



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 210330-A
(As Amended on Floor 6/17/2021)

Introduced April 15, 2021

Councilmembers Brooks, Gym, Henon, Gauthier and Thomas

**Referred to the
Committee on Law and Government**

AN ORDINANCE

Amending Chapter 9-800 of The Philadelphia Code, entitled "Landlord and Tenant," by adding a new Section 9-810, entitled "Prospective Tenant Screening Practices," to regulate the application and selection process for housing units, and make technical changes, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 9-800 of The Philadelphia Code, entitled "Landlord and Tenant" is amended as follows:

CHAPTER 9-800. LANDLORD AND TENANT

* * *

§ 9-810. *Prospective Tenant Screening Practices.*

(1) *Definitions.*

(a) *Dwelling Unit.* Any building or structure, or part of a building or structure, which is used for living or sleeping by human occupants, subject to the licensing requirements of Section 9-3902 of the Code. Each unit in a multi-family building constitutes a separate dwelling unit.

(b) *Eviction History.* A report or docket information containing or summarizing the contents of an eviction proceeding concerning the prospective tenant.

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(c) *Eviction Record.* Any record containing information regarding a past or current landlord-tenant action, and any record of the filing of a landlord-tenant action, including but not limited to:

(.1) any information maintained by a court in any form in connection with a case or judicial proceeding, including but not limited to pleadings, motions, briefs and their respective attachments, evidentiary exhibits, indices, calendars, and dockets;

(.2) any order, judgment, opinion, or decree related to a judicial proceeding;

(.3) any official transcript or recording of a public judicial proceeding, in any form;

(.4) any information in a computerized case management system created or prepared by the court in connection with a case or judicial proceeding; and

(.5) any record made or maintained by a judicial officer.

(d) *Prospective Landlord.* A landlord, owner of a rental premises, property manager, broker, or other agent or person who advertises, solicits, offers, or otherwise holds a dwelling unit out as available for rent.

(e) *Prospective Tenant.* Any person or persons who seek(s) to lease or rent a dwelling unit for a week-to-week term or any longer term by virtue of a written or oral agreement with a landlord.

(f) *Tenant Screening Report.* Any consumer report or other document or information collected by a tenant screening service that is used or expected to be used in whole or in part for the purpose of serving as a factor in establishing a person's eligibility for a rental unit, but not limited to a report that compiles, conveys, or interprets a prospective tenant's commercial records, financial records, credit history, court records, criminal records, or rental history.

(g) *Tenant Screening.* Using a consumer report or other information about a prospective tenant in deciding whether to make or accept an offer for residential rental property to or from a prospective tenant.

(2) *Prohibition on Blanket Eviction and Credit Exclusions.* No prospective landlord of any dwelling unit shall maintain a policy of automatically declining to rent a dwelling unit to a prospective tenant solely because (a) the prospective tenant has an eviction record or (b) the prospective tenant's credit score or tenant screening score derived, in whole or in part, from a tenant screening report falls below a specific numerical threshold.

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(3) Application of Uniform Tenant Screening Criteria.

(a) Wholistic Screening. A prospective landlord shall make a decision to rent to or reject a prospective tenant only after reviewing the prospective tenant's specific application and conducting an individualized assessment of the applicant based on uniform screening criteria.

(b) Prohibited Screening Criteria. No prospective landlord shall decline to rent a dwelling unit to an applicant based in whole, or in part, on the following criteria:

(.1) Credit information or credit report, tenant screening report, or any other consumer report demonstrating a failure to pay rent or utility bills during COVID-19 emergency periods.

(.2) The following events in an eviction history or eviction record:

(.a) any eviction proceeding pursuant to Pennsylvania law, or other equivalents in other states, that did not result in a judgment in favor of the plaintiff; or

(.b) any sealed record of an eviction proceeding; or

(.c) any eviction judgment against the applicant that has been vacated or marked satisfied pursuant to Pennsylvania law; or

(.d) any eviction case filed, or eviction judgment that was entered, four or more years before the application to rent was submitted;

(.e) an eviction proceeding brought against the applicant during the Covid-19 emergency period, other than an eviction based on violent or dangerous criminal activity that resulted in a judgment against the tenant.

(.f) any eviction proceeding where a judgment by agreement is currently in place, or where the judgment by agreement has been marked satisfied or vacated, or is otherwise resolved.

