

HOUSE BILL NO. 6242

June 16, 2022, Introduced by Reps. Aiyash, Cavanagh, Hope, Young, Sowerby, Breen and Rabhi and referred to the Committee on Regulatory Reform.

An act to prohibit landlords from requiring certain disclosures from certain applicants for rental units or denying rental applications based on certain disclosures; 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".

1 Sec. 3. As used in this act:

2 (a) "Adverse action" means any of the following:

3 (i) A refusal to engage in or negotiate a rental unit
4 transaction.

5 (ii) Denying a rental application.

6 (iii) Falsely representing that a rental unit is not available
7 for rent or lease.

8 (iv) Applying different terms or conditions to a rental unit
9 transaction.

10 (v) Making a rental unit unavailable.

11 (b) "Applicant" means an individual that submits a rental
12 application to rent or lease a rental unit.

13 (c) "Arrest record" means information that indicates that an
14 individual has been questioned, apprehended, taken into custody or
15 detention, held for investigation, arrested, charged, indicted, or
16 tried for any felony, misdemeanor, or other offense by a law
17 enforcement agency.

18 (d) "Background check report" means a report by a law
19 enforcement agency, court, consumer reporting agency, or tenant
20 screening agency regarding an applicant's criminal history.

21 (e) "Bona fide purchaser" means a person that in good faith
22 makes a purchase without notice of any outstanding rights of
23 others.

24 (f) "Conditional offer" means an offer to rent or lease a
25 rental unit made by the landlord that is conditioned on the result
26 of any of the following:

27 (i) The landlord's inquiry into the applicant's arrest record
28 or criminal history.

29 (ii) The applicant's background check report.

1 (g) "Conviction" means a judgment entered by a court on a plea
2 of guilty, guilty but mentally ill, or nolo contendere, or on a
3 jury verdict or court finding that a defendant is guilty or guilty
4 but mentally ill.

5 (h) "Criminal history" means information transmitted orally,
6 in writing, or by any other means, and obtained from any source,
7 including, but not limited to, the individual to whom the
8 information pertains, a government agency, or a background check
9 report, regarding any of the following:

10 (i) A conviction.

11 (ii) An arrest record.

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

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

14 (v) A conviction rendered inoperative by judicial action or by
15 statute.

16 (vi) A determination or adjudication in the juvenile justice
17 system.

18 (vii) A matter considered in or processed through the juvenile
19 justice system.

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

21 (ix) A deferral of a diversion program.

22 (i) "Department" means the department of civil rights.

23 (j) "Landlord" means any of the following:

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

26 (ii) A person authorized to exercise any aspect of the
27 management of the premises, including a person that directly or
28 indirectly acts as a rental agent, or receives rent, other than as
29 a bona fide purchaser, and has no obligation to deliver the rent

1 payments to another person.

2 (k) "Law enforcement agency" means the police department of a
3 city, township, or village, the sheriff's department of a county,
4 the department, the department of state police, or any other
5 governmental law enforcement agency of this state.

6 (l) "Rental unit" means a structure or part of a structure used
7 as a home, residence, or sleeping unit by a single person or
8 household unit, or any grounds, or other facilities or area
9 promised for the use of a residential tenant. Rental unit includes,
10 but is not limited to, apartment units, boarding houses, rooming
11 houses, mobile home spaces, and single- and 2-family dwellings.

12 Sec. 5. (1) Except as otherwise provided in section 7, a
13 landlord shall not do any of the following:

14 (a) Inquire about an applicant's criminal history or arrest
15 record.

16 (b) Require an applicant to disclose the applicant's criminal
17 history or arrest record.

18 (c) Require an applicant to authorize the release of the
19 applicant's background check report.

20 (2) A landlord shall not print, circulate, post, mail, or
21 otherwise cause to be published a statement, advertisement, notice,
22 or sign that indicates that a rental application will be denied
23 based solely or in part on an individual's criminal history or
24 arrest record.

25 Sec. 7. Notwithstanding section 5 and subject to section 9,
26 this act does not apply to either of the following:

27 (a) Criminal history or arrest record disclosures that are
28 required under a federal or state law.

29 (b) Disclosure about whether the applicant is an individual

1 who is required to register as a sex offender under the sex
2 offenders registration act, 1994 PA 295, MCL 28.721 to 28.730.

3 Sec. 9. (1) Before inquiring or requiring disclosure of any
4 information required under section 7, the landlord shall do all of
5 the following:

6 (a) Determine whether the applicant is qualified to rent or
7 lease a rental unit by reviewing the applicant's rental
8 application.

9 (b) Provide written notice to the applicant that does all of
10 the following:

11 (i) Explains the disclosures required under section 7.

12 (ii) Lists the reasons the applicant's rental application may
13 be denied.

14 (iii) Includes a provision, signed or initialed by the
15 applicant, requesting that the applicant may elect to do any of the
16 following:

17 (A) Provide written consent to the landlord to obtain a
18 background check report that is limited to the disclosures required
19 under section 7.

20 (B) Withdraw the rental application.

21 (c) Give the applicant a conditional offer if the landlord
22 determines under subdivision (a) that the applicant is qualified to
23 rent or lease a rental unit.

24 (2) If the applicant elects to provide written consent as
25 provided under subsection (1)(b)(iii)(A), the landlord shall obtain a
26 background check report that is limited to the disclosures required
27 under section 7.

