

PROPOSED SECOND SUBSTITUTE FOR #19-2394 (replaces all previous versions issued)
HUMAN RELATIONS COMMITTEE 4/24/2019

PROPOSED ORDINANCE AMENDMENT

Sponsored by: BRANDON JOHNSON, LARRY SUFFREDIN and JEFFREY R. TOBOLSKI, Cook County Board of Commissioners

BE IT ORDAINED, by the Board of Commissioners of Cook County that Chapter 42 Human Relations, Section 42-38, of the Cook County Code is hereby amended as follows:

Sec. 42-38. - Housing.

- (a) *Definitions.* The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Conviction means a judgment of liability entered upon a plea, verdict or finding of guilt for an offense, rendered by a legally constituted jury, court or administrative authority of competent jurisdiction. Conviction excludes any “juvenile record” as defined below.

Covered criminal history means information regarding an individual’s arrest, charge or citation for an offense; participation in a diversion or deferral of judgment program; record of an offense that has been sealed, expunged, or pardoned in accordance with applicable law; juvenile record; and conviction.

Evidence of rehabilitation means any information produced by the individual, or produced on their behalf, with respect to their rehabilitation or good conduct, including but not limited to: the individual’s satisfactory compliance with all terms and conditions of his or her sentence; court-issued certificates of good conduct; employer recommendations; educational attainment or vocational or professional training since the conviction; completion or active participation in rehabilitative treatment; and letters of recommendation from community organizations, counselors or case managers, teachers, community leaders, religious institutions or leaders, or parole/probation officers who have observed the individual since his or her conviction.

Individualized assessment means a process by which a person considers all factors relevant to an individual’s conviction history and whether that history negatively impacts the individual’s ability to fulfill the responsibilities of tenancy, including but not limited to:

- (1) The nature, severity, and recency of the conduct underlying the individual’s specific conviction(s);
- (2) The nature of the individual’s sentencing;
- (3) The number of the individual’s convictions;
- (4) The length of time that has passed following the individual’s most recent conviction;
- (5) The age of the individual at the time of the most recent conviction;
- (6) Evidence of rehabilitation; and
- (7) The individual’s tenant history before and/or after the conviction

Juvenile record means juvenile court records, as defined in 705 ILCS 405/1-3(8.1) or comparable state law, and juvenile law enforcement records, as defined in 705 ILCS 405/1-3(3.2) or comparable state law.

Offense means a violation of any penal statute, ordinance, law, or code of any jurisdiction.

Person shall mean any person as defined in Section 46-31(15) of this article that is also an owner, lessor, sublessor, assignor, managing agent, or other individual, firm, or corporation having the right to sell,

rent, lease, or sublease any housing unit within Cook County, or any agent, broker, or other individual working on behalf of any such individual, firm, or corporation.

Real estate transaction means the sale, exchange, rental, occupancy, lease, sublease, or lease renewal of real property for residential purposes in Cook County or the provision of services or utilities in connection with such sale, exchange, rental, occupancy, lease, sublease, or lease renewal. The term "real estate transaction" also means with respect to activity conducted or property located in Cook County, the brokering or appraising of residential real property in Cook County and the making, purchasing, or guaranteeing of loans or mortgages or providing any other financial assistance either:

- (1) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
- (2) Secured by residential real property.

(b) *Prohibitions.*

- (1) *Terms and conditions.* No person shall make any distinction, discrimination, or restriction in the price, terms, conditions, or privileges of any real estate transaction, including the decision to engage in or renew any real estate transaction, on the basis of unlawful discrimination or covered criminal history.
- (2) *Discriminatory communications.* No person shall publish, circulate, issue, or display, or cause to be published, circulated, issued, or displayed, any communication, notice, advertisement, sign or other writing of any kind relating to a real estate transaction which will indicate or express any unlawful limitation or discrimination on the basis of unlawful discrimination or covered criminal history.
- (3) *Listings.* No person shall deliberately and knowingly refuse examination of any listing of residential real property within Cook County to any individual because of unlawful discrimination or covered criminal history.
- (4) *Representations.* No person shall deliberately and knowingly represent to an individual that residential real property is not available for inspection, sale, rental, or lease in Cook County when in fact it is available, or fail to bring a residential real estate listing in Cook County to an individual's attention, or refuse to permit a person to inspect residential real property in Cook County because of unlawful discrimination or covered criminal history.
- (5) *Blockbusting.* No person shall solicit, for sale, lease, or listing for sale or lease, residential real property within Cook County on the grounds of loss of value due to the present or prospective entry into any neighborhood of any individual(s) ~~or individuals~~ of any particular race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, gender identity, or housing status, or with any covered criminal history.
- (6) *Encouragement of blockbusting.* No person shall distribute or cause to be distributed written material or statements designed to induce any owner of residential real property in Cook County to sell or lease such owner's property because of any prospective change in the race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, gender identity, or housing status of individuals in the neighborhood, or because of the presence or prospective entry into the neighborhood of any individual(s) with any covered criminal history.
- (7) *Creating alarm.* No person shall intentionally create alarm among residents of any community within Cook County by transmitting communication in any manner, including a telephone call whether or not conversation thereby ensues, with a design to induce any person within Cook County to sell or lease the person's residential real property within Cook County because of the present or prospective entry into the vicinity of the property of any individual(s) ~~or individuals~~

