



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5574

by Rep. Delia C. Ramirez

SYNOPSIS AS INTRODUCED:

- 310 ILCS 10/8.10a new
- 310 ILCS 10/8.23
- 310 ILCS 10/17 from Ch. 67 1/2, par. 17
- 310 ILCS 10/25 from Ch. 67 1/2, par. 25
- 310 ILCS 10/25.01 new
- 310 ILCS 10/25.02 new

Amends the Housing Authorities Act. Requires every housing authority to collect: (i) the number of applications submitted for admission to federally assisted housing; (ii) the number of applications submitted for admission to federally assisted housing by individuals with a criminal history record, if the authority is conducting criminal history records checks of applicants or other household members; (iii) the number of applications for admission to federally assisted housing that were denied on the basis of a criminal history record, if the housing authority is conducting criminal history records checks of applicants or other household members; and other matters. Requires the information to be submitted annually to the Illinois Criminal Justice Information Authority and to the General Assembly. Defines "criminal history record" and "criminal history report". Prohibits housing authorities from considering certain information when determining whether to rent or lease to an applicant for housing, including: (1) an arrest or detention; (2) criminal charges or indictments that do not result in a conviction; (3) a conviction that has been vacated, ordered, expunged, sealed, or impounded by a court; and other information. Requires housing authorities to create a system for the independent review of an applicant's criminal history in accordance with certain criteria. Sets forth when a housing authority may deny an application for housing because of the applicant's or another household member's criminal history record. Requires housing authorities to provide a housing applicant with written notice that details why the applicant was denied housing, including information on the applicant's right to an individualized criminal records assessment hearing regarding the authority's decision. Contains provisions on the criminal records assessment hearing process and other matters.

LRB101 19364 KTG 70412 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 Sections 17, 8.23, and 25 and by adding Sections
6 8.10a, 25.01, and 25.02 as follows:

7 (310 ILCS 10/8.10a new)

8 Sec. 8.10a. Criminal history record data.

9 (a) Every Authority organized under the provisions of this
10 Act shall collect the following:

11 (1) the number of applications submitted for admission
12 to federally assisted housing;

13 (2) the number of applications submitted for admission
14 to federally assisted housing by individuals with a
15 criminal history record, if the Authority is conducting
16 criminal history records checks of applicants or other
17 household members;

18 (3) the number of applications for admission to
19 federally assisted housing that were denied on the basis of
20 a criminal history record, if the Authority is conducting
21 criminal history records checks of applicants or other
22 household members;

23 (4) the number of criminal records assessment hearings

1 requested by applicants for housing who were denied
2 federally assisted housing on the basis of a criminal
3 history records check; and

4 (5) the number of denials for federally assisted
5 housing that were overturned after a criminal records
6 assessment hearing.

7 (b) The information required in this Section shall be
8 disaggregated by the race, ethnicity, and sex of applicants for
9 housing. This information shall be reported to the Illinois
10 Criminal Justice Information Authority and shall be compiled
11 and reported to the General Assembly annually by the Illinois
12 Criminal Justice Information Authority. The Illinois Criminal
13 Justice Information Authority shall also make this report
14 publicly available, including on its website, without fee.

15 (310 ILCS 10/8.23)

16 Sec. 8.23. Notification to leaseholders of the prospective
17 presence of individuals with a felony conviction ~~felons~~ in
18 housing authority facilities; eviction.

19 (a) Immediately upon the receipt of the written
20 notification, from the Department of Corrections under
21 subsection (c) of Section 3-14-1 of the Unified Code of
22 Corrections, that an individual with a felony conviction ~~a~~
23 ~~felon~~ intends to reside, upon release from custody, at an
24 address that is a housing facility owned, managed, operated, or
25 leased by the Authority, the Authority must provide written

1 notification to the leaseholder residing at that address.

2 (b) The Authority may not evict the leaseholder described
3 in subsection (a) of this Section unless (i) federal law
4 prohibits the individual with a felony conviction from residing
5 at a housing facility owned, managed, operated, or leased by
6 the Authority and (ii) the Authority proves by a preponderance
7 of the evidence that the leaseholder had knowledge of and
8 consents to the individual's ~~felon's~~ intent to reside at the
9 leaseholder's address.

