

# SENATE BILL NO. 1154

November 26, 2024, Introduced by Senator CAVANAGH and referred to the Committee on Housing and Human Services.

An act to prohibit landlords from requiring certain disclosures from certain applicants for rental units; to provide exceptions; to require the promulgation of rules; to provide remedies; to prescribe civil sanctions; and to provide for the powers and duties of certain state and local governmental officers and entities.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act may be cited as the "Michigan fair chance  
2 access to housing act".

3           Sec. 3. As used in this act:

1 (a) "Applicant" means an individual that submits a rental  
2 application to rent or lease a rental unit.

3 (b) "Arrest record" means information that indicates that an  
4 individual has been questioned, apprehended, taken into custody or  
5 detention, held for investigation, arrested, charged, indicted, or  
6 tried for any felony, misdemeanor, or other offense by a law  
7 enforcement agency.

8 (c) "Background check report" means a report by a law  
9 enforcement agency, court, consumer reporting agency, or tenant  
10 screening agency regarding an applicant's criminal history.

11 (d) "Bona fide purchaser" means a person that in good faith  
12 makes a purchase without notice of any outstanding rights of  
13 others.

14 (e) "Conditional offer" means a written offer to rent or lease  
15 a rental unit made by the landlord to an applicant that is  
16 contingent on a subsequent inquiry into the applicant's criminal  
17 record.

18 (f) "Criminal record" means information transmitted orally, in  
19 writing, or by any other means, and obtained from any source,  
20 including, but not limited to, the individual to whom the  
21 information pertains, a government agency, or a background check  
22 report, regarding any of the following:

23 (i) A conviction.

24 (ii) An arrest record.

25 (iii) A sealed, dismissed, or vacated conviction.

26 (iv) An expunged, voided, or invalidated conviction.

27 (v) A conviction rendered inoperative by judicial action or by  
28 statute.

29 (vi) A determination or adjudication in the juvenile justice

1 system.

2 (vii) A matter considered in or processed through the juvenile  
3 justice system.

4 (viii) Participation in or completion of a diversion program.

5 (ix) A deferral of a diversion program.

6 (g) "Department" means the department of attorney general.

7 (h) "Holding deposit" means a payment requested by a landlord  
8 during the application for a rental unit to reserve a rental unit  
9 for an applicant.

10 (i) "Landlord" means any of the following:

11 (i) The owner, lessor, or sublessor of a rental unit or the  
12 property of which it is a part.

13 (ii) A person authorized to exercise any aspect of the  
14 management of the premises, including a person that directly or  
15 indirectly acts as a rental agent, or receives rent, other than as  
16 a bona fide purchaser, and has no obligation to deliver the rent  
17 payments to another person.

18 (j) "Law enforcement agency" means the police department of a  
19 city, township, or village, the sheriff's department of a county,  
20 the department, the department of state police, or any other  
21 governmental law enforcement agency of this state.

22 (k) "Rental unit" means a structure or part of a structure  
23 used as a home, residence, or sleeping unit by a single person or  
24 household unit, or any grounds, or other facilities or area  
25 promised for the use of a residential tenant. Rental unit includes,  
26 but is not limited to, apartment units, boarding houses, rooming  
27 houses, mobile home spaces, and single- and 2-family dwellings.

28 Sec. 5. (1) After the receipt of an application for a rental  
29 unit from an applicant and the payment of an application fee by

1 that applicant, a landlord may screen the applicant to determine  
2 whether the applicant satisfies all the application criteria. For  
3 purposes of this act, application criteria include, but are not  
4 limited to, income eligibility, rental history check, credit score  
5 check, pet restrictions qualification, or other application  
6 criteria. Application criteria do not include the evaluation or  
7 consideration of the applicant's criminal record.

8 (2) A landlord must issue a conditional offer if, after  
9 screening the application, the landlord determines that the  
10 applicant satisfies all the application criteria described under  
11 subsection (1).

