

# Criminal Background Screenings and Housing

## - Factsheet for Housing Applicants -



(created November 1, 2017)

### What is the law about?

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Beginning October 1, 2017, *The Fair Criminal Record Screening for Housing Act of 2016* prohibits most rental housing providers in the District of Columbia from inquiring into a housing applicant's criminal background before extending a conditional offer of housing.

The law does not guarantee housing for individuals, but prohibits housing providers from checking your criminal background **BEFORE** offering you a conditional offer of housing.

### What happens before a conditional offer is extended?

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- When applying for rental housing, housing providers **MUST** provide you with a written notice of all eligibility criteria used to decide whether or not to rent to you **BEFORE** accepting an application fee. The criteria may include financial, credit, employment, rental, and certain permissible criminal history.
- Housing providers may inquire into your financial, employment, credit and rental history and other relevant criteria **BEFORE** making a conditional offer.

### What happens after a conditional offer is extended?

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- Housing providers can **ONLY** inquire into your criminal history **AFTER** you receive a written notice of a conditional offer of housing.
- Housing providers may **NEVER** ask or inquire about the criminal history of an individual under 18 years of age who will reside in the unit.
- Once a conditional offer is extended, if desired, applicants may provide the housing provider with any evidence of errors within their criminal record, rehabilitation, or other factors to aid in the consideration for the rental unit.
- When reviewing your criminal history, housing providers may **ONLY** consider:
  - ◆ Pending charges in the court system **AT THE TIME** of the criminal background check;
  - ◆ Criminal convictions that have occurred within the last **7 YEARS AND ONLY** **IF THEY ARE** one or more of the 48 criminal offenses listed in the law.

**NOTE:** The 7 year timeframe is counted from the date of a verdict or plea of guilty or nolo contendere, and **NOT** the date of release from incarceration.

### What happens if the housing provider learns of a conviction after a lawful background check?

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- If the conviction is within the 7 year timeframe and is a listed offense in the law, or a pending charge in court, they must consider any mitigating information about your criminal history that you provided and whether it would be reasonable to withdraw the conditional offer of housing based on criminal conviction.
- The law provides a certain set of factors the housing provider must consider in making a decision to withdraw a conditional offer of housing based on criminal background information.

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## **What happens if the housing provider withdraws the conditional letter?**

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- They **MUST** provide you with a written notice with the specific reason or reasons for withdrawing the conditional offer.
- They must provide you with right to request a copy of **ALL** records they used in consideration your application.
- You have **20 CALENDAR DAYS** after receiving the notice to request all application records from the housing provide. By law, the housing provider must provide you a **FREE** copy of all records requested within **10 CALENDAR DAYS** of the request.
- The housing provider **MUST** also provide a written notice that advises you of your right to file a complaint with the Office of Human Rights.

**NOTE:** Keep track of time and proof that you requested the documents within the timeframe. For example, requesting your records from the housing provider via email is a good idea.

## **What is the complaint process at OHR?**

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- If you believe that a housing provider has improperly asked about or looked into your criminal backgrounds before extending a conditional offer of housing, or you did not receive proper notices of eligibility criteria, or a written withdrawal of the offer, you can file a complaint with the DC Office of Human Rights for free.
- You must file within 1 year after the unlawful discriminatory act, or discovery thereof. The alleged violation must have **occurred on or after October 1, 2017**.
- If OHR determines the employer did violate the law, the housing provider may be required to pay a fine, half of which goes to the applicant.
- You may not file this claim in court – only OHR.