

NYC Fair Chance Housing Notice: Criminal Records

As of **January 1, 2025**, in NYC, it is illegal for most housing providers to discriminate on the basis of a conviction history in rentals or sales, including co-ops and condos.

The protections of the NYC Fair Chance Housing Law apply to current tenants as well as applicants.

It is a violation of the Law for covered housing providers to:

Make statements about criminal background checks or criminal records or express limitations on this basis in ads and applications

Treat applicants or tenants differently because of a conviction history except as allowed by the Fair Chance Housing Law.

Covered housing providers **may NEVER** change the terms of a sale or lease because of a conviction history. Covered housing providers **may** revoke a housing offer or decline to renew a lease **ONLY** based on limited kinds of convictions and **ONLY** when they follow the requirements of the Fair Chance Housing Law.

The NYC Fair Chance Housing Law does not require housing providers to run criminal background checks. Any housing provider can accept a renter or buyer without following the steps below. The steps below are only for covered housing providers that choose to run a background check.



If a Covered Housing Provider Chooses to Run a Criminal Background Check: You Have Rights.

Covered housing providers **must first** consider your general housing eligibility (ability to meet lease terms) AND make a conditional offer of housing. **Only after** this conditional offer is it lawful for a covered housing provider to run a criminal background check.

Before conducting a criminal background check, covered housing providers must:

- Make you a conditional offer of housing AND
- Give you a copy of this notice explaining your rights

Housing providers are also responsible for compliance with laws governing the collection and use of personal information, such as Federal and State Fair Credit Reporting Acts.

Conditional Offer of Housing

A conditional offer of housing is a **written lease, rental agreement, or agreement for a sale** that conditionally commits a unit(s) to a renter or buyer and can only be revoked in limited circumstances. Next a covered housing provider chooses either:

NOT to conduct a criminal background check

At this time, the housing provider can either finalize the offer or revoke it for a lawful, non-discriminatory purpose that is unrelated to conviction history.

TO conduct a criminal background check

It is illegal for the housing provider to seek or review your conviction history before you have a conditional offer.



Criminal Background Check

If a covered housing provider chooses to run a criminal background check after making you a conditional offer, they may only consider **very limited** categories of convictions:

- convictions that require registration on a sex offense registry at the time of the background check
- felony convictions from the last 5 years, except those below
- misdemeanor convictions from the last 3 years, except those below

The 3 or 5 years are measured from the **actual date of release OR the sentencing date** (if the sentence does not include jail or prison time), regardless of probation or parole status.

A covered housing provider can **NEVER** consider arrests or pending cases, or:

- convictions that were sealed, expunged, are under an executive pardon or certificate of relief from disabilities, or legally nullified or vacated
- convictions for violations, which are non-criminal offenses such as disorderly conduct
- convictions under federal law or another state's law for conduct related to reproductive or gender affirming care that is lawful in New York State
- convictions under federal law or another state's law for cannabis possession that does not constitute a felony in New York State
- Adjournments