



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2818

Introduced 1/17/2024, by Sen. Rachel Ventura

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Human Rights Act. Provides that it is a civil rights violation: (1) to inquire into a person's conviction record before making a conditional offer to sell, lease, or rent real property; (2) for an owner or any other person engaging in a real estate transaction, or for a real estate broker or salesman, because of conviction record, to refuse to engage in a real estate transaction with a person or to discriminate in making available such a transaction; (3) use a conviction record as a basis to rescind a conditional offer to sell, lease, or rent real property, unless there is a substantial relationship between one or more of the previous criminal offenses and the offer made, the granting or continuation of the offer would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public, or the use is otherwise authorized by law; and (4) for a third-party loan modification service provider, because of a conviction record to refuse to engage in loan modification services, alter the terms, conditions, or privileges of such services, or discriminate in making such services available. Provides that nothing shall prohibit: the owner of an owner-occupied residential building with 4 or fewer units from making decisions regarding whether to rent to a person based upon that person's conviction record; inquiry into or the use of a conviction record if the inquiry or use is otherwise authorized by State or federal law; and use of a criminal conviction that results in a current sex offender registration requirement or a current child sex offender residency restriction.

LRB103 37250 JRC 67370 b

1 AN ACT concerning civil law.

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

4 Section 5. The Illinois Human Rights Act is amended by
5 changing Sections 3-102.10 and 3-106 and by adding Section
6 3-102.2 as follows:

7 (775 ILCS 5/3-102.2 new)

8 Sec. 3-102.2. Civil rights violations; conviction record.

9 (A) It is a civil rights violation to inquire into a
10 person's conviction record as defined under subsection (G-5)
11 of Section 1-103 prior to making a conditional offer to sell,
12 lease, or rent real property. As used in this Section,
13 "conditional offer" means an offer to sell, lease, or rent
14 real property contingent on conducting a criminal history
15 check or criminal background check.

16 (B) Unless otherwise authorized by law, it is a civil
17 rights violation for an owner or any other person engaging in a
18 real estate transaction, or for a real estate broker or
19 salesman, because of conviction record, to:

20 (1) refuse to engage in a real estate transaction with
21 a person or to discriminate in making available such a
22 transaction;

23 (2) alter the terms, conditions, or privilege of a

1 real estate transaction or in the furnishing of facilities
2 or services in connection therewith;

3 (3) refuse to receive or to fail to transmit a bona
4 fide offer to engage in a real estate transaction from a
5 person;

6 (4) refuse to negotiate for a real estate transaction
7 with a person;

8 (5) represent to a person that real property is not
9 available for inspection, sale, rental, or lease when in
10 fact it is so available, or to fail to bring a property
11 listing to his or her attention, or to refuse to permit him
12 or her to inspect real property;

13 (6) make, print, circulate, post, mail, publish, or
14 cause to be made, printed, circulated, posted, mailed, or
15 published any notice, statement, advertisement, or sign,
16 or use a form of application for a real estate
17 transaction, or make a record or inquiry in connection
18 with a prospective real estate transaction, that indicates
19 any preference or limitation, or an intention to make any
20 such preference, limitation, or discrimination; or

21 (7) offer, solicit, accept, use, or retain a listing
22 of real property with knowledge that discrimination in a
23 real estate transaction is intended.

24 (C) Nothing in this Article shall be construed to require
25 an owner or any other person to conduct a criminal history
26 check or criminal background check after making a conditional

1 offer to sell, lease, or rent real property. Unless otherwise
2 authorized by law, it is a civil rights violation to use a
3 conviction record as a basis to rescind a conditional offer to
4 sell, lease, or rent real property, unless:

5 (1) there is a substantial relationship between one or
6 more of the previous criminal offenses and the offer made;

7 (2) the granting or continuation of the offer would
8 involve an unreasonable risk to property or to the safety
9 or welfare of specific individuals or the general public;

10 or

11 (3) the use is otherwise authorized by law.

12 As used in this subsection, "substantial relationship"
13 means a consideration of whether the conditional offer
14 presents an opportunity for the same or a similar offense to
15 occur and whether the circumstances leading to the conduct for
16 which the person was convicted will recur as a result of the
17 offer.

18 (D) In making a determination pursuant to subsection (C),
19 an owner or any other person who elects to, or is otherwise
20 required to, consider a person's conviction record in
21 connection with a conditional offer shall consider the
22 following factors before making a preliminary decision that
23 the conviction record is disqualifying:

24 (1) the nature and severity of the conduct underlying
25 the conviction;

26 (2) whether the nature of the conviction presents a

1 direct threat to the health or safety of other tenants or
2 to the property;

3 (3) the terms of the sentence;

4 (4) the number of convictions on the person's record;

5 (5) the age of the person at the time of the
6 conviction;

7 (6) the length of time since the conviction; and

8 (7) evidence of rehabilitation.

