

Cook County Just Housing Amendment Compliance Checklist for Landlords

This checklist is a tool to help landlords comply with the Cook County Just Housing Amendment (“JHA”; Cook County Code, Sec. 42-38). The JHA is a new law that took effect January 2020. **The law protects housing seekers from discrimination because of prior justice involvement and creates a process that landlords must follow if they wish to deny housing based on a recent conviction from the last three years.** Violators of the JHA are subject to penalties by the Cook County Human Rights Commission, which may include orders to cease illegal activity, orders to provide housing to the complainant, orders to produce reports of compliance and public notices of compliance, payment of fines, payment of complaint costs, and payment of damages to the complainant.

- The landlord does not change the price, terms, conditions, or privileges of a new lease or a lease renewal because of prior justice involvement.
- The landlord does not share information about an available lease that discriminates because of prior justice involvement.
- The landlord does not deliberately refuse to show a unit listing within Cook County to any individual because of prior justice involvement.
- The landlord does not deliberately misrepresent a unit as not available, or fail to bring the listing to an individual's attention, or refuse to permit an individual to inspect the unit because of prior justice involvement.
- Before accepting an application fee, the landlord shares “Tenant Selection Criteria” with the applicant. The Tenant Selection Criteria are the criteria, standards, and/or policies used to evaluate whether an applicant qualifies for admission to occupancy or continued residency. If any of the Tenant Selection Criteria relate to the applicant’s conviction history from the previous three (3) years:
 - The criteria only applies after the housing applicant has been pre-qualified for the lease.
 - The criteria explains how the applicant’s conviction history from the previous three (3) years will be evaluated to determine whether it poses a demonstrable risk to personal safety or property.
- Before accepting an application fee, the landlord communicates to the applicant that the applicant has the right to provide evidence demonstrating inaccuracies within the applicant’s conviction history, or evidence of rehabilitation and other mitigating factors.
- Before accepting an application fee, the landlord provides to the applicant a copy of Part 700 of the Commission’s procedural rules, which covers the applicant’s protections under the Just Housing Amendment, OR the landlord provides to the applicant a link to the website, address, and phone number for the Cook County Human Rights Commission.

- The landlord does not ask about or consider conviction history, which includes conducting a criminal background check, before determining and letting the applicant know that the applicant otherwise qualifies for the lease. This means that before any inquiry or consideration of past convictions history, the prequalification process is complete, the landlord has fully determined that the applicant has satisfied all other application criteria for housing or continued occupancy in the respective unit, and the landlord has notified the applicant that (1) the applicant is pre-qualified and (2) a background check will next be completed.
- If the landlord conducts a criminal background check after proper notice of pre-qualification that alerts the pre-qualified applicant that a background check comes next, the landlord does not consider:
 - Any information related to convictions that are more than three (3) years old
 - Any information related to an arrest, charge, or citation for an offense; participation in a diversion or deferral of judgement program; record of an offense that has been sealed, expunged, or pardoned; or juvenile record
- If the landlord obtains a background check on an applicant, the landlord delivers a copy of the background check to the applicant within five (5) business days. Delivery may occur in person, by certified mail, or by electronic communication (e.g., text, email). This communication should not be a denial of housing but rather provides the applicant with the opportunity to dispute the results or submit other information.

(RECOMMENDATION: The communication should inform the applicant of the right to submit evidence disputing the accuracy or relevance of a recent conviction from within the last three (3) years, evidence of rehabilitation, and other mitigating information.)

- If the landlord obtains a background check, then once the landlord delivers a copy to the applicant, the landlord allows the applicant at least five (5) business days to produce evidence that disputes the accuracy or relevance of a recent conviction before conducting an individualized assessment of the recent conviction history from the last three (3) years. (NOTE: The landlord is free to approve another pre-qualified applicant's housing application during the dispute process period.)
- After giving the applicant the necessary time to dispute the background check, the landlord performs an individualized assessment based on the recent conviction history from the last three (3) years before deciding to deny the applicant housing. The individualized assessment considers all factors relevant to the applicant's recent conviction history. ***The landlord must reach a determination through the assessment that the applicant poses a demonstrable risk, i.e. a likelihood of harm to other residents' personal safety and/or likelihood of serious damage to property, before denying the applicant housing.***

The two exceptions where the landlord need not perform an individualized assessment are (1) a current sex offense registration requirement and/or (2) a current child sex offense residency restriction.

- If the applicant is a person with a disability, the landlord does not reach a determination of "demonstrable risk" unless it is based on objective evidence and a conclusion that a reasonable accommodation would not reduce or eliminate the purported risk.

- While performing the individualized assessment, the landlord does not deny an applicant because of a conviction that occurred more than three (3) years from the date of the housing application.
- The landlord approves or denies the applicant's housing application no later than three (3) business days after the landlord receives information from the applicant disputing or rebutting the background check results. (If the applicant does not dispute the results, the landlord should approve or deny the application within three (3) business days after the 5-day period elapses for the applicant to dispute the results.)
- If, after conducting an individualized assessment, the landlord determines that the recent conviction history poses a demonstrable risk, the landlord sends a notice of denial. The denial satisfies the following requirements:
 - The denial is in writing.
 - The denial includes an explanation of why denial based on conviction history is necessary to protect against a demonstrable risk.
 - The denial must include a statement informing the applicant of the right to file a complaint with the Cook County Human Rights Commission.
- The landlord limits the use and distribution of information obtained in performing the applicant's criminal background check and keeps the information gathered confidential.

NOTE: If you, the landlord, are unable to confirm any of the items on this checklist, you may be in violation of the Cook County Just Housing Amendment, and you may face a complaint of discrimination being filed against you with the Cook County Human Rights Commission.

Chicago Rents will not facilitate any violation of the JHA. In order to ensure full compliance with the law, Chicago Rents will not answer or instruct an applicant to answer a preemptive question on your application regarding past criminal history. Such inquiries should not occur until the applicant receives notice of prequalification and approval pending a final background check. Chicago Rents will also notify applicants of their rights under the JHA to ensure applicants are aware of your responsibilities under this checklist. If Chicago Rents discovers any violations of the applicant's rights under the JHA, Chicago Rents will inform the applicant that a violation may have taken place and will seek to have the application reconsidered.