10 (Source: P.A. 91-506, eff. 8-13-99.)

11 (310 ILCS 10/17) (from Ch. 67 1/2, par. 17)

12 Sec. 17. Definitions. The following terms, wherever used or
13 referred to in this Act shall have the following respective
14 meanings, unless in any case a different meaning clearly
15 appears from the context:

16 (a) "Authority" or "housing authority" shall mean a
17 municipal corporation organized in accordance with the
18 provisions of this Act for the purposes, with the powers and
19 subject to the restrictions herein set forth.

20 (b) "Area" or "area of operation" shall mean: (1) in the
21 case of an authority which is created hereunder for a city,
22 village, or incorporated town, the area within the territorial
23 boundaries of said city, village, or incorporated town, and so
24 long as no county housing authority has jurisdiction therein,
25 the area within three miles from such territorial boundaries,

1 except any part of such area located within the territorial
2 boundaries of any other city, village, or incorporated town;
3 and (2) in the case of a county shall include all of the county
4 except the area of any city, village or incorporated town
5 located therein in which there is an Authority. When an
6 authority is created for a county subsequent to the creation of
7 an authority for a city, village or incorporated town within
8 the same county, the area of operation of the authority for
9 such city, village or incorporated town shall thereafter be
10 limited to the territory of such city, village or incorporated
11 town, but the authority for such city, village or incorporated
12 town may continue to operate any project developed in whole or
13 in part in an area previously a part of its area of operation,
14 or may contract with the county housing authority with respect
15 to the sale, lease, development or administration of such
16 project. When an authority is created for a city, village or
17 incorporated town subsequent to the creation of a county
18 housing authority which previously included such city, village
19 or incorporated town within its area of operation, such county
20 housing authority shall have no power to create any additional
21 project within the city, village or incorporated town, but any
22 existing project in the city, village or incorporated town
23 currently owned and operated by the county housing authority
24 shall remain in the ownership, operation, custody and control
25 of the county housing authority.

26 (b-5) "Criminal history record" means a record of arrest,

1 complaint, indictment, or any disposition arising therefrom.

2 (b-6) "Criminal history report" means any written, oral, or
3 other communication of information that includes criminal
4 history record information about a natural person that is
5 produced by a law enforcement agency, a court, a consumer
6 reporting agency, or a housing screening agency or business.

7 (c) "Presiding officer" shall mean the presiding officer of
8 the board of a county, or the mayor or president of a city,
9 village or incorporated town, as the case may be, for which an
10 Authority is created hereunder.

11 (d) "Commissioner" shall mean one of the members of an
12 Authority appointed in accordance with the provisions of this
13 Act.

14 (e) "Government" shall include the State and Federal
15 governments and the governments of any subdivisions, agency or
16 instrumentality, corporate or otherwise, of either of them.

17 (f) "Department" shall mean the Department of Commerce and
18 Economic Opportunity.

19 (g) "Project" shall include all lands, buildings, and
20 improvements, acquired, owned, leased, managed or operated by a
21 housing authority, and all buildings and improvements
22 constructed, reconstructed or repaired by a housing authority,
23 designed to provide housing accommodations and facilities
24 appurtenant thereto (including community facilities and
25 stores) which are planned as a unit, whether or not acquired or
26 constructed at one time even though all or a portion of the

1 buildings are not contiguous or adjacent to one another; and
2 the planning of buildings and improvements, the acquisition of
3 property, the demolition of existing structures, the clearing
4 of land, the construction, reconstruction, and repair of
5 buildings or improvements and all other work in connection
6 therewith. As provided in Sections 8.14 to 8.18, inclusive,
7 "project" also means, for Housing Authorities for
8 municipalities of less than 500,000 population and for
9 counties, the conservation of urban areas in accordance with an
10 approved conservation plan. "Project" shall also include (1)
11 acquisition of (i) a slum or blighted area or a deteriorated or
12 deteriorating area which is predominantly residential in
13 character, or (ii) any other deteriorated or deteriorating area
14 which is to be developed or redeveloped for predominantly
15 residential uses, or (iii) platted urban or suburban land which
16 is predominantly open and which because of obsolete platting,
17 diversity of ownership, deterioration of structures or of site
18 improvements, or otherwise substantially impairs or arrests
19 the sound growth of the community and which is to be developed
20 for predominantly residential uses, or (iv) open unplatted
21 urban or suburban land necessary for sound community growth
22 which is to be developed for predominantly residential uses, or
23 (v) any other area where parcels of land remain undeveloped
24 because of improper platting, delinquent taxes or special
25 assessments, scattered or uncertain ownerships, clouds on
26 title, artificial values due to excessive utility costs, or any

