



Sen. Rachel Ventura

Filed: 3/8/2024

10300SB2818sam001

LRB103 37250 JRC 70820 a

1 AMENDMENT TO SENATE BILL 2818

2 AMENDMENT NO. _____. Amend Senate Bill 2818 by replacing
3 everything after the enacting clause with the following:

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 before 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

1 rights violation for an owner or any other person engaging in a
2 real estate transaction, or for a real estate broker or
3 salesman, because of conviction record, to:

4 (1) refuse to engage in a real estate transaction with
5 a person or to discriminate in making available such a
6 transaction;

7 (2) alter the terms, conditions, or privileges of a
8 real estate transaction or in the furnishing of facilities
9 or services in connection therewith;

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

13 (4) refuse to negotiate for a real estate transaction
14 with a person;

15 (5) represent to a person that real property is not
16 available for inspection, sale, rental, or lease when in
17 fact it is so available, or to fail to bring a property
18 listing to his or her attention, or to refuse to permit him
19 or her to inspect real property;

20 (6) make, print, circulate, post, mail, publish, or
21 cause to be made, printed, circulated, posted, mailed, or
22 published any notice, statement, advertisement, or sign,
23 or use a form of application for a real estate
24 transaction, or make a record or inquiry in connection
25 with a prospective real estate transaction, that indicates
26 any preference or limitation, or an intention to make any

1 such preference, limitation, or discrimination; or

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

5 (C) Nothing in this Article shall be construed to require
6 an owner or any other person to conduct a criminal history
7 check or criminal background check after making a conditional
8 offer to sell, lease, or rent real property. Unless otherwise
9 authorized by law, it is a civil rights violation to use a
10 conviction record as a basis to rescind a conditional offer to
11 sell, lease, or rent real property, unless the conviction
12 included in the record occurred within the 3 years preceding
13 the date of the conditional offer and:

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

16 (2) the granting or continuation of the offer would
17 involve an unreasonable risk to property or to the safety
18 or welfare of specific individuals or the general public;

19 or

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

21 As used in this subsection, "substantial relationship"
22 means a consideration of whether the conditional offer
23 presents an opportunity for the same or a similar offense to
24 occur and whether the circumstances leading to the conduct for
25 which the person was convicted will recur as a result of the
26 offer.

1 (D) In making a determination pursuant to subsection (C),
2 an owner or any other person who elects to, or is otherwise
3 required to, consider a person's conviction record in
4 connection with a conditional offer shall consider the
5 following factors before making a preliminary decision that
6 the conviction record is disqualifying:

7 (1) the nature and severity of the conduct underlying
8 the conviction;

9 (2) whether the nature of the conviction presents a
10 direct threat to the health or safety of other tenants or
11 to the property;

12 (3) the terms of the sentence;

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

14 (5) the age of the person at the time of the
15 conviction;

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

17 (7) evidence of rehabilitation.

18 (E) If, after considering the factors in subsections (C)
19 and (D), the owner or other person making the conditional
20 offer makes a preliminary decision that the conviction record
21 is disqualifying, the owner or person making the conditional
22 offer shall provide written notification to the disqualified
23 person within 5 business days which shall contain the
24 following:

25 (1) notice of the disqualifying conviction or
26 convictions that are the basis of the preliminary decision

1 and the reasons for the disqualification;

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

5 (3) an explanation of the disqualified person's right
6 to respond to the decision of the owner or other person
7 making the conditional offer before the preliminary
8 decision becomes final. The explanation shall inform the
9 disqualified person that the response may include, but is
10 not limited to, submission of evidence challenging the
11 accuracy of the conviction record that is the basis for
12 the disqualification, or evidence of mitigation, such as
13 rehabilitation.

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

17 (G) The owner or person making the conditional offer shall
18 consider information submitted by the disqualified person
19 before making a final decision. If an owner or other person
20 making the conditional offer makes a final decision based on
21 the disqualified person's conviction record, the owner or any
22 other person making the conditional offer shall provide
23 written notification to the disqualified person within 5
24 business days which shall contain the following:

25 (1) notice of the disqualifying conviction or
26 convictions that are the basis of the final decision and

1 the reasons for the disqualification;

2 (2) any existing procedure the owner or other person
3 making the conditional offer has for the disqualified
4 person to challenge the decision or request
5 reconsideration; and

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

7 (H) A licensed real estate agent acting in the sole
8 capacity as a landlord shall not be subject to penalties under
9 subsection (a) of Section 20-20 of the Real Estate License Act
10 of 2000 for a violation of this Section.

11 (775 ILCS 5/3-102.10)

12 Sec. 3-102.10. Third-party loan modification service
13 provider.

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

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

19 (2) alter the terms, conditions, or privileges of such
20 services; or

21 (3) discriminate in making such services available,
22 including, but not limited to, by making a statement,
23 advertisement, representation, inquiry, listing, offer, or
24 solicitation that indicates a preference or the intention
25 to make such a preference in making such services

1 available.

