

AN ACT concerning local government.

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

Article 1.

Section 1-5. The Property Tax Code is amended by changing Sections 21-295, 21-310, 21-355 as follows:

(35 ILCS 200/21-295)

Sec. 21-295. Creation of indemnity fund.

(a) In counties of less than 3,000,000 inhabitants, each person purchasing any property at a sale under this Code shall pay to the County Collector, prior to the issuance of any certificate of purchase, an indemnity fee set by the county collector of not more than \$20 for each item purchased. A like sum shall be paid for each year that all or a portion of subsequent taxes are paid by the tax purchaser and posted to the tax judgment, sale, redemption and forfeiture record where the underlying certificate of purchase is recorded.

(a-5) In counties of 3,000,000 or more inhabitants, each person purchasing property at a sale under this Code shall pay to the County Collector a nonrefundable fee of \$80 for each item purchased plus an additional sum equal to 5% of ~~taxes, interest, and penalties paid by the purchaser, including the~~

taxes, interest, and penalties paid under Section 21-240. In these counties, the certificate holder shall also pay to the County Collector a fee of \$80 for each year that all or a portion of subsequent taxes are paid by the tax purchaser and posted to the tax judgment, sale, redemption, and forfeiture record, ~~plus an additional sum equal to 5% of all subsequent taxes, interest, and penalties. The additional 5% fees are not required after December 31, 2006.~~ The changes to this subsection made by this amendatory Act of the 91st General Assembly are not a new enactment, but declaratory of existing law.

(b) The amount paid prior to issuance of the certificate of purchase pursuant to subsection (a) or (a-5) shall be included in the purchase price of the property in the certificate of purchase and all amounts paid under this Section shall be included in the amount required to redeem under Section 21-355, except for the nonrefundable \$80 fee for each item purchased at the tax sale as provided in this Section. Except as otherwise provided in subsection (b) of Section 21-300, all money received under subsection (a) or (a-5) shall be paid by the Collector to the County Treasurer of the County in which the land is situated, for the purpose of an indemnity fund. The County Treasurer, as trustee of that fund, shall invest all of that fund, principal and income, in his or her hands from time to time, if not immediately required for payments of indemnities under subsection (a) of Section 21-305, in

investments permitted by the Illinois State Board of Investment under Article 22A of the Illinois Pension Code. The county collector shall report annually to the county clerk on the condition and income of the fund. The indemnity fund shall be held to satisfy judgments obtained against the County Treasurer, as trustee of the fund. No payment shall be made from the fund, except upon a judgment of the court which ordered the issuance of a tax deed.

(Source: P.A. 100-1070, eff. 1-1-19.)

(35 ILCS 200/21-310)

Sec. 21-310. Sales in error.

(a) When, upon application of the county collector, the owner of the certificate of purchase, or a municipality which owns or has owned the property ordered sold, it appears to the satisfaction of the court which ordered the property sold that any of the following subsections are applicable, the court shall declare the sale to be a sale in error:

(1) the property was not subject to taxation, or all or any part of the lien of taxes sold has become null and void pursuant to Section 21-95 or unenforceable pursuant to subsection (c) of Section 18-250 or subsection (b) of Section 22-40,

(2) the taxes or special assessments had been paid prior to the sale of the property,

(3) there is a double assessment,

(4) the description is void for uncertainty,

(5) the assessor, chief county assessment officer, board of review, board of appeals, or other county official has made an error (other than an error of judgment as to the value of any property),

(5.5) the owner of the homestead property had tendered timely and full payment to the county collector that the owner reasonably believed was due and owing on the homestead property, and the county collector did not apply the payment to the homestead property; provided that this provision applies only to homeowners, not their agents or third-party payors,

(6) prior to the tax sale a voluntary or involuntary petition has been filed by or against the legal or beneficial owner of the property requesting relief under the provisions of 11 U.S.C. Chapter 7, 11, 12, or 13,

(7) the property is owned by the United States, the State of Illinois, a municipality, or a taxing district, or

(8) the owner of the property is a reservist or guardsperson who is granted an extension of his or her due date under Sections 21-15, 21-20, and 21-25 of this Act.

(b) When, upon application of the owner of the certificate of purchase only, it appears to the satisfaction of the court which ordered the property sold that any of the following subsections are applicable, the court shall declare the sale to be a sale in error:

(1) A voluntary or involuntary petition under the provisions of 11 U.S.C. Chapter 7, 11, 12, or 13 has been filed subsequent to the tax sale and prior to the issuance of the tax deed.