9 (E) If, after considering the factors in subsection (C),
10 the owner or any other person making the conditional offer
11 makes a preliminary decision that the conviction record is
12 disqualifying, the owner or person making the conditional
13 offer shall provide written notification to the disqualified
14 person within 5 business days which shall contain the
15 following:

16 (1) notice of the disqualifying conviction or
17 convictions that are the basis of the preliminary decision
18 and the reasons for the disqualification;

19 (2) a copy of the conviction record or other
20 information relied upon to make the preliminary decision
21 to disqualify; and

22 (3) an explanation of the disqualified person's right
23 to respond to the decision of the owner or any other person
24 making the conditional offer before the preliminary
25 decision becomes final. The explanation shall inform the
26 disqualified person that the response may include, but is

1 not limited to, submission of evidence challenging the
2 accuracy of the conviction record that is the basis for
3 the disqualification, or evidence of mitigation, such as
4 rehabilitation.

5 (F) The disqualified person shall have at least 5 business
6 days to respond to the notification as provided under
7 subsection (D).

8 (G) The owner or person making the conditional offer shall
9 consider information submitted by the disqualified person
10 before making a final decision. If an owner or any other person
11 making the conditional offer makes a final decision based on
12 the disqualified person's conviction record, the owner or any
13 other person making the conditional offer shall provide
14 written notification to the disqualified person within 5
15 business days which shall contain the following:

16 (1) notice of the disqualifying conviction or
17 convictions that are the basis of the final decision and
18 the reasons for the disqualification;

19 (2) any existing procedure the owner or any other
20 person making the conditional offer has for the
21 disqualified person to challenge the decision or request
22 reconsideration; and

23 (3) the right to file a charge with the Department.

24 (775 ILCS 5/3-102.10)

25 Sec. 3-102.10. Third-party loan modification service

1 provider.

2 (A) It is a civil rights violation for a third-party loan
3 modification service provider, because of unlawful
4 discrimination, familial status, immigration status, source of
5 income, ~~or~~ an arrest record, or a conviction record, to:

6 (1) refuse to engage in loan modification services;

7 (2) alter the terms, conditions, or privileges of such
8 services; or

9 (3) discriminate in making such services available,
10 including, but not limited to, by making a statement,
11 advertisement, representation, inquiry, listing, offer, or
12 solicitation that indicates a preference or the intention
13 to make such a preference in making such services
14 available.

15 (B) For purposes of this Section, "third-party loan
16 modification service provider" means a person or entity,
17 whether licensed or not, who, for or with the expectation of
18 receiving consideration, provides assistance or services to a
19 loan borrower to obtain a modification to a term of an existing
20 real estate loan or to obtain foreclosure relief. "Third-party
21 loan modification service provider" does not include lenders,
22 brokers or appraisers of mortgage loans, or the servicers,
23 subsidiaries, affiliates, or agents of the lender.

24 (Source: P.A. 102-362, eff. 1-1-22; 103-232, eff. 1-1-24.)

25 (775 ILCS 5/3-106) (from Ch. 68, par. 3-106)

1 Sec. 3-106. Exemptions. Nothing contained in Sections
2 ~~Section~~ 3-102 and 3-102.2 shall prohibit:

3 (A) Private Sales of Single Family Homes.

4 (1) Any sale of a single family home by its owner so
5 long as the following criteria are met:

6 (a) The owner does not own or have a beneficial
7 interest in more than 3 single family homes at the time
8 of the sale;

9 (b) The owner or a member of the owner's family was
10 the last current resident of the home;

11 (c) The home is sold without the use in any manner
12 of the sales or rental facilities or services of any
13 real estate broker or salesman, or of any employee or
14 agent of any real estate broker or salesman;

15 (d) The home is sold without the publication,
16 posting or mailing, after notice, of any advertisement
17 or written notice in violation of paragraph (F) of
18 Section 3-102.

19 (2) This exemption does not apply to paragraph (F) of
20 Section 3-102.

21 (B) Apartments. Rental of a housing accommodation in a
22 building which contains housing accommodations for not more
23 than 4 families living independently of each other, if the
24 owner resides in one of the housing accommodations. This
25 exemption does not apply to paragraph (F) of Section 3-102.

26 (C) Private Rooms. Rental of a room or rooms in a private

1 home by an owner if the owner or a member of the owner's family
2 resides therein or, while absent for a period of not more than
3 12 months, if the owner or a member of the owner's family
4 intends to return to reside therein. This exemption does not
5 apply to paragraph (F) of Section 3-102.

6 (D) Reasonable local, State, or Federal restrictions
7 regarding the maximum number of occupants permitted to occupy
8 a dwelling.