2 (B) For purposes of this Section, "third-party loan
3 modification service provider" means a person or entity,
4 whether licensed or not, who, for or with the expectation of
5 receiving consideration, provides assistance or services to a
6 loan borrower to obtain a modification to a term of an existing
7 real estate loan or to obtain foreclosure relief. "Third-party
8 loan modification service provider" does not include lenders,
9 brokers or appraisers of mortgage loans, or the servicers,
10 subsidiaries, affiliates, or agents of the lender.

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

12 (775 ILCS 5/3-106) (from Ch. 68, par. 3-106)

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

15 (A) Private Sales of Single Family Homes.

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

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

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

23 (c) The home is sold without the use in any manner
24 of the sales or rental facilities or services of any
25 real estate broker or salesman, or of any employee or

1 agent of any real estate broker or salesman;

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

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

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

13 (C) Private Rooms. Rental of a room or rooms in a private
14 home by an owner if the owner or a member of the owner's family
15 resides therein or, while absent for a period of not more than
16 12 months, if the owner or a member of the owner's family
17 intends to return to reside therein. This exemption does not
18 apply to paragraph (F) of Section 3-102.

19 (D) Reasonable local, State, or Federal restrictions
20 regarding the maximum number of occupants permitted to occupy
21 a dwelling.

22 (E) Religious Organizations. A religious organization,
23 association, or society, or any nonprofit institution or
24 organization operated, supervised or controlled by or in
25 conjunction with a religious organization, association, or
26 society, from limiting the sale, rental or occupancy of a

1 dwelling which it owns or operates for other than a commercial
2 purpose to persons of the same religion, or from giving
3 preference to such persons, unless membership in such religion
4 is restricted on account of race, color, or national origin.

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

7 (G) (Blank). ~~Persons Convicted of Drug Related Offenses.~~
8 ~~Conduct against a person because such person has been~~
9 ~~convicted by any court of competent jurisdiction of the~~
10 ~~illegal manufacture or distribution of a controlled substance~~
11 ~~as defined in Section 102 of the federal Controlled Substances~~
12 ~~Act (21 U.S.C. 802).~~

13 (H) Persons engaged in the business of furnishing
14 appraisals of real property from taking into consideration
15 factors other than those based on unlawful discrimination or
16 familial status or source of income in furnishing appraisals.

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

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

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

1 (a) provided under any State or Federal program
2 that the Department determines is specifically
3 designed and operated to assist elderly persons (as
4 defined in the State or Federal program); or

5 (b) intended for, and solely occupied by, persons
6 62 years of age or older; or

7 (c) intended and operated for occupancy by persons
8 55 years of age or older and:

9 (i) at least 80% of the occupied units are
10 occupied by at least one person who is 55 years of
11 age or older;

12 (ii) the housing facility or community
13 publishes and adheres to policies and procedures
14 that demonstrate the intent required under this
15 subdivision (c); and

16 (iii) the housing facility or community
17 complies with rules adopted by the Department for
18 verification of occupancy, which shall:

19 (aa) provide for verification by reliable
20 surveys and affidavits; and

21 (bb) include examples of the types of
22 policies and procedures relevant to a
23 determination of compliance with the
24 requirement of clause (ii).

25 These surveys and affidavits shall be admissible in
26 administrative and judicial proceedings for the purposes

1 of such verification.

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

4 (a) persons residing in such housing as of the
5 effective date of this amendatory Act of 1989 who do
6 not meet the age requirements of subsections (1)(b) or
7 (c); provided, that new occupants of such housing meet
8 the age requirements of subsections (1)(b) or (c) of
9 this subsection; or

10 (b) unoccupied units; provided, that such units
11 are reserved for occupancy by persons who meet the age
12 requirements of subsections (1)(b) or (c) of this
13 subsection.

14 (3)(a) A person shall not be held personally liable
15 for monetary damages for a violation of this Article if
16 the person reasonably relied, in good faith, on the
17 application of the exemption under this subsection (I)
18 relating to housing for older persons.

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

22 (i) the person has no actual knowledge that the
23 facility or community is not, or will not be, eligible
24 for the exemption; and

25 (ii) the facility or community has stated
26 formally, in writing, that the facility or community

1 complies with the requirements for the exemption.

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

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

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

13 (K-10) Sex Offender Conviction Records. Use of a criminal
14 conviction that results in a current sex offender registration
15 requirement pursuant to the Sex Offender Registration Act or a
16 similar law in another jurisdiction, or a current child sex
17 offender residency restriction.

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

22 (M) Immigration Status. Inquiry into or the use of
23 immigration status if the inquiry or use is in compliance with
24 State or federal law.

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