(2) The improvements upon the property sold have been substantially destroyed or rendered uninhabitable or otherwise unfit for occupancy subsequent to the tax sale and prior to the issuance of the tax deed; however, if the court declares a sale in error under this paragraph (2), the court may order the holder of the certificate of purchase to assign the certificate to the county collector if requested by the county collector. The county collector may, upon request of the county, as trustee, or upon request of a taxing district having an interest in the taxes sold, further assign any certificate of purchase received pursuant to this paragraph (2) to the county acting as trustee for taxing districts pursuant to Section 21-90 of this Code or to the taxing district having an interest in the taxes sold.

(3) There is an interest held by the United States in the property sold which could not be extinguished by the tax deed.

(4) The real property contains a hazardous substance, hazardous waste, or underground storage tank that would require cleanup or other removal under any federal, State, or local law, ordinance, or regulation, only if the tax

purchaser purchased the property without actual knowledge of the hazardous substance, hazardous waste, or underground storage tank. This paragraph (4) applies only if the owner of the certificate of purchase has made application for a sale in error at any time before the issuance of a tax deed. If the court declares a sale in error under this paragraph (4), the court may order the holder of the certificate of purchase to assign the certificate to the county collector if requested by the county collector. The county collector may, upon request of the county, as trustee, or upon request of a taxing district having an interest in the taxes sold, further assign any certificate of purchase received pursuant to this paragraph (4) to the county acting as trustee for taxing districts pursuant to Section 21-90 of this Code or to the taxing district having an interest in the taxes sold.

Whenever a court declares a sale in error under this subsection (b), the court shall promptly notify the county collector in writing. Every such declaration pursuant to any provision of this subsection (b) shall be made within the proceeding in which the tax sale was authorized.

(c) When the county collector discovers, prior to the expiration of the period of redemption, that a tax sale should not have occurred for one or more of the reasons set forth in subdivision (a) (1), (a) (2), (a) (6), or (a) (7) of this Section,

the county collector shall notify the last known owner of the certificate of purchase by certified and regular mail, or other means reasonably calculated to provide actual notice, that the county collector intends to declare an administrative sale in error and of the reasons therefor, including documentation sufficient to establish the reason why the sale should not have occurred. The owner of the certificate of purchase may object in writing within 28 days after the date of the mailing by the county collector. If an objection is filed, the county collector shall not administratively declare a sale in error, but may apply to the circuit court for a sale in error as provided in subsection (a) of this Section. Thirty days following the receipt of notice by the last known owner of the certificate of purchase, or within a reasonable time thereafter, the county collector shall make a written declaration, based upon clear and convincing evidence, that the taxes were sold in error and shall deliver a copy thereof to the county clerk within 30 days after the date the declaration is made for entry in the tax judgment, sale, redemption, and forfeiture record pursuant to subsection (d) of this Section. The county collector shall promptly notify the last known owner of the certificate of purchase of the declaration by regular mail and shall promptly pay the amount of the tax sale, together with interest and costs as provided in Section 21-315, upon surrender of the original certificate of purchase.

(d) If a sale is declared to be a sale in error, the county

clerk shall make entry in the tax judgment, sale, redemption and forfeiture record, that the property was erroneously sold, and the county collector shall, on demand of the owner of the certificate of purchase, refund the amount paid, except for the nonrefundable \$80 fee paid, pursuant to Section 21-295, for each item purchased at the tax sale, pay any interest and costs as may be ordered under Sections 21-315 through 21-335, and cancel the certificate so far as it relates to the property. The county collector shall deduct from the accounts of the appropriate taxing bodies their pro rata amounts paid. Alternatively, for sales in error declared under subsection (b) (2) or (b) (4), the county collector may request the circuit court to direct the county clerk to record any assignment of the tax certificate to or from the county collector without charging a fee for the assignment. The owner of the certificate of purchase shall receive all statutory refunds and payments. The county collector shall deduct costs and payments in the same manner as if a sale in error had occurred.

(Source: P.A. 100-890, eff. 1-1-19; 101-379, eff. 1-1-20.)