with any covered criminal history or of any particular race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, gender identity, or housing status.

(8) Preemptive inquiries. No person shall inquire about, consider, or require disclosure of covered criminal history when considering an application for admission to, or continuing occupancy of, residential real property until the individual has been determined qualified for admission to, or continuing occupancy of, residential real property.

(c) *Exceptions.* The prohibitions in this section shall not apply to any of the following:

- (1) *Age.* Restricting rental or sale of a housing accommodation to an individual of a certain age group:
 - a. When such housing accommodation is authorized, approved, financed, or subsidized in whole or in part for the benefit of that age group by a unit of State, local, or Federal government; or
 - b. When the duly recorded initial declaration of a condominium or community association limits such housing accommodations to individuals 50 years of age or older, provided that an individual or members of the household of an individual owning or renting a unit in such housing accommodation prior to the recording of the initial declaration shall not be deemed to be in violation of the age restriction as long as the individual or household member continues to own or reside in the housing accommodation.
- (2) *Religion.* Limitation by a religious organization, association, or society, or any not-for-profit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, of the sale, rental, or occupancy of a dwelling which it owns or operates for other than a commercial purpose to individuals of the same religion, or from giving preference to such individuals.
- (3) *Single sex.* Restricting the rental of rooms in a housing accommodation to individuals of one sex. The determination of an individual's sex or gender shall be based upon the sex or gender of that individual as reflected on any official identification of that individual recognized by the State, including a driver's license or State identification card.
- (4) *Private rooms.* Rental of a room or rooms in a private home by an owner if the owner or a member of the owner's family resides therein or, while absent for a period of not more than 12 months, if the owner or a member of the owner's family intends to return to reside therein.
- (5) Certain conviction history. Denying the admission to or continuing occupancy of residential real property on the basis of:
 - a. a current sex offender registration requirement pursuant to the Sex Offender Registration Act (or similar law in another jurisdiction);
 - b. a current child sex offender residency restriction; or
 - c. a criminal conviction, provided that the person conducts an individualized assessment, and the individualized assessment shows that denial based on the criminal conviction is necessary to protect against a demonstrable risk to personal safety and/or property of others affected by the transaction. The Cook County Commission on Human Rights shall promulgate rules to enforce this exception.
- (6) Applicable law. Denying the admission to or continuing occupancy of residential real property on the basis of covered criminal history when federal or state law mandates such denial.

(d) *Sexual harassment.*

- (1) No person shall engage in sexual harassment in any real estate transaction.

- (2) When used in this subsection, the term "sexual harassment" means any unwelcome sexual advance, request for sexual favors, or conduct of a sexual nature when:
- a. Submission to such conduct is an explicit or implicit term or condition of an individual's real estate transaction;
 - b. Submission to or rejection of such conduct by an individual is used as the basis for any decision affecting the individual's real estate transaction; or
 - c. Such conduct has the purpose or effect of substantially interfering with an individual's real estate transaction or creating an intimidating, hostile, or offensive environment with respect thereto.

(e) Notice and Opportunity to Dispute Conviction History.

- (1) Before an owner may deny admission or continued occupancy on the basis of a conviction, the owner must first give the individual sufficient notice and an opportunity to dispute the accuracy and relevance of the conviction.
- (2) To comply with Section (1), the owner must:
- a. Before denying admission or continued occupancy, provide the individual with a copy of the tenant selection criteria, a copy of any criminal background check relied upon, and an opportunity to dispute the accuracy and relevance of the conviction(s);
 - b. Upon denying admission or continued occupancy, notify the individual in writing the reasons why denial based on the conviction is necessary to protect against a demonstrable risk to personal safety and/or property of others affected by the transaction pursuant to Section 42-38(c)(5)(c);
 - c. Limit the use or dissemination of information about an applicant's criminal history obtained in conjunction with Section (2)(a) to the purpose of evaluating applicants in a manner consistent with this ordinance. Unless otherwise mandated by law, the owner must keep such information confidential.

Effective date: This ordinance amendment shall become effective three months after the date of adoption.