



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB0206

by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

310 ILCS 10/25

from Ch. 67 1/2, par. 25

Amends the Housing Authorities Act. In a provision permitting a Housing Authority to refuse to certify or recertify applicants, current tenants, or other household members who have been convicted of a criminal offense relating to the sale or distribution of a controlled substance, provides that prior to refusing to certify or recertify such a person, the Authority shall make an individualized assessment and determine whether it is reasonable to conclude that the applicant, current tenant, or other household member would constitute a threat to those in the community where the applicant, current tenant, or other household member would reside; or whether it is reasonable to conclude that the applicant, current tenant, or other household member would otherwise engage in other unlawful activities in that community. Provides that during the individualized assessment, the Authority shall consider all mitigating circumstances, including, but not limited to: the nature of the crime; the time elapsed between the date of conviction and the date of certification or recertification; the applicant's, tenant's, or other household member's background; the incentive to litigate the criminal matter; and any evidence demonstrating rehabilitation. Requires the Authority to provide notice to the applicant, current tenant, or other household member that he or she may be denied certification or recertification because of a criminal conviction and that he or she has the right to an impartial hearing to demonstrate that he or she should not be denied certification or recertification because of his or her particular circumstances.

LRB101 04602 KTG 49610 b

1 AN ACT concerning housing.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Housing Authorities Act is amended by  
5 changing Section 25 as follows:

6 (310 ILCS 10/25) (from Ch. 67 1/2, par. 25)

7 Sec. 25. Rentals and tenant selection. In the operation or  
8 management of housing projects an Authority shall at all times  
9 observe the following duties with respect to rentals and tenant  
10 selection:

11 (a) It shall not accept any person as a tenant in any  
12 dwelling in a housing project if the persons who would occupy  
13 the dwelling have an aggregate annual income which equals or  
14 exceeds the amount which the Authority determines (which  
15 determination shall be conclusive) to be necessary in order to  
16 enable such persons to secure safe, sanitary and uncongested  
17 dwelling accommodations within the area of operation of the  
18 Authority and to provide an adequate standard of living for  
19 themselves.

20 (b) It may rent or lease the dwelling accommodations  
21 therein only at rentals within the financial reach of persons  
22 who lack the amount of income which it determines (pursuant to  
23 (a) of this Section) to be necessary in order to obtain safe,

1 sanitary and uncongested dwelling accommodations within the  
2 area of operation of the Authority and to provide an adequate  
3 standard of living.

4 (c) It may rent or lease to a tenant a dwelling consisting  
5 of the number of rooms (but no greater number) which it deems  
6 necessary to provide safe and sanitary accommodations to the  
7 proposed occupants thereof, without overcrowding.

8 (d) It shall not change the residency preference of any  
9 prospective tenant once the application has been accepted by  
10 the authority.

11 (e) It may refuse to certify or recertify applicants,  
12 current tenants, or other household members if, after due  
13 notice and an impartial hearing, that person or any of the  
14 proposed occupants of the dwelling has, prior to or during a  
15 term of tenancy or occupancy in any housing project operated by  
16 an Authority, been convicted of a criminal offense relating to  
17 the sale or distribution of controlled substances under the  
18 laws of this State, the United States or any other state. If an  
19 Authority desires a criminal history records check of all 50  
20 states or a 50-state confirmation of a conviction record, the  
21 Authority shall submit the fingerprints of the relevant  
22 applicant, tenant, or other household member to the Department  
23 of State Police in a manner prescribed by the Department of  
24 State Police. These fingerprints shall be checked against the  
25 fingerprint records now and hereafter filed in the Department  
26 of State Police and Federal Bureau of Investigation criminal

1 history records databases. The Department of State Police shall  
2 charge a fee for conducting the criminal history records check,  
3 which shall be deposited in the State Police Services Fund and  
4 shall not exceed the actual cost of the records check. The  
5 Department of State Police shall furnish pursuant to positive  
6 identification, records of conviction to the Authority. Prior  
7 to refusing to certify or recertify an applicant, current  
8 tenant, or other household member pursuant to this subsection,  
9 the Authority shall make an individualized assessment and  
10 determine whether it is reasonable to conclude that the  
11 applicant, current tenant, or other household member would  
12 constitute a threat to those in the community where the  
13 applicant, current tenant, or other household member would  
14 reside; or whether it is reasonable to conclude that the  
15 applicant, current tenant, or other household member would  
16 otherwise engage in other unlawful activities in that  
17 community. During the individualized assessment, the Authority  
18 shall consider all mitigating circumstances, including, but  
19 not limited to: the nature of the crime; the time elapsed  
20 between the date of conviction and the date of certification or  
21 recertification; the applicant's, tenant's, or other household  
22 member's background; the incentive to litigate the criminal  
23 matter; and any evidence demonstrating rehabilitation. The  
24 Authority shall provide notice to the applicant, current  
25 tenant, or other household member that he or she may be denied  
26 certification or recertification because of a criminal

1 conviction and that he or she has the right to an impartial  
2 hearing to demonstrate that he or she should not be denied  
3 certification or recertification because of his or her  
4 particular circumstances.

5 (f) It may, if a tenant has created or maintained a threat  
6 constituting a serious and clear danger to the health or safety  
7 of other tenants or Authority employees, after 3 days' written  
8 notice of termination and without a hearing, file suit against  
9 any such tenant for recovery of possession of the premises. The  
10 tenant shall be given the opportunity to contest the  
11 termination in the court proceedings. A serious and clear  
12 danger to the health or safety of other tenants or Authority  
13 employees shall include, but not be limited to, any of the  
14 following activities of the tenant or of any other person on  
15 the premises with the consent of the tenant:

16 (1) Physical assault or the threat of physical assault.

17 (2) Illegal use of a firearm or other weapon or the  
18 threat to use in an illegal manner a firearm or other  
19 weapon.

20 (3) Possession of a controlled substance by the tenant  
21 or any other person on the premises with the consent of the  
22 tenant if the tenant knew or should have known of the  
23 possession by the other person of a controlled substance,  
24 unless the controlled substance was obtained directly from  
25 or pursuant to a valid prescription.

26 (4) Streetgang membership as defined in the Illinois

1 Streetgang Terrorism Omnibus Prevention Act.

2 The management of low-rent public housing projects  
3 financed and developed under the U.S. Housing Act of 1937 shall  
4 be in accordance with that Act.

5 Nothing contained in this Section or any other Section of  
6 this Act shall be construed as limiting the power of an  
7 Authority to vest in a bondholder or trustee the right, in the  
8 event of a default by the Authority, to take possession and  
9 operate a housing project or cause the appointment of a  
10 receiver thereof, free from all restrictions imposed by this  
11 Section or any other Section of this Act.

12 (Source: P.A. 93-418, eff. 1-1-04; 93-749, eff. 7-15-04.)