



# Cook County Commission on Human Rights

## Just Housing Amendment Frequently Asked Questions for Applicants\*

### 1. Why did the Cook County Board of Commissioners pass the Just Housing Amendment (JHA) to the Human Rights Ordinance?

In most cities, people with any kind of criminal record, even just an arrest, are unfairly denied housing. The JHA was passed to help these people access safe, stable and affordable housing.

The JHA:

- 1) prohibits landlords from denying a housing application based on juvenile or adult arrest records; and
- 2) requires landlords to perform an individualized assessment prior to denying any application for housing.

### 2. What is an Individualized Assessment?

An individualized assessment is a questionnaire that considers all the relevant factors from an individual's conviction in the previous three (3) years. The following list of factors can be considered. This list does not include all factors that a landlord can consider:

- The nature and severity of the criminal offense and how recently it occurred.
- The nature of the sentencing.
- The number of criminal convictions in the past three (3) years.
- The length of time that has passed since the applicant's most recent convictions.
- The age of the individual at the time the criminal offense occurred.
- Evidence of rehabilitation.
- The individual history as a tenant before and/or after the conviction.
- Whether the criminal conviction(s) was related to the applicant's disability.
- If the applicant is a person with a disability, whether any reasonable accommodation could be provided to lessen any demonstrable risk.

### 3. When does the JHA go into effect?

The JHA went into effect on January 1, 2020. However, the Cook County Board of Commissioners delayed enforcement of the Amendment until February 1, 2020.

### 4. Who does the JHA apply to?

The JHA applies to real estate transactions. Real estate transactions include the sale, rental, lease, and sublease renewal of residential properties.

\*See Part 700 of the Cook County Just Housing Interpretative Rules for more information.

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5. **Can having a criminal background result in automatic denial of a housing application?**

No. A landlord cannot consider criminal history that is more than three (3) years old, and a landlord must conduct an individualized assessment of any criminal history that is less than three (3) years old.

6. **Are there any exceptions to the Just Housing Amendment?**

Yes. A landlord may deny an applicant for a new lease or lease renewal of residential properties based on any of the following:

- The applicant or a household member is a current sex offender required to register under the Sex Offender Registration Act (or similar law in another jurisdiction);
- The applicant or a household member is a current child sex offender under residency restriction; or
- The applicant or a household member has a criminal conviction from the past three years. Before denying the application, the landlord must first perform an individualized assessment, and show denial based on a criminal conviction is necessary to protect against a clear risk to personal safety and/or property.

7. **Are landlords required to conduct criminal background checks?**

No. The JHA does not require landlords to conduct criminal background checks.

8. **If an applicant was arrested but not convicted in the past three (3) years, can the arrest be a basis for denying the housing application?**

No. Arrests and convictions are very different. An arrest without a conviction cannot be considered when evaluating rental applications.

9. **What does the JHA tenant screening process require?**

Once an application fee is accepted, the Just Housing Amendment requires landlords to engage in a two-step tenant screening process.

**Step One: Prequalification**

During this step, a landlord may screen a tenant to determine whether the tenant satisfies all the application criteria such as income, rental history, credit score, pets, etc. Criminal background checks cannot be performed during Step One.

When this first step is completed, the landlord must either 1) pre-qualify the applicant based on all criteria except those related to criminal history; or 2) deny the application based on failure to satisfy the prequalification criteria.

**Step Two: Criminal Background Check**

Only after the landlord prequalifies an applicant may a landlord conduct a criminal background check.

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### 10. What happens if the criminal background check reveals a conviction from the last three (3) years?

The JHA requires the landlord to complete an “Individualized Assessment” before denying housing. Landlords cannot consider convictions that are more than three (3) years old.

### 11. Is the landlord required to consider evidence of rehabilitation when completing an Individualized Assessment?

Yes. The following are examples of evidence of rehabilitation:

- Completion of a returning citizens program.
- Job readiness training.
- Supportive services that assist with the transition back to society.
- Completion of a GED or other education programs.
- Report from correctional facility.
- Employment.
- Personal recommendations.

### 12. May a landlord verify any evidence of rehabilitation?

Yes, however, a landlord must still complete the evaluation and then approve or deny a housing application within three (3) business days as required by the JHA.

### 13. Does an applicant who is denied housing have the right to dispute the information contained in the criminal background check?

Yes. The JHA includes Conviction Dispute Procedures as described below.

Within five (5) business days of receiving a criminal background check, the landlord must deliver a copy to the applicant. A copy of the background check can be delivered in person, by certified mail, or by text or email.

Once the applicant receives the results of the background check, the applicant has five (5) business days to provide evidence that disputes the accuracy or relevance of information related to the criminal background check.

The landlord then has three (3) business days from receipt of the dispute information to accept or deny the application.

### 14. Is a landlord required to hold a unit off the market while an applicant disputes the background check?

No, a landlord does not have to hold a unit off the market.

### 15. How does a landlord provide notice of its final decision?

The landlord has three (3) business days from receipt of the dispute information to accept or deny the application.

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### 16. How has the application process changed?

Landlords can no longer include a checkbox on housing applications that asks whether an applicant has a criminal background.

Before accepting an application fee, a landlord must provide the following information:

- Tenant Selection Criteria, which describes how an applicant will be evaluated.
- Notice of the applicant's right to dispute inaccuracies relevant to criminal history and provide evidence of rehabilitation or other mitigating factors related to their criminal background.
- A copy of the JHA or a link to the Cook County Commission on Human Rights' website.