9 (E) Religious Organizations. A religious organization,
10 association, or society, or any nonprofit institution or
11 organization operated, supervised or controlled by or in
12 conjunction with a religious organization, association, or
13 society, from limiting the sale, rental or occupancy of a
14 dwelling which it owns or operates for other than a commercial
15 purpose to persons of the same religion, or from giving
16 preference to such persons, unless membership in such religion
17 is restricted on account of race, color, or national origin.

18 (F) Sex. Restricting the rental of rooms in a housing
19 accommodation to persons of one sex.

20 (G) Persons Convicted of Drug-Related Offenses. Conduct
21 against a person because such person has been convicted by any
22 court of competent jurisdiction of the illegal manufacture or
23 distribution of a controlled substance as defined in Section
24 102 of the federal Controlled Substances Act (21 U.S.C. 802).

25 (H) Persons engaged in the business of furnishing
26 appraisals of real property from taking into consideration

1 factors other than those based on unlawful discrimination or
2 familial status or source of income in furnishing appraisals.

3 (H-1) The owner of an owner-occupied residential building
4 with 4 or fewer units (including the unit in which the owner
5 resides) from making decisions regarding whether to rent to a
6 person based upon that person's sexual orientation or
7 conviction record.

8 (I) Housing for Older Persons. No provision in this
9 Article regarding familial status shall apply with respect to
10 housing for older persons.

11 (1) As used in this Section, "housing for older
12 persons" means housing:

13 (a) provided under any State or Federal program
14 that the Department determines is specifically
15 designed and operated to assist elderly persons (as
16 defined in the State or Federal program); or

17 (b) intended for, and solely occupied by, persons
18 62 years of age or older; or

19 (c) intended and operated for occupancy by persons
20 55 years of age or older and:

21 (i) at least 80% of the occupied units are
22 occupied by at least one person who is 55 years of
23 age or older;

24 (ii) the housing facility or community
25 publishes and adheres to policies and procedures
26 that demonstrate the intent required under this

1 subdivision (c); and

2 (iii) the housing facility or community
3 complies with rules adopted by the Department for
4 verification of occupancy, which shall:

5 (aa) provide for verification by reliable
6 surveys and affidavits; and

7 (bb) include examples of the types of
8 policies and procedures relevant to a
9 determination of compliance with the
10 requirement of clause (ii).

11 These surveys and affidavits shall be admissible in
12 administrative and judicial proceedings for the purposes
13 of such verification.

14 (2) Housing shall not fail to meet the requirements
15 for housing for older persons by reason of:

16 (a) persons residing in such housing as of the
17 effective date of this amendatory Act of 1989 who do
18 not meet the age requirements of subsections (1)(b) or
19 (c); provided, that new occupants of such housing meet
20 the age requirements of subsections (1)(b) or (c) of
21 this subsection; or

22 (b) unoccupied units; provided, that such units
23 are reserved for occupancy by persons who meet the age
24 requirements of subsections (1)(b) or (c) of this
25 subsection.

26 (3) (a) A person shall not be held personally liable

1 for monetary damages for a violation of this Article if
2 the person reasonably relied, in good faith, on the
3 application of the exemption under this subsection (I)
4 relating to housing for older persons.

5 (b) For the purposes of this item (3), a person may
6 show good faith reliance on the application of the
7 exemption only by showing that:

8 (i) the person has no actual knowledge that the
9 facility or community is not, or will not be, eligible
10 for the exemption; and

11 (ii) the facility or community has stated
12 formally, in writing, that the facility or community
13 complies with the requirements for the exemption.

14 (J) Child Sex Offender Refusal to Rent. Refusal of a child
15 sex offender who owns and resides at residential real estate
16 to rent any residential unit within the same building in which
17 the child sex offender resides to a person who is the parent or
18 guardian of a child or children under 18 years of age.

19 (K) Arrest Records. Inquiry into or the use of an arrest
20 record if the inquiry or use is otherwise authorized by State
21 or federal law.

22 (K-5) Conviction Record. Inquiry into or the use of a
23 conviction record if the inquiry or use is otherwise
24 authorized by State or federal law.

25 (K-10) Sex Offender Conviction Records. Use of a criminal
26 conviction that results in a current sex offender registration

1 requirement pursuant to the Sex Offender Registration Act, or
2 similar law in another jurisdiction, or a current child sex
3 offender residency restriction.

4 (L) Financial Institutions. A financial institution as
5 defined in Article 4 from considering source of income or
6 immigration status in a real estate transaction in compliance
7 with State or federal law.

8 (M) Immigration Status. Inquiry into or the use of
9 immigration status if the inquiry or use is in compliance with
10 State or federal law.

11 (Source: P.A. 102-896, eff. 1-1-23; 103-232, eff. 1-1-24.)

1 INDEX

2 Statutes amended in order of appearance

3 775 ILCS 5/3-102.2 new

4 775 ILCS 5/3-102.10

5 775 ILCS 5/3-106 from Ch. 68, par. 3-106