12 Sec. 7. (1) Except as otherwise provided in this act, a  
13 federal law, or a state law, a landlord shall not, either before or  
14 after the issuance of a conditional offer, evaluate a rental  
15 application based solely on an applicant's criminal record.

16 (2) Except as otherwise required under federal or state law, a  
17 landlord shall not print, circulate, post, mail, or otherwise cause  
18 to be published a statement, advertisement, notice, or sign that  
19 indicates that a rental application will be denied based solely or  
20 in part on an individual's criminal record.

21 Sec. 9. (1) Except as otherwise provided in subsection (2), a  
22 landlord shall not do any of the following before issuing a  
23 conditional offer to an applicant:

24 (a) Require an applicant to complete a rental application that  
25 includes an inquiry regarding the applicant's criminal record.

26 (b) Make an oral or written inquiry for an applicant's  
27 criminal record.

28 (2) Subsection (1) does not apply to an inquiry regarding  
29 criminal records that are required to be disclosed under a federal

1 law.

2 (3) Before accepting an application fee for a rental unit, a  
3 landlord shall disclose both of the following in writing to the  
4 applicant:

5 (a) Whether the landlord's rental application screening  
6 process includes an evaluation or a consideration of the  
7 applicant's criminal record.

8 (b) That if subdivision (a) applies, the applicant will be  
9 provided the opportunity to provide documentary evidence of any of  
10 the following:

11 (i) Inaccuracies in the applicant's criminal record.

12 (ii) The applicant's rehabilitation.

13 (iii) Other mitigating factors.

14 (4) After the issuance of a conditional offer to an applicant,  
15 a landlord may only consider a criminal record in the applicant's  
16 history that includes any of the following:

17 (a) A conviction for arson or human trafficking under the  
18 Michigan penal code, 1931 Act 328, MCL 750.1 to 750.568.

19 (b) Whether the applicant is an individual who has been  
20 convicted of criminal sexual conduct under section 520b, 520c,  
21 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL  
22 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, and is  
23 required to register as a sex offender under the sex offenders  
24 registration act, 1994 PA 295, MCL 28.721 to 28.730.

25 (c) Any other felony convictions not listed under subdivisions  
26 (a) and (b) that have been adjudicated within 3 years immediately  
27 preceding the date the conditional offer was issued.

28 (5) A landlord may withdraw a conditional offer based solely  
29 on an applicant's criminal record under subsection (4), if the

1 landlord determines that the withdrawal is necessary to fulfil a  
2 substantial, legitimate, and nondiscriminatory interest. In making  
3 the determination under this subsection, a landlord is required to  
4 conduct an individualized assessment of the applicant. A landlord  
5 shall do all of the following:

6 (a) Notify the applicant in writing that an individualized  
7 assessment will be conducted.

8 (b) Provide reasonable time for the applicant to provide  
9 mitigating evidence to support the individualized assessment.

10 Mitigating evidence may include any of the following:

11 (i) A written statement from a parole officer or a member of  
12 law enforcement explaining whether the applicant is rehabilitated.

13 (ii) Documentary evidence that shows proof of employment or job  
14 readiness training.

15 (iii) Documentation of participation in or completion of a  
16 substance use disorder treatment.

17 (iv) Character references from past housing providers,  
18 employers, or other members of the community.

19 (c) Consider all of the following factors:

20 (i) The nature and severity of the criminal offense.

21 (ii) The age of the applicant at the time of the occurrence of  
22 the criminal offense.

23 (iii) The time that has elapsed since the occurrence of the  
24 criminal offense.

25 (iv) Any information provided by the applicant or on the  
26 applicant's behalf about the applicant's rehabilitation and good  
27 conduct since the occurrence of the criminal offense.

28 (v) Whether the criminal offense occurred on or was connected  
29 to a rental property that was rented or leased by the applicant.

1           (vi) Whether the criminal offense has a direct and specific  
2 negative impact on the safety of other individuals or property.

