

**ASSEMBLY, No. 1919**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Assemblywoman VERLINA REYNOLDS-JACKSON**

**District 15 (Hunterdon and Mercer)**

**Assemblywoman ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Co-Sponsored by:**

**Assemblywomen Carter, Timberlake and Assemblyman Spearman**

**SYNOPSIS**

“Fair Chance in Housing Act”; establishes certain housing rights of persons with criminal records.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 12/7/2020)**

1    **AN ACT** concerning the housing rights of persons with criminal  
2       records and supplementing P.L.1945, c.169 (C.10:5-1 et seq.).

3

4       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5       *of New Jersey:*

6

7       1. This act shall be known and may be cited as the “Fair Chance  
8       in Housing Act.”

9

10      2. As used in this act:

11        “Applicant” means any person considered for, who requests to be  
12       considered for, or who requests to be considered for tenancy within  
13       a rental dwelling unit.

14        “Conditional offer” means an offer to rent or lease a rental  
15       dwelling unit to an applicant that is contingent on a subsequent  
16       inquiry into the applicant’s criminal record, or any other eligibility  
17       criteria that the housing provider may lawfully utilize.

18        “Criminal record” means information collected by criminal  
19       justice agencies on individuals consisting of identifiable  
20       descriptions and notations of arrests, detentions, indictments, or  
21       other formal criminal charges, and any disposition arising  
22       therefrom, including acquittal, sentencing, correctional supervision,  
23       release or conviction, including, but not limited to, any sentence  
24       arising from a verdict or plea of guilty or nolo contendere, including  
25       a sentence of incarceration, a suspended sentence, a sentence of  
26       probation, or a sentence of conditional discharge.

27        “Housing provider” means a landlord, an owner, lessor,  
28       sublessor, assignee, or their agent, or any other person receiving or  
29       entitled to receive rents or benefits for the use or occupancy of any  
30       rental dwelling unit.

31        “Pending criminal accusation” means an existing accusation that  
32       an individual has committed a crime, lodged by a law enforcement  
33       agency through an indictment, information, complaint, or other  
34       formal charge.

35        “Rental dwelling unit” means a dwelling unit offered for rent by  
36       a housing provider for residential purposes, other than a dwelling  
37       unit in an owner-occupied premises of not more than three dwelling  
38       units.

39

40      3. a. (1) A housing provider shall not require an applicant to  
41       complete any housing application that includes any inquiries  
42       regarding an applicant’s criminal record prior to the provision of a  
43       conditional offer.

44        (2) A housing provider shall not make any oral or written  
45       inquiry regarding an applicant’s criminal record prior to making a  
46       conditional offer.

- 1       (3) An applicant may provide evidence to the housing provider  
2 demonstrating inaccuracies within the applicant's criminal record or  
3 evidence of rehabilitation or other mitigating factors.
- 4       b. Notwithstanding the provisions of subsection a. of this  
5 section, if an applicant discloses any information regarding the  
6 applicant's criminal record, by voluntary oral or written disclosure,  
7 prior to the conditional offer, the housing provider may make  
8 inquiries regarding the applicant's criminal record prior to making  
9 the conditional offer.
- 10      c. Prior to accepting any application fee, a housing provider  
11 shall disclose in writing to the applicant:
- 12       (1) Whether the eligibility criteria of the housing provider  
13 include the review and consideration of criminal history; and
- 14       (2) A statement that the applicant, pursuant to subsection a. of  
15 this section, may provide evidence demonstrating inaccuracies  
16 within the applicant's criminal record or evidence of rehabilitation  
17 or other mitigating factors.
- 18      d. After the issuance of a conditional offer to an applicant, a  
19 housing provider may only consider a criminal record in the  
20 applicant's history that:
- 21       (1) has occurred within the 10 years immediately preceding the  
22 issuance of the conditional offer; and
- 23       (2) consists of a pending criminal accusation or a criminal  
24 conviction that, pursuant to subsection b. of N.J.S.2C:52-2, is not  
25 eligible for expungement.
- 26      e. (1) A housing provider may withdraw a conditional offer  
27 based on an applicant's criminal record only if the housing provider  
28 determines, on balance, that the withdrawal achieves a substantial,  
29 legitimate, nondiscriminatory interest.
- 30       (2) The housing provider's determination of a nondiscriminatory  
31 interest shall be reasonable in light of the following factors:
- 32       (a) The nature and severity of the criminal offense;
- 33       (b) The age of the applicant at the time of the occurrence of the  
34 criminal offense;
- 35       (c) The time which has elapsed since the occurrence of the  
36 criminal offense;
- 37       (d) Any information produced by the applicant, or produced on  
38 the applicant's behalf, in regard to the applicant's rehabilitation and  
39 good conduct since the occurrence of the criminal offense;
- 40       (e) The degree to which the criminal offense, if it reoccurred,  
41 would negatively impact the safety of the housing provider's other  
42 tenants or property; and
- 43       (f) Whether the criminal offense occurred on or was connected  
44 to property that was rented or leased by the applicant.
- 45      f. (1) If a housing provider withdraws a conditional offer, the  
46 housing provider shall provide the applicant with written  
47 notification that includes, with specificity, the reason or reasons for  
48 the withdrawal of the conditional offer and a notice that advises the