(35 ILCS 200/21-355)

Sec. 21-355. Amount of redemption. Any person desiring to redeem shall deposit an amount specified in this Section with the county clerk of the county in which the property is situated, in legal money of the United States, or by cashier's check, certified check, post office money order or money order

issued by a financial institution insured by an agency or instrumentality of the United States, payable to the county clerk of the proper county. The deposit shall be deemed timely only if actually received in person at the county clerk's office prior to the close of business as defined in Section 3-2007 of the Counties Code on or before the expiration of the period of redemption or by United States mail with a post office cancellation mark dated not less than one day prior to the expiration of the period of redemption. The deposit shall be in an amount equal to the total of the following:

(a) the certificate amount, which shall include all tax principal, special assessments, interest and penalties paid by the tax purchaser together with costs and fees of sale and fees paid under Sections 21-295 and 21-315 through 21-335, except for the nonrefundable \$80 fee paid, pursuant to Section 21-295, for each item purchased at the tax sale;

(b) the accrued penalty, computed through the date of redemption as a percentage of the certificate amount, as follows:

(1) if the redemption occurs on or before the expiration of 6 months from the date of sale, the certificate amount times the penalty bid at sale;

(2) if the redemption occurs after 6 months from the date of sale, and on or before the expiration of 12 months from the date of sale, the certificate amount times 2 times the penalty bid at sale;

(3) if the redemption occurs after 12 months from the date of sale and on or before the expiration of 18 months from the date of sale, the certificate amount times 3 times the penalty bid at sale;

(4) if the redemption occurs after 18 months from the date of sale and on or before the expiration of 24 months from the date of sale, the certificate amount times 4 times the penalty bid at sale;

(5) if the redemption occurs after 24 months from the date of sale and on or before the expiration of 30 months from the date of sale, the certificate amount times 5 times the penalty bid at sale;

(6) if the redemption occurs after 30 months from the date of sale and on or before the expiration of 36 months from the date of sale, the certificate amount times 6 times the penalty bid at sale.

In the event that the property to be redeemed has been purchased under Section 21-405, the penalty bid shall be 12% per penalty period as set forth in subparagraphs (1) through (6) of this subsection (b). The changes to this subdivision (b)(6) made by this amendatory Act of the 91st General Assembly are not a new enactment, but declaratory of existing law.

(c) The total of all taxes, special assessments, accrued interest on those taxes and special assessments and costs charged in connection with the payment of those taxes

or special assessments, except for the nonrefundable \$80 fee paid, pursuant to Section 21-295, for each item purchased at the tax sale, which have been paid by the tax certificate holder on or after the date those taxes or special assessments became delinquent together with 12% penalty on each amount so paid for each year or portion thereof intervening between the date of that payment and the date of redemption. In counties with less than 3,000,000 inhabitants, however, a tax certificate holder may not pay all or part of an installment of a subsequent tax or special assessment for any year, nor shall any tender of such a payment be accepted, until after the second or final installment of the subsequent tax or special assessment has become delinquent or until after the holder of the certificate of purchase has filed a petition for a tax deed under Section 22.30. The person redeeming shall also pay the amount of interest charged on the subsequent tax or special assessment and paid as a penalty by the tax certificate holder. This amendatory Act of 1995 applies to tax years beginning with the 1995 taxes, payable in 1996, and thereafter.

(d) Any amount paid to redeem a forfeiture occurring subsequent to the tax sale together with 12% penalty thereon for each year or portion thereof intervening between the date of the forfeiture redemption and the date of redemption from the sale.

(e) Any amount paid by the certificate holder for redemption of a subsequently occurring tax sale.

(f) All fees paid to the county clerk under Section 22-5.

(g) All fees paid to the registrar of titles incident to registering the tax certificate in compliance with the Registered Titles (Torrens) Act.

(h) All fees paid to the circuit clerk and the sheriff, a licensed or registered private detective, or the coroner in connection with the filing of the petition for tax deed and service of notices under Sections 22-15 through 22-30 and 22-40 in addition to (1) a fee of \$35 if a petition for tax deed has been filed, which fee shall be posted to the tax judgment, sale, redemption, and forfeiture record, to be paid to the purchaser or his or her assignee; (2) a fee of \$4 if a notice under Section 22-5 has been filed, which fee shall be posted to the tax judgment, sale, redemption, and forfeiture record, to be paid to the purchaser or his or her assignee; (3) all costs paid to record a lis pendens notice in connection with filing a petition under this Code; and (4) if a petition for tax deed has been filed, all fees up to \$150 per redemption paid to a registered or licensed title insurance company or title insurance agent for a title search to identify all owners, parties interested, and occupants of the property, to be paid to the purchaser or his or her assignee. The fees in (1) and

(2) of this paragraph (h) shall be exempt from the posting requirements of Section 21-360. The costs incurred in causing notices to be served by a licensed or registered private detective under Section 22-15, may not exceed the amount that the sheriff would be authorized by law to charge if those notices had been served by the sheriff.

