

POLICY BRIEF:

Cook County Just Housing Ordinance (“JHO”)

Background

The Just Housing Ordinance (“JHO”) was passed in Cook County on April 25th, 2019. A statement from the sponsor of the ordinance, Commissioner Brandon Johnson, notes the intent of the ordinance is to “reduce recidivism” by prohibiting discrimination in real estate transactions based on ‘covered criminal history.’

How is the JHO different from the 2016 HUD Guidance?

In 2016, US Housing and Urban Development published a guidance stating that overly broad screening criteria may have a disparate impact on individuals of a certain race or protected class in violation of the federal Fair Housing Act.

As the Cook County Just Housing Ordinance is written, a lessor could not perform a criminal screening as part of the initial application process. Only once a tenant is deemed ‘qualified’ (based on credit score, tenancy history, etc.) can a lessor perform a criminal background screening.

How can I ensure compliance with the Just Housing Ordinance?

If you deny admission on the basis of conviction, you must give applicant sufficient notice and an opportunity to dispute the “accuracy and relevance of the conviction.” An explanation must be provided, in writing, to the applicant regarding the denial if it is based on “a demonstrable risk to personal safety and/or property of others.”

Only in the case of certain convictions, such as sex offender registration, child sex offender registration, and convictions that demonstrate a risk to personal safety and/or property of others, could a property manager reverse an application approval.

Preparing for implementation

The JHO takes effect on December 31, 2019 in Cook County. On this date, your lease application for any properties in Cook County cannot inquire about criminal history. You may run a criminal background screening but must individually-assess each applicant’s criminal history based on:

- (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
- (7) The individual’s tenant history before and/or after the conviction;
- (8) The extent to which the individual has been open, honest, and cooperative in the examination of his or her prior convictions