(4) Right to Dispute Information or Seek Reconsideration. If a written or electronic statement setting forth a plain statement of all reasons for the denial of an application to rent a dwelling unit is required by Section 9-1108(4), upon receiving such statement a prospective tenant may notify the prospective landlord by written, electronic, or oral means of the prospective tenant's intent to dispute or request reconsideration of the denial within forty-eight (48) hours after receiving the denial. If the prospective tenant provides timely notice of the intent to dispute or request reconsideration of the denial, the prospective tenant may provide within seven business days after such denial, and the prospective landlord shall reasonably consider:

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(a) any evidence that information relied upon by the housing provider was inaccurate or incorrectly attributed to the prospective tenant or was based on screening criteria prohibited by subsections (2) or (3) of this Section 9-810.

(b) any evidence of mitigating circumstances relating to the grounds for denial to establish whether the applicant shows a readiness to satisfy the obligations of tenancy, which may include, but shall not be limited, to credible information showing:

(.1) a history of on-time rental payments by the prospective tenant that otherwise may not appear in a background check;

(.2) that a prior eviction of the prospective tenant based on nonpayment of rent was based, in whole or in part, on rent not owed by the prospective tenant;

(.3) new or increased income of the prospective tenant that is reliable and sufficient to cover rental costs;

(.4) letters of recommendation provided on behalf of the prospective tenant by employers or former housing providers;

(.5) changes in circumstances that would make prior lease violations by the prospective tenant less likely to reoccur.

(5) *Required Offer of Next Available Unit.*

If a tenant disputes the information or seeks reconsideration pursuant to Section 9-810(4) but the prospective landlord rents the dwelling unit the rejected prospective tenant applied for to a different tenant, the prospective landlord shall offer to rent the prospective landlord's next available rental dwelling unit of comparable size and rental price to the rejected prospective tenant if both of the following apply:

(a) *such prospective landlord owns five or more dwelling units within the City of Philadelphia offered for rental, and*

(b) *the rental application and any information provided by the prospective tenant under Section 8-810(4) would demonstrate to a reasonable person the qualifications and ability of the prospective tenant to satisfy the obligations of the tenancy.*

(6) *Penalties. A violation of this Section 9-810 shall constitute a Class III offense.*

(7) *Private Right of Action. Any prospective tenant aggrieved by a prospective landlord's violation of this Section 9-810 shall have a private right of action against such prospective landlord and may bring an action in a court of competent jurisdiction to compel*

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compliance with this section and may recover actual damages, punitive damages not to exceed \$2,000 per violation, reasonable attorney's fees and costs to the extent allowed by law, and such other relief, including injunctive or other equitable relief, as the court may deem appropriate.

(8) *Other Remedies Not Precluded. Nothing in this Section shall limit the right of an aggrieved person to recover damages under any other applicable law or legal theory, nor shall it limit the right of the City to seek fines or other remedies for violations of this Section or other provisions of the Code.*

(9) *Periodic Evaluation Requirement. At least once every eighteen months, beginning in the year 2023, Council shall, by separate ordinance, select an independent expert to evaluate the specific impact this Section 9-810 and subsections (3) and (4) of Section 9-1108 have on the real estate rental market and rental accessibility in Philadelphia. The expert shall also comprehensively evaluate the overall impact of the requirements set forth in such sections, and shall submit recommendations for any modifications to those requirements. The expert engaged for this purpose shall be selected pursuant to the procedure set forth in Chapter 17-1400 for the awarding of non-competitively bid contracts. Final copies of the report shall be provided to the Mayor, each member of Council, and to the Clerk of Council, who shall see to it that a copy is posted on the City's official internet site.*

(10) *Application to Publicly-Assisted Rental Housing.*

(a) *Any dwelling unit which is owned, operated, subsidized or financed by a program of the federal, state or local government, or which is otherwise governed by a deed restriction or indenture related to affordability of the dwelling unit, is exempt from the requirements of this Section 9-810; except as provided by subsection (10)(b), below.*

(b) *Nothing in subsection (10)(a) shall exclude a dwelling unit from the provisions of this Section 9-810 because of a tenant-based subsidy, provided no potential landlord qualifying a tenant participating in a tenant-based voucher program or other tenant-based subsidy program is required to rent or otherwise admit to a dwelling unit any person who is ineligible to occupy such dwelling unit under the federal, state, or local rules governing the voucher program or other subsidized program at issue.*

(11) *Severability. The provisions of this Section shall be deemed severable. If any portion, paragraph, sentence, or phrase of this Section shall be found unenforceable for any reason, all other provisions shall continue to be deemed valid and effective.*

SECTION 2. This Ordinance shall be effective ninety (90) days after it becomes law.

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