

## BULLETIN: FAIR CHANCE ACCESS TO RENTAL HOUSING IN FLINT, MICHIGAN

The City of Flint, Michigan recently enacted the Fair Chance Access to Rental Housing Ordinance (the “Ordinance”), which amends the city’s Housing Code to regulate the use of criminal background checks in tenant screening.<sup>1</sup>

**The Ordinance takes effect on March 12, 2025.** The Ordinance limits the use of criminal history information, allows applicants to present evidence of rehabilitation, requires individualized assessments of criminal history, and mandates notification and response processes for adverse actions.

*This Bulletin provides a brief overview of the requirements that may impact housing providers. Housing providers should review the complete Ordinance and all relevant Code sections with their legal or compliance team.*

### WHEN CRIMINAL HISTORY INFORMATION CAN BE CONSIDERED

Housing providers **must not** ask about or require applicants to disclose criminal history information until the housing provider:

- (1) Determines that the applicant is otherwise qualified under all other screening criteria; and
- (2) Sends the applicant a **conditional lease agreement** committing the unit to the applicant provided the applicant passes the criminal history review.

### WHAT CRIMINAL HISTORY INFORMATION CAN BE CONSIDERED

Except as stated below, housing providers must not consider arrests, expunged records, juvenile records, civil infractions, or misdemeanor convictions older than 5 years.<sup>2</sup>

Housing providers **can** conduct criminal record checks where required by law and can consider certain convictions, including:

- (1) Convictions where state or federal law makes the applicant ineligible for public housing;
- (2) Convictions under Michigan laws prohibiting criminal sexual conduct in the first, second, third, or fourth degree;
- (3) Convictions that lead to the applicant becoming a lifetime registered sex offender;
- (4) Convictions for violent or drug-related felonies;
- (5) Felony convictions from within the last 10 years or imprisonment for felonies within the last 5 years;
- (6) Convictions for crimes against landlords, management employees or agents, other tenants, or real property;
- (7) Arson convictions; or
- (8) Convictions relating to metal theft, vandalism, or other damage to real property.

### DISCLOSURES BEFORE TAKING ADVERSE ACTION BASED ON CRIMINAL HISTORY

Before taking any adverse action based on permitted criminal history information, the housing provider must give the applicant:

- (1) A copy of the background check;
- (2) Notice of the prospective adverse action;
- (3) The basis for the decision; and
- (4) Notice that the applicant has **14 calendar days** to provide evidence of inaccuracies or mitigating factors for convictions within the previous 5 years.

### INDIVIDUALIZED ASSESSMENT AND NOTICE OF ADVERSE ACTION

Before finalizing any adverse action, the housing provider must conduct an individualized assessment of the applicant’s reviewable criminal history and any information provided by the applicant.

<sup>1</sup> Ordinance No. 240426.1-T is available at: <https://codelibrary.amlegal.com/codes/flint/latest/overview>.

<sup>2</sup> RentGrow does not report arrests, records known to be expunged, juvenile records, or civil infractions. Housing providers can customize their screening criteria to set specific lookback periods for felonies or misdemeanors within the 47 categories of criminal offenses reported by RentGrow.

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If the applicant provides written mitigating evidence or evidence of inaccuracies within 14 calendar days of the pre-adverse action letter, the housing provider must delay adverse action for **at least 5 calendar days** from receipt of the information. During that time, the housing provider must reconsider the adverse action in light of the mitigating evidence.

The housing provider must then promptly notify the applicant of any final adverse action decision based on the criminal background check.

## COMPLIANCE SOLUTIONS BY RENTGROW

RentGrow's ScreeningWorks PRO allows housing providers to:

- Determine if applicants are qualified based on income, credit history, rental history, and civil court records before considering criminal history.
- Send applicants with potentially disqualifying criminal history a notice of prospective adverse action and a copy of the tenant screening report.
- Implement an "adverse action reconsideration period" to review any information provided by applicants and complete any required individualized assessment of the applicant's criminal history.

## QUESTIONS HOUSING PROVIDERS SHOULD ASK WHEN EVALUATING THEIR SCREENING PROCESSES

Considering the Ordinance, housing providers may want to evaluate their tenant screening processes and consider:

- Do your rental applications include questions about an applicant's criminal history?
- Do your criminal screening criteria reject applicants for misdemeanor convictions older than 5 years?
- Is your screening process customized to determine if applicants are otherwise qualified before reviewing criminal history information, and to consider any additional information provided by an applicant?

RentGrow customers can contact the RentGrow Client Services Team for assistance reviewing their current screening criteria or to discuss any other aspects of their RentGrow screening services.

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