28 Sec. 11. If the landlord decides to take an adverse action
29 against the applicant after obtaining the applicant's written

1 consent as provided under section 9(1) (b) (iii) (A) and a background
2 check report as described under section 9(2), the landlord shall
3 send a copy of the background check report obtained pursuant to
4 section 9(2) and a written notice to the applicant. The written
5 notice required under this section must include all of the
6 following:

7 (a) The reason for the adverse action.

8 (b) A statement that the applicant may respond with rebutting
9 or mitigation evidence before the denial of the applicant's rental
10 application.

11 (c) A statement that the applicant's response described under
12 subdivision (b) must be received within 7 days of the receipt of
13 the landlord's written notice.

14 (d) Instruction on how to file a complaint with the
15 department.

16 Sec. 13. (1) An applicant may file a complaint with the
17 department for a violation of this act. The complaint may be
18 submitted in person, by mail, or electronically and must include
19 all of the following information:

20 (a) The name, address, telephone number, or email address of
21 the applicant.

22 (b) The name, address, telephone number, or email address of
23 the landlord.

24 (c) A detailed description of the circumstances surrounding
25 the alleged violation of this act.

26 (2) On receipt of an applicant's complaint, the department
27 shall investigate the allegations in the complaint. The department
28 may do any of the following:

29 (a) Send a copy of the complaint to the landlord and request

1 the landlord to file a response to the complaint.

2 (b) Request that the landlord produce books, papers, records,
3 or documents that are relevant to an alleged violation of this act.

4 (c) Conduct a hearing.

5 (3) If the department requests the landlord to file a
6 response, the response must be filed within 7 days of the receipt
7 of the department's request.

8 (4) The department may, after the investigation of the
9 complaint, file a petition in the district court in which the
10 rental property is located, seeking appropriate temporary relief
11 against the landlord pending final determination of the matter.
12 Temporary relief sought pursuant to this subsection includes, but
13 is not limited to, an order or decree restraining the landlord from
14 denying the applicant's application for a rental unit.

15 (5) The district court may grant temporary relief or a
16 restraining order as it considers just and proper. The relief or
17 order must not extend beyond 14 days except with the consent of the
18 landlord, or after hearing upon notice to the landlord and a
19 finding by the court that there is reasonable cause to believe that
20 the landlord violated this act.

21 (6) Notwithstanding subsection (4), if before or after the
22 conclusion of the investigation of the complaint the parties reach
23 a resolution that is satisfactory to the department and enter into
24 a conciliation agreement, the department shall dismiss the
25 applicant's complaint.

26 Sec. 15. (1) If, after a hearing, the department determines
27 that the landlord did not violate this act, the department shall
28 state its findings of fact and conclusions of law and issue a final
29 order dismissing the applicant's complaint.

1 (2) If, after a hearing, the department determines that the
2 landlord violated this act, the department shall state its findings
3 of fact and conclusions of law and may issue a final order that
4 does any of the following:

5 (a) Requires the landlord to cease and desist from violating
6 this act.

7 (b) Imposes civil fines for a violation of this act.

8 (c) Requires the landlord to pay the applicant for damages for
9 any injury or loss caused by a violation of this act, including
10 reasonable attorney fees.

11 (d) Requires the landlord to pay all or a portion of the
12 applicant's costs for maintaining the action before the department,
13 if the department determines that the award is appropriate.

14 (e) Imposes other relief the department considers appropriate.

15 (3) The department shall send a copy of the final order issued
16 pursuant to this section to the applicant, landlord, and court.

17 Sec. 17. (1) An applicant and a landlord have a right of
18 appeal from a final decision of the department issued pursuant to
19 this act. An appeal must be initiated before the circuit court for
20 the county in which the alleged violation occurred, where the
21 landlord resides, or where the landlord has his or her principal
22 place of business. An appeal initiated pursuant to this subsection
23 is de novo.

24 (2) An appeal must be filed within 30 days after receipt of
25 the final order issued by the department.

26 (3) If an appeal is not filed within the 30-day period
27 required under subsection (2), the department may obtain a decree
28 for the enforcement of its final order from the circuit court that
29 has jurisdiction of the appeal.

1 (4) The final judgment of the circuit court on the appeal is
2 subject to review by appeal in the same manner and form as other
3 appeals from that court.

4 Sec. 19. (1) A record submitted to or obtained by the
5 department that contains the criminal history or arrest record of
6 an applicant is confidential unless disclosure is required under
7 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

8 (2) The department shall retain a complaint and response filed
9 pursuant to this act for at least 3 years.

10 Sec. 21. (1) Not more than 90 days after the effective date of
11 this act, the department shall create a form that contains all of
12 the following information:

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

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

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

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

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

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

24 (c) A landlord shall post the form in a common area on the
25 rental property. As used in this subdivision, "common area" means a
26 portion of a rental property that is generally accessible to all
27 occupants of the rental property. Common area includes, but is not
28 limited to, a hallway, stairway, laundry and recreational room,
29 mailbox room, playground, community center, or garage.

1 Sec. 23. The department may promulgate rules in accordance
2 with the administrative procedures act of 1969, 1969 PA 306, MCL
3 24.201 to 24.328, to implement this act.