3           (6) If a landlord withdraws a conditional offer in accordance  
4 with subsection (5), the landlord must, within 24 hours after  
5 withdrawing the conditional offer, do all of the following:

6           (a) Send a written document by mail or email to the applicant  
7 that does all of the following:

8           (i) Informs the applicant of the withdrawal of the conditional  
9 offer, including the specific reasons for the withdrawal.

10           (ii) Informs the applicant that the applicant has the right to  
11 file a complaint with the department.

12           (iii) Informs the applicant that within 14 days of receiving the  
13 written document notifying the applicant of the withdrawal of the  
14 conditional offer, the applicant has the right to request, in  
15 writing, a copy of all the documents that the landlord relied on in  
16 making the determination to withdraw the conditional offer.

17           (b) Return any application fee or holding deposit collected  
18 from the applicant.

19           (7) If an applicant requests a copy of the documents that the  
20 landlord relied on in making the determination to withdraw the  
21 conditional offer, the landlord shall provide the documents  
22 requested, free of charge, within 10 days after receiving the  
23 request.

24           Sec. 11. (1) A landlord that complies with this act is immune  
25 from liability in a civil action arising out of any of the  
26 following:

27           (a) The landlord's decision to rent or lease to an individual  
28 with a criminal record or who was otherwise convicted of a criminal  
29 offense.

1 (b) The landlord's failure to conduct a criminal background  
2 check.

3 (2) A landlord shall not interfere with, restrain, or deny the  
4 exercise of or an attempt to exercise a right under this act.

5 Sec. 13. The department may investigate a complaint that  
6 alleges a violation of this act and enforce this act under the  
7 Michigan consumer protection act, 1976 PA 331, MCL 445.901 to  
8 445.922.

9 Sec. 15. (1) A record submitted to or obtained by the  
10 department that contains the criminal record of an applicant is  
11 confidential unless disclosure is required under the freedom of  
12 information act, 1976 PA 442, MCL 15.231 to 15.246.

13 (2) The department shall retain a complaint and response filed  
14 under this act for at least 3 years.

15 Sec. 17. (1) Not more than 90 days after the effective date of  
16 this act, the department shall create a form that contains all of  
17 the following information:

18 (a) A summary of an applicant's rights under this act.

19 (b) A list of legal resources that are available to an  
20 applicant who alleges that a landlord violated this act.

21 (2) The department shall have copies of the form available in  
22 its office and make the form easily accessible on its website.

23 (3) Beginning 30 days after the department creates the form  
24 required under subsection (1), all of the following apply:

25 (a) The form must be attached as an addendum to a lease  
26 agreement provided to a tenant in this state.

27 (b) The form must be attached to a rental application and must  
28 be signed or initialed by the applicant.

29 (c) A landlord shall post the form in a common area on the



1 rental property. As used in this subdivision, "common area" means a  
2 portion of a rental property that is generally accessible to all  
3 occupants of the rental property. Common area includes, but is not  
4 limited to, a hallway, stairway, laundry and recreational room,  
5 mailbox room, playground, community center, or garage.

6 Sec. 19. The department may promulgate rules in accordance  
7 with the administrative procedures act of 1969, 1969 PA 306, MCL  
8 24.201 to 24.328, to implement this act.

9 Sec. 21. If any portion of this act or the application of this  
10 act to any person or circumstance is found to be invalid by a  
11 court, the invalidity does not affect the remaining portions or  
12 applications of this act that can be given effect without the  
13 invalid portion or application, if those remaining portions are not  
14 determined by the court to be inoperable. To this end, this act is  
15 declared to be severable.

16 Sec. 23. This act must be liberally construed to effectuate  
17 its purpose, and the remedies provided are in addition to any other  
18 remedies provided by law.

19 Sec. 25. This act does not apply to a landlord that does not  
20 conduct a criminal background check.

21 Enacting section 1. This act does not take effect unless  
22 Senate Bill No. 1155 of the 102nd Legislature is enacted into law.