

Renters' Access Act: An Overview

Bill Nos. 210329 & 210330

Sponsors: CMs Brooks, Gauthier, Gym, Henon, Thomas

The Problem

Eviction records can haunt tenants for life, causing them to be “blacklisted” from housing even if they were never evicted. Increasingly, landlords use tenant screening companies, internet searches and other methods to screen tenants, and many landlords will refuse to rent to tenants with even one eviction filing on their record, regardless of the outcome of the case. **That means that even if a tenant was never evicted, they can still be denied housing on the basis of the eviction filing.**

The consequences of eviction records go far beyond temporary displacement and the loss of shelter, and can lead to the loss of housing subsidies, ineligibility for public housing and being essentially barred from safe, affordable, and habitable private housing. Eviction filings have an especially disparate impact on Black women and their families, causing dangerous cycles of generational poverty and instability.

Why now?

The pandemic has significantly exacerbated difficulties facing Black communities and other communities of color, seniors, people with disabilities, and LGBTQ+ people. These populations are most likely to have lost income during the pandemic, putting them at risk of eviction filings, and therefore putting them at risk of homelessness and instability beyond the pandemic. *With the eviction moratorium expiring at the end of June*, it's imperative that Philadelphia act now to ensure that all renters get a fair chance at finding housing.

The Legislation

The Renters' Access Act includes two bills that work together to increase renters' ability to access housing, make the rental application process more transparent and predictable, and provide renters the ability to correct and/or clarify application information.

Bill No. 210329: An amendment to the "Unlawful Housing and Real Property Practices" section of the Fair Practices Ordinance that would require landlords to provide:

1. uniform, written rental screening criteria to prospective tenants; and
2. when an application for rental is denied, a written statement of reasons for that denial, including any third-party reports used in making the rental decision.

These requirements would be enforced by the Philadelphia Human Relations Commission.

Bill No. 210330: A standalone bill that would create a new section of the Fair Housing Ordinance, regulating tenant screening practices in a few ways:

- prohibiting blanket exclusions of people with eviction records, or based solely on a credit score;
 - *Under this bill, landlords can still look at credit records and certain eviction records, but they cannot have any blanket exclusions based on those criteria alone.*
- prohibiting a landlord from denying a rental application based on (1) failure to pay rent or utility bills during the COVID-19 emergency period, and (2) certain kinds of eviction records; and
- providing prospective tenants whose rental applications are denied the opportunity to dispute incorrect information or provide evidence of mitigating circumstances.

This bill also creates a private right of action for prospective tenants.

Amendments

After extensive conversations with stakeholders, CM Brooks will offer the following amendments to the Renters' Access Act:

- ❖ **Removal** of the requirement that **landlords hold rental unit** while tenant disputes application denial (Bill No. 210330, Section 5(a))
 - *Addresses landlords' concerns that holding units during this period could be overly burdensome.*
- ❖ **Removal of presumption of violation** of Landlord Tenant Code for failure to post written criteria and/or provide a written statement of reasons for denial of application (Bill No. 210330, Section 6)
 - *Addresses landlords' concerns that this presumption is too harsh a consequence. With this amendment, a failure to comply can be used as evidence of an unlawful housing practice under the Fair Practices Ordinance.*
- ❖ Addition of **evaluation requirement** 18 months after the bills have taken effect (Bill No. 210330, Section (9))
 - *Allows Council to evaluate whether the legislation should be adjusted, particularly as eviction record sealing efforts move forward at the state level.*
- ❖ **Change** prohibition on looking at old eviction records from **two years** to **four years** (Bill No. 210330, Section (3)(b)(2)(d))
 - *Response to landlords' requests, without extending the window so far as to eliminate the possibility of a second chance at safe housing for prospective tenants.*
- ❖ Addition of **exemption** for **publicly-subsidized housing**, which already have other state and federal regulations (Bill No. 210329, Section (4)(b); Bill No. 210330, Section (10))
 - *Response to requests from both the administration and providers of low-income housing.*
- ❖ **Removal** of references to **"employment records"** in definitions of screening criteria (Bill No. 210329, Section (3); Bill No. 210330, Section (1)(f))
 - *Removed so as not to allow landlords to deny a potential tenant based on their source of income, as prohibited by Section 9-1108 of the Fair Practices Ordinance.*
- ❖ Increase in time for landlord notification of reasons for rejection of potential tenant from **two business days** to **three business days** (Bill No. 210329, Section (4))
 - *Addresses landlords' concerns about turnaround time logistics.*
- ❖ Increase in **number of dwelling units** to qualify for exemption from the requirement to offer next available rental unit from **three units** to **five units** (Bill No. 210330, Section (5)(a))
 - *Addresses landlords' concerns about smaller landlords' ability to comply with this requirement.*
- ❖ **Clarify** that a **rejected application** is one that has been reviewed, not merely received, or for which an application fee has been collected (Bill No. 210329, Section (4)(a))
 - *Provides clarity around landlords' notification obligations.*
- ❖ Add provision that an applicant who intends to dispute or request reconsideration of denial provide **notice of that intent** to the landlord within **48 hours** of receiving the notice of denial (Bill No. 210330, Section (4))
 - *Provides more notice for landlords of potential requests from tenants.*