1 other impediments to the use of such area for predominantly
2 residential uses; (2) installation, construction, or
3 reconstruction of streets, utilities, and other site
4 improvements essential to the preparation of sites for uses in
5 accordance with the development or redevelopment plan; and (3)
6 making the land available for development or redevelopment by
7 private enterprise or public agencies (including sale, initial
8 leasing, or retention by the local public agency itself). If in
9 any city, village or incorporated town there exists a land
10 clearance commission created under the "Blighted Areas
11 Redevelopment Act of 1947" having the same area of operation as
12 a housing authority created in and for any such municipality
13 such housing authority shall have no power to acquire land of
14 the character described in subparagraph (iii), (iv) or (v) of
15 paragraph 1 of the definition of "project" for the purpose of
16 development or redevelopment by private enterprise.

17 (h) "Community facilities" shall include lands, buildings,
18 and equipment for recreation or social assembly, for education,
19 health or welfare activities and other necessary utilities
20 primarily for use and benefit of the occupants of housing
21 accommodations to be constructed, reconstructed, repaired or
22 operated hereunder.

23 (i) "Real property" shall include lands, lands under water,
24 structures, and any and all easements, franchises and
25 incorporeal hereditaments and estates, and rights, legal and
26 equitable, including terms for years and liens by way of

1 judgment, mortgage or otherwise.

2 (j) The term "governing body" shall include the city
3 council of any city, the president and board of trustees of any
4 village or incorporated town, the council of any city or
5 village, and the county board of any county.

6 (k) The phrase "individual, association, corporation or
7 organization" shall include any individual, private
8 corporation, limited or general partnership, limited liability
9 company, insurance company, housing corporation, neighborhood
10 redevelopment corporation, non-profit corporation,
11 incorporated or unincorporated group or association,
12 educational institution, hospital, or charitable organization,
13 and any mutual ownership or cooperative organization.

14 (l) "Conservation area", for the purpose of the exercise of
15 the powers granted in Sections 8.14 to 8.18, inclusive, for
16 housing authorities for municipalities of less than 500,000
17 population and for counties, means an area of not less than 2
18 acres in which the structures in 50% or more of the area are
19 residential having an average age of 35 years or more. Such an
20 area is not yet a slum or blighted area as defined in the
21 Blighted Areas Redevelopment Act of 1947, but such an area by
22 reason of dilapidation, obsolescence, deterioration or illegal
23 use of individual structures, overcrowding of structures and
24 community facilities, conversion of residential units into
25 non-residential use, deleterious land use or layout, decline of
26 physical maintenance, lack of community planning, or any

1 combination of these factors may become a slum and blighted
2 area.

3 (m) "Conservation plan" means the comprehensive program
4 for the physical development and replanning of a "Conservation
5 Area" as defined in paragraph (l) embodying the steps required
6 to prevent such Conservation Area from becoming a slum and
7 blighted area.

8 (n) "Fair use value" means the fair cash market value of
9 real property when employed for the use contemplated by a
10 "Conservation Plan" in municipalities of less than 500,000
11 population and in counties.

12 (o) "Community facilities" means, in relation to a
13 "Conservation Plan", those physical plants which implement,
14 support and facilitate the activities, services and interests
15 of education, recreation, shopping, health, welfare, religion
16 and general culture.

