

Legislation Text

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Amending Title 9 of The Philadelphia Code, entitled "Regulation of Businesses, Trades, and Professions" by adding a new Chapter entitled "Fair Chance Housing," prohibiting the use of the criminal history by landlords within the City of Philadelphia, all under certain terms and conditions.

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. Title 9 of The Philadelphia Code is hereby amended to read as follows:

TITLE 9. REGULATION OF BUSINESSES, TRADES, AND PROFESSIONS

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*CHAPTER 9-4700. FAIR CHANCE HOUSING*

§ 9-4701. *Definitions.*

- (1) *"Adverse action." Evicting, expelling, or otherwise making unavailable or denying a dwelling unit; failure or refusal to rent or lease real property to an individual; failure or refusal to continue to rent or lease real property to an individual; failure or refusal to add a household member to an existing lease; refusing or intentionally failing to list property for rent or lease; refusing or intentionally failing to show real property listed for rent or lease; refusal or intentionally, failing to accept and/or transmit any reasonable offer to lease or rent real property; terminating a lease; and applying different terms, conditions, privileges or rights to a rental real estate transaction, including but not limited to the setting of rates for rental or lease, establishment of damage deposits, or other financial conditions for rental or lease or in the furnishing of facilities or services in connection with such transaction.*
  
- (2) *"Applicant." Any person applying to rent or lease eligible housing, including individuals applying to be added to an existing lease.*
  
- (3) *"Arrest Record." Information indication that a person has been apprehended, detained, taken into custody, held for investigation, restrained by law enforcement due to an accusation or*

*suspicion that the person committed a crime. Arrest record include pending criminal charges.*

- (4) *“Conviction record.” Any information regarding a final adjudication or other criminal disposition including a sentence arising from a verdict or plea of guilty or nolo contendere including a sentence of incarceration, a suspended sentence, a sentence of probation or a sentence of unconditional discharge.*
- (5) *“Criminal History.” All records or other information received from a criminal background check or contained in records collected by criminal justice agencies (as defined in § 9-3502) consisting of identifiable descriptions and notations of arrest, arrest records, detention, indictments, informations, or other formal criminal charges, and any disposition arising therefrom.*
- (6) *“Inquiry.” Any direct or indirect conduct intended to gather information, using any mode of communication.*
- (7) *“Sexual Assault.” Any conduct enumerated in 18 Pa. C.S. §§ 3121 (relating to rape), 4302 (relating to incest), 6312 (relating to sexual abuse of children), 6318 (relating to unlawful contact with minor), 6320 (relating to sexual exploitation of children), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault), 3125 (relating to aggravated indecent assault) or 3126 (relating to indecent assault).*

§ 9-4702. *Prohibited Use of Criminal History.*

- (1) *An owner, landlord, agent or other person operating or managing premises shall only make an inquiry about a conviction record or criminal history of any applicant and their household members for rental housing for the purposes of screening an applicant for sexual assault. It shall be unlawful to inquire about any arrest record, conviction record or criminal history for any other offense.*
- (2) *It shall be unlawful for any owner, landlord, agent or other person operating or managing premises to advertise, publicize, or implement any policy that automatically or categorically exclude or to take any adverse action against any applicant for housing and their household members based on the arrest record, conviction record, or criminal history of any applicant and their household member for rental housing except for applicants convicted of sexual assault.*

§ 9-4703. *Screening of Prospective Applicants.*

- (1) *If an owner, landlord, agent or other person operating or managing premises has a process to screen eligible applicants, written notice describing said screening process shall be provided on the advertisement, application or other form prior to obtaining the information.*
- (2) *An owner, landlord, agent or other person operating or managing premises shall not charge an applicant a fee for obtaining the information to conduct the screening.*
- (3) *If a consumer report is used, a copy of such report shall be given to the applicant in the event of a denial or other adverse action with the name and address of the consumer reporting agency.*
- (4) *Nothing in this subsection shall prevent an owner, landlord, agent or other person operating or managing premises from requiring a deposit to reserve available rental housing as consideration prior to signing a lease or rental agreement.*

§9-4704. *Regulations.*

*The Philadelphia Fair Housing Commission (the "Commission") as set forth in § 9-803 shall administer and enforce this Chapter. The Commission is authorized to promulgate such regulations or guidelines regulations in furtherance of its administration and enforcement authority including, but not limited to, establishing a system to receive complaints regarding non-compliance with this Chapter, investigating alleged violations in a timely manner*

§ 9-806. *Procedure.*

- (1) *Any person injured by a violation of this Chapter may report such violation to the Commission. A person must first report the violation to the Commission within 60 calendar days of the unlawful act.*
- (2) *Upon any complaint made to the Commission or upon its own initiative, the Commission shall have the power to fix the date, time, and place when it shall conduct a hearing. Written notice of the date, time, and place of the hearing shall be sent, at least 10 days prior to the hearing, to the owner, landlord, agent or other person operating or managing premises regarding which it is charged that a violation of this Section has been committed.*

(3) *If the owner, landlord, agent or other person operating or managing premises shall fail to appear, the Commission may issue a subpoena as provided in Section 8-409 of The Philadelphia Home Rule Charter.*

(4) *The Commission shall have the power to impose penalties and fines for violation of this Chapter.*

§ 9-4704. *Enforcement and Penalties.*

(1) *Any person who violates this Chapter shall be subject to a fine as set forth in § 1-109(3). A violation of § 9-4702 shall constitute a "Class III" offense. A violation of § 9-4703 shall constitute a "Class II" offense.*

(2) *Upon a finding that violation has occurred has been committed, the Commission shall issue an order appropriate under the circumstances. Remedies may include:*

(a) *An order requiring the respondent to cease and desist such unlawful practice;*

(b) *Revocation of the rental license for a period not to exceed one (1) year;*

(c) *Payment of compensatory damages;*

(d) *Payment of punitive damages, not to exceed \$1,000 per violation;*

(e) *Payment of reasonable attorneys' fees;*

(f) *Any injunctive or other equitable relief.*

§ 9-4705. *Exemptions.*

*The provisions of this Chapter shall not apply to the following:*

- (a) *Where specifically authorized or mandated by any applicable state or federal statute, law or regulation to obtain the arrest record, conviction record, or criminal history of an applicant or their household members and require denial of tenancy;*
  
- (b) *The renting, sub-renting, leasing, or subleasing of a single-family unit, in which the owner, subleasing tenant, or sub-renting tenant reside in and occupy part of the single-family dwelling unit;*
  
- (c) *The renting, sub renting, leasing, or subleasing of a duplex, in which the owner resides in and maintains a permanent residence in one of the dwelling units.*

SECTION 2. This Ordinance shall be effective within 60 days after it becomes law.

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**Explanation:**

*Italics* indicate new matter added.