(i) All fees paid for publication of notice of the tax sale in accordance with Section 22-20.

(j) All sums paid to any county, city, village or incorporated town for reimbursement under Section 22-35.

(k) All costs and expenses of receivership under Section 21-410, to the extent that these costs and expenses exceed any income from the property in question, if the costs and expenditures have been approved by the court appointing the receiver and a certified copy of the order or approval is filed and posted by the certificate holder with the county clerk. Only actual costs expended may be posted on the tax judgment, sale, redemption and forfeiture record.

(Source: P.A. 98-1162, eff. 6-1-15.)

Article 5.

Section 5-5. The Housing Authorities Act is amended by changing Sections 8.23, 17, and 25 and by adding Sections 8.10a, 25.01, and 25.02 as follows:

(310 ILCS 10/8.10a new)

Sec. 8.10a. Criminal history record data.

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

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

(2) 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;

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

(4) the number of criminal records assessment hearings requested by applicants for housing who were denied federally assisted housing on the basis of a criminal history records check; and

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

(b) The information required in this Section shall be disaggregated by the race, ethnicity, and sex of applicants for

housing. This information shall be reported to the Illinois Criminal Justice Information Authority and shall be compiled and reported to the General Assembly annually by the Illinois Criminal Justice Information Authority. The Illinois Criminal Justice Information Authority shall also make this report publicly available, including on its website, without fee.

(310 ILCS 10/8.23)

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

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

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

leaseholder's address.

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

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

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

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

(b) "Area" or "area of operation" shall mean: (1) in the case of an authority which is created hereunder for a city, village, or incorporated town, the area within the territorial boundaries of said city, village, or incorporated town, and so long as no county housing authority has jurisdiction therein, the area within three miles from such territorial boundaries, except any part of such area located within the territorial boundaries of any other city, village, or incorporated town; and (2) in the case of a county shall include all of the county except the area of any city, village or incorporated town located therein in which there is an Authority. When an authority is created for a county subsequent to the creation of an authority for a city, village or incorporated town within the same county, the area of operation of the authority for

such city, village or incorporated town shall thereafter be limited to the territory of such city, village or incorporated town, but the authority for such city, village or incorporated town may continue to operate any project developed in whole or in part in an area previously a part of its area of operation, or may contract with the county housing authority with respect to the sale, lease, development or administration of such project. When an authority is created for a city, village or incorporated town subsequent to the creation of a county housing authority which previously included such city, village or incorporated town within its area of operation, such county housing authority shall have no power to create any additional project within the city, village or incorporated town, but any existing project in the city, village or incorporated town currently owned and operated by the county housing authority shall remain in the ownership, operation, custody and control of the county housing authority.

(b-5) "Criminal history record" means a record of arrest, complaint, indictment, or any disposition arising therefrom.

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

(c) "Presiding officer" shall mean the presiding officer of the board of a county, or the mayor or president of a city,

village or incorporated town, as the case may be, for which an Authority is created hereunder.

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

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

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

(g) "Project" shall include all lands, buildings, and improvements, acquired, owned, leased, managed or operated by a housing authority, and all buildings and improvements constructed, reconstructed or repaired by a housing authority, designed to provide housing accommodations and facilities appurtenant thereto (including community facilities and stores) which are planned as a unit, whether or not acquired or constructed at one time even though all or a portion of the buildings are not contiguous or adjacent to one another; and the planning of buildings and improvements, the acquisition of property, the demolition of existing structures, the clearing of land, the construction, reconstruction, and repair of buildings or improvements and all other work in connection therewith. As provided in Sections 8.14 to 8.18, inclusive, "project" also means, for Housing Authorities for municipalities of less than 500,000 population and for