17 (p) "Loan agreement" means any agreement pursuant to which
18 an Authority agrees to loan the proceeds of its revenue bonds
19 issued with respect to a multifamily rental housing project or
20 other funds of the Authority to any person upon terms providing
21 for loan repayment installments at least sufficient to pay when
22 due all principal of, premium, if any, and interest on the
23 revenue bonds of the Authority issued with respect to the
24 multifamily rental housing project, and providing for
25 maintenance, insurance, and other matters as may be deemed
26 desirable by the Authority.

1 (q) "Multifamily rental housing" means any rental project
2 designed for mixed-income or low-income occupancy.

3 (Source: P.A. 94-793, eff. 5-19-06; 95-887, eff. 8-22-08.)

4 (310 ILCS 10/25) (from Ch. 67 1/2, par. 25)

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

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

18 (b) It may rent or lease the dwelling accommodations
19 therein only at rentals within the financial reach of persons
20 who lack the amount of income which it determines (pursuant to
21 (a) of this Section) to be necessary in order to obtain safe,
22 sanitary and uncongested dwelling accommodations within the
23 area of operation of the Authority and to provide an adequate
24 standard of living.

25 (c) It may rent or lease to a tenant a dwelling consisting

1 of the number of rooms (but no greater number) which it deems
2 necessary to provide safe and sanitary accommodations to the
3 proposed occupants thereof, without overcrowding.

4 (d) It shall not change the residency preference of any
5 prospective tenant once the application has been accepted by
6 the authority.

7 ~~(e) It may refuse to certify or recertify applicants,~~
8 ~~current tenants, or other household members if, after due~~
9 ~~notice and an impartial hearing, that person or any of the~~
10 ~~proposed occupants of the dwelling has, prior to or during a~~
11 ~~term of tenancy or occupancy in any housing project operated by~~
12 ~~an Authority, been convicted of a criminal offense relating to~~
13 ~~the sale or distribution of controlled substances under the~~
14 ~~laws of this State, the United States or any other state.~~ If an
15 Authority desires a criminal history records check of all 50
16 states or a 50-state confirmation of a conviction record, the
17 Authority shall submit the fingerprints of the relevant
18 applicant, tenant, or other household member to the Department
19 of State Police in a manner prescribed by the Department of
20 State Police. These fingerprints shall be checked against the
21 fingerprint records now and hereafter filed in the Department
22 of State Police and Federal Bureau of Investigation criminal
23 history records databases. The Department of State Police shall
24 charge a fee for conducting the criminal history records check,
25 which shall be deposited in the State Police Services Fund and
26 shall not exceed the actual cost of the records check. The

1 Department of State Police shall furnish pursuant to positive
2 identification, records of conviction to the Authority. An
3 Authority that requests a criminal history report of an
4 applicant or other household member shall inform the applicant
5 at the time of the request that the applicant or other
6 household member may provide additional mitigating information
7 for consideration with the application for housing.

8 (e-5) Criminal history record assessment. The Authority
9 shall use the following process when evaluating the criminal
10 history report of an applicant or other household member to
11 determine whether to rent or lease to the applicant:

12 (1) Unless required by federal law, the Authority shall
13 not consider the following information when determining
14 whether to rent or lease to an applicant for housing:

15 (A) an arrest or detention;

16 (B) criminal charges or indictments, and the
17 nature of any disposition arising therefrom, that do
18 not result in a conviction;

19 (C) a conviction that has been vacated, ordered,
20 expunged, sealed, or impounded by a court;

21 (D) matters under the jurisdiction of the Illinois
22 Juvenile Court;

23 (E) the amount of time since the applicant or other
24 household member completed his or her sentence in
25 prison or jail or was released from prison or jail; or

26 (F) convictions occurring more than 180 days prior

1 to the date the applicant submitted his or her
2 application for housing.

3 (2) The Authority shall create a system for the
4 independent review of criminal history reports:

5 (A) the reviewer shall examine the applicant's or
6 other household member's criminal history report and
7 report only those records not prohibited under
8 paragraph (1) to the person or persons making the
9 decision about whether to offer housing to the
10 applicant; and

11 (B) the reviewer shall not participate in any final
12 decisions on an applicant's application for housing.

