3-9. Consideration of rental applications – Credit history – Denial notice.**

31 (a) If a landlord uses credit history as criteria in consideration of a rental application, the
32 landlord shall not consider any credit history beyond three (3) years immediately preceding the date
33 of the application.

34 (b) If a landlord denies a rental application based upon credit history, the landlord shall

1 provide the prospective tenant a written notice of the denial that states the reason for denial. The
2 landlord shall make a good-faith effort to do so not more than twenty (20) calendar days after
3 making the decision to deny the prospective tenant's rental application.

4 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

- 1 This act would limit the use of certain criminal records and credit history reports in denying
- 2 housing to prospective applicants, and provides for fines for failure to comply. This act further
- 3 requires notices of denials to be sent to the prospective tenants.
- 4 This act would take effect upon passage.

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