counties, the conservation of urban areas in accordance with an approved conservation plan. "Project" shall also include (1) acquisition of (i) a slum or blighted area or a deteriorated or deteriorating area which is predominantly residential in character, or (ii) any other deteriorated or deteriorating area which is to be developed or redeveloped for predominantly residential uses, or (iii) platted urban or suburban land which is predominantly open and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise substantially impairs or arrests the sound growth of the community and which is to be developed for predominantly residential uses, or (iv) open unplatted urban or suburban land necessary for sound community growth which is to be developed for predominantly residential uses, or (v) any other area where parcels of land remain undeveloped because of improper platting, delinquent taxes or special assessments, scattered or uncertain ownerships, clouds on title, artificial values due to excessive utility costs, or any other impediments to the use of such area for predominantly residential uses; (2) installation, construction, or reconstruction of streets, utilities, and other site improvements essential to the preparation of sites for uses in accordance with the development or redevelopment plan; and (3) making the land available for development or redevelopment by private enterprise or public agencies (including sale, initial leasing, or retention by the local public agency itself). If in

any city, village or incorporated town there exists a land clearance commission created under the "Blighted Areas Redevelopment Act of 1947" having the same area of operation as a housing authority created in and for any such municipality such housing authority shall have no power to acquire land of the character described in subparagraph (iii), (iv) or (v) of paragraph 1 of the definition of "project" for the purpose of development or redevelopment by private enterprise.

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

(i) "Real property" shall include lands, lands under water, structures, and any and all easements, franchises and incorporeal hereditaments and estates, and rights, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise.

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

(k) The phrase "individual, association, corporation or organization" shall include any individual, private corporation, limited or general partnership, limited liability

company, insurance company, housing corporation, neighborhood redevelopment corporation, non-profit corporation, incorporated or unincorporated group or association, educational institution, hospital, or charitable organization, and any mutual ownership or cooperative organization.

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

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

(n) "Fair use value" means the fair cash market value of

real property when employed for the use contemplated by a "Conservation Plan" in municipalities of less than 500,000 population and in counties.

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

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

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

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

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

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

selection:

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

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

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

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

~~(e) It may refuse to certify or recertify applicants, current tenants, or other household members if, after due~~

~~notice and an impartial hearing, that person or any of the proposed occupants of the dwelling has, prior to or during a term of tenancy or occupancy in any housing project operated by an Authority, been convicted of a criminal offense relating to the sale or distribution of controlled substances under the laws of this State, the United States or any other state.~~ If an Authority desires a criminal history records check of all 50 states or a 50-state confirmation of a conviction record, the Authority shall submit the fingerprints of the relevant applicant, tenant, or other household member to the Department of State Police in a manner prescribed by the Department of State Police. These fingerprints shall be checked against the fingerprint records now and hereafter filed in the Department of State Police and Federal Bureau of Investigation criminal history records databases. The Department of State Police shall charge a fee for conducting the criminal history records check, which shall be deposited in the State Police Services Fund and shall not exceed the actual cost of the records check. The Department of State Police shall furnish pursuant to positive identification, records of conviction to the Authority. An Authority that requests a criminal history report of an applicant or other household member shall inform the applicant at the time of the request that the applicant or other household member may provide additional mitigating information for consideration with the application for housing.

(e-5) Criminal history record assessment. The Authority

shall use the following process when evaluating the criminal history report of an applicant or other household member to determine whether to rent or lease to the applicant:

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

(A) an arrest or detention;

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

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

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

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

(F) convictions occurring more than 180 days prior to the date the applicant submitted his or her application for housing.

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

(A) the reviewer shall examine the applicant's or other household member's criminal history report and report only those records not prohibited under paragraph (1) to the person or persons making the

decision about whether to offer housing to the applicant; and

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

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

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

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

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

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

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

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

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

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

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

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

(310 ILCS 10/25.01 new)

Sec. 25.01. Notification. Before denying an applicant's

housing application based, in whole or in part, on a criminal history record permitted under this Act, the Authority shall provide the opportunity for an individual assessment. The applicant for housing shall be provided with a clear, written notice that:

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

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

(3) explains that the applicant has a right to an individualized criminal records assessment hearing regarding the Authority's decision to deny the applicant's housing application, as set forth in Section 25.02;

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

(5) explains that if the applicant chooses not to participate in an individualized criminal records assessment hearing, the applicant's application will be

denied; and

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

(310 ILCS 10/25.02 new)

Sec. 25.02. Criminal records assessment hearing.

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

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

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

(3) provide mitigating evidence concerning the applicant's or other household member's criminal conviction or evidence of rehabilitation.

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

(c) The Authority shall adopt rules for criminal records assessment hearings in accordance with Article 10 of the

Public Act 101-0659

SB1980 Enrolled

LRB101 09593 AWJ 54691 b

Illinois Administrative Procedure Act.

Article 99.

Section 99-99. Effective date. This Act takes effect upon becoming law.