1 applicant of the applicant's right to file a complaint with the  
2 Attorney General pursuant to section 6 of this act.

3 (2) (a) The applicant may request, within 20 days after the  
4 housing provider's notice of the withdrawal, that the housing  
5 provider afford the applicant a copy of all information that the  
6 housing provider relied upon in considering the applicant, including  
7 criminal records.

8 (b) A housing provider shall provide the information requested  
9 under subparagraph (a) of this paragraph, free of charge, within 10  
10 days after receipt of a timely request.

11 g. Nothing set forth in this act shall be construed to prohibit a  
12 housing provider from requiring an applicant to complete a housing  
13 application that includes any inquiries regarding an applicant's  
14 criminal record after the conditional offer is provided or from  
15 making any oral or written inquiries regarding an applicant's  
16 criminal record after the conditional offer is provided. The  
17 provisions of this section shall not preclude a housing provider from  
18 refusing to provide housing to an applicant based upon the  
19 applicant's criminal record, unless the criminal record or relevant  
20 portion thereof has been expunged or erased through executive  
21 pardon, provided that such refusal is consistent with other  
22 applicable laws, rules and regulations.

23

24 4. Unless otherwise permitted or required by law, a housing  
25 provider shall not knowingly or purposefully publish, or cause to be  
26 published, any housing advertisement that explicitly provides that  
27 the housing provider will not consider any applicant who has been  
28 arrested or convicted of one or more crimes or offenses.

29

30 5. This act shall not apply:

31 a. If a federal law or regulation requires the housing provider to  
32 consider an applicant's criminal records for residential leasing  
33 purposes; or

34 b. If a federal law or regulation otherwise allows for the denial  
35 of an applicant due to certain criminal convictions.

36

37 6. a. A person claiming to be aggrieved pursuant to this act may  
38 file a complaint or action with the Division on Civil Rights or in the  
39 Superior Court of New Jersey alleging a violation of the "Law  
40 Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.).

41 b. Any housing provider who violates this act shall be liable for  
42 a civil penalty in an amount not to exceed \$1,000 for the first  
43 violation, \$5,000 for the second violation, and \$10,000 for each  
44 subsequent violation collectible by the Attorney General in a  
45 summary proceeding pursuant to the "Penalty Enforcement Law of  
46 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

1       7. In accordance with the "Administrative Procedure Act,"  
2 P.L.1968, c.410 (C.52:14B-1 et seq.), the Attorney General may  
3 adopt the rules and regulations necessary to effectuate the purposes  
4 of this act.

5  
6       8. This act shall take effect on the first day of the seventh  
7 month next following the date of enactment, but the Attorney  
8 General may take any anticipatory administrative action in advance  
9 as shall be necessary for the implementation of this act.

10  
11  
12                               STATEMENT

13  
14       This bill establishes the "Fair Chance in Housing Act," and  
15 provides certain housing rights of persons with criminal records.