13 (3) The Authority may deny an applicant's application
14 for housing because of the applicant's or another household
15 member's criminal history record, only if the Authority:

16 (A) determines that the denial is required under
17 federal law; or

18 (B) determines that there is a direct relationship
19 between the applicant or the other household member's
20 criminal history record and a risk to the health,
21 safety, and peaceful enjoyment of fellow tenants. The
22 mere existence of a criminal history record does not
23 demonstrate such a risk.

24 (f) It may, if a tenant has created or maintained a threat
25 constituting a serious and clear danger to the health or safety
26 of other tenants or Authority employees, after 3 days' written

1 notice of termination and without a hearing, file suit against
2 any such tenant for recovery of possession of the premises. The
3 tenant shall be given the opportunity to contest the
4 termination in the court proceedings. A serious and clear
5 danger to the health or safety of other tenants or Authority
6 employees shall include, but not be limited to, any of the
7 following activities of the tenant or of any other person on
8 the premises with the consent of the tenant:

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

10 (2) Illegal use of a firearm or other weapon or the
11 threat to use in an illegal manner a firearm or other
12 weapon.

13 (3) Possession of a controlled substance by the tenant
14 or any other person on the premises with the consent of the
15 tenant if the tenant knew or should have known of the
16 possession by the other person of a controlled substance,
17 unless the controlled substance was obtained directly from
18 or pursuant to a valid prescription.

19 (4) Streetgang membership as defined in the Illinois
20 Streetgang Terrorism Omnibus Prevention Act.

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

24 Nothing contained in this Section or any other Section of
25 this Act shall be construed as limiting the power of an
26 Authority to vest in a bondholder or trustee the right, in the

1 event of a default by the Authority, to take possession and
2 operate a housing project or cause the appointment of a
3 receiver thereof, free from all restrictions imposed by this
4 Section or any other Section of this Act.

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

6 (310 ILCS 10/25.01 new)

7 Sec. 25.01. Notification. Before denying an applicant's
8 housing application based, in whole or in part, on a criminal
9 history record permitted under this Act, the Authority shall
10 provide the opportunity for an individual assessment. The
11 applicant for housing shall be provided with a clear, written
12 notice that:

13 (1) explains why the Authority has determined that the
14 criminal history report it obtained requires further
15 review, including detailed information on whether the need
16 for further review is based on federal law or on the
17 Authority's determination that the criminal history record
18 of the applicant or other household member indicates a risk
19 to the health, safety, or peaceful enjoyment of housing for
20 other residents;

21 (2) identifies the specific conviction or convictions
22 upon which the Authority relied upon when making its
23 decision to deny the applicant's housing application;

24 (3) explains that the applicant has a right to an
25 individualized criminal records assessment hearing

1 regarding the Authority's decision to deny the applicant's
2 housing application, as set forth in Section 25.02;

3 (4) provides clear instructions on what to expect
4 during an individualized criminal records assessment
5 hearing, as set forth in Section 25.02;

6 (5) explains that if the applicant chooses not to
7 participate in an individualized criminal records
8 assessment hearing, the applicant's application will be
9 denied; and

10 (6) provides a copy of the criminal history report the
11 Authority used to make its determination.

12 (310 ILCS 10/25.02 new)

13 Sec. 25.02. Criminal records assessment hearing.

14 (a) An applicant has the right to an individualized
15 criminal records assessment hearing if the applicant's
16 application for housing requires further review because of the
17 applicant's or another household member's criminal history
18 record. The individualized criminal records assessment hearing
19 shall allow the applicant or other household member to:

20 (1) contest the accuracy of the criminal history
21 record;

22 (2) contest the relevance of the criminal history
23 record to the Authority's decision to deny the applicant's
24 application for housing; and

25 (3) provide mitigating evidence concerning the

1 applicant's or other household member's criminal
2 conviction or evidence of rehabilitation.

3 (b) The Authority shall not rent or lease to any other
4 person the available housing unit that is the subject of the
5 applicant's individualized criminal records assessment hearing
6 until after the Authority has issued a final ruling.

7 (c) The Authority shall adopt rules for criminal records
8 assessment hearings in accordance with Article 10 of the
9 Illinois Administrative Procedure Act.