16       This bill would restrict a housing provider from requiring a  
17 housing applicant to complete any housing application that includes  
18 any inquiries regarding the applicant's criminal records prior to the  
19 provision of a conditional offer. The bill does not apply to dwelling  
20 units that consist of owner-occupied premises of not more than three  
21 dwelling units, and defines a "housing provider" as a landlord,  
22 owner, lessor, sublessor, assignee, or their agent, or any other  
23 person receiving or entitled to receive rents or benefits for the use  
24 or occupancy of any residential dwelling unit. The bill defines a  
25 conditional offer as an offer to rent or lease a dwelling unit to an  
26 applicant that is contingent on a subsequent inquiry into the  
27 applicant's criminal records, or any other eligibility criteria that  
28 may be lawfully utilized.

29       Prior to accepting any application fee, the bill requires a housing  
30 provider to disclose, in writing, whether or not the eligibility  
31 criteria includes the review and consideration of criminal history,  
32 and supply the applicant with a statement that the applicant may  
33 provide evidence demonstrating inaccuracies within a criminal  
34 record or evidence of rehabilitation or other mitigating factors.

35       After the issuance of a conditional offer, the bill only would  
36 allow a housing provider to consider a criminal record in an  
37 applicant's history that:

38       (1) has occurred within the last 10 years; and

39       (2) consists of a pending criminal accusation or a non-  
40 expungable criminal conviction.

41       The bill allows a housing provider to withdraw a conditional  
42 offer based on an applicant's criminal record only if the housing  
43 provider determines, on balance, that the withdrawal achieves a  
44 substantial, legitimate, nondiscriminatory interest. The bill requires  
45 the housing provider's determination of a nondiscriminatory interest  
46 shall be reasonable in light of the following:

47       (1) The nature and severity of the offense;

48       (2) The age of the applicant at the time of the offense;

- 1 (3) The time elapsed since the offense;
- 2 (4) Any information produced regarding rehabilitation and good
- 3 conduct since the occurrence of the offense;
- 4 (5) The degree to which the offense, if it reoccurred, would
- 5 negatively impact the safety of other tenants or property; and
- 6 (6) Whether the offense occurred on or was connected to
- 7 property that was rented or leased by the applicant.

8 If a housing provider withdraws a conditional offer, the bill  
9 requires the housing provider to provide the applicant with written  
10 notification that includes the reason for the withdrawal and a notice  
11 that advises the applicant of the right to file a complaint with the  
12 Attorney General.

13 The bill allows the applicant to request, within 20 days after the  
14 housing provider's notice of the withdrawal, that the housing  
15 provider afford the applicant a copy of all information relied on in  
16 considering the applicant, including criminal records. The bill  
17 requires the housing provider to provide this information free of  
18 charge, within 10 days after receipt of a timely request.

19 The bill would not prohibit the housing provider from inquiring  
20 into the applicant's criminal record prior to making the conditional  
21 offer, if the applicant first discloses any information regarding the  
22 applicant's criminal records, by voluntary oral or written disclosure.

23 The bill would not prohibit a housing provider from requiring an  
24 applicant to complete a housing application that inquires into the  
25 applicant's criminal records after the conditional offer is provided  
26 or from making other inquiries into those records at that time. The  
27 bill would not preclude a housing provider from refusing to provide  
28 housing to an applicant based upon the applicant's criminal records,  
29 unless the criminal records or relevant portions thereof have been  
30 expunged or erased through executive pardon.

31 Unless otherwise permitted or required by law, the bill prohibits  
32 a housing provider from knowingly or purposefully publishing, or  
33 causing to be published, any housing advertisement that explicitly  
34 provides that the housing provider will not consider any applicant  
35 who has been arrested or convicted of one or more crimes or  
36 offenses.

37 The bill would not apply if a federal law or regulation requires  
38 the housing provider to consider an applicant's criminal records for  
39 the purposes of leasing a residential dwelling unit, or if a federal  
40 law regulation otherwise allows for the denial of an applicant due to  
41 certain criminal convictions.

42 The bill allows a person claiming to be aggrieved to file a  
43 complaint or action with the Division on Civil Rights or in the  
44 Superior Court of New Jersey alleging a violation of the "Law  
45 Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.). The  
46 bill would make any housing provider in violation of its provisions  
47 liable for a civil penalty in an amount not to exceed \$1,000 for the  
48 first violation, \$5,000 for the second violation, and \$10,000 for each

1 subsequent violation collectible by the Attorney General in a  
2 summary proceeding pursuant to the “Penalty Enforcement Law of  
3 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).

4 The bill would take effect on the first day of the seventh month  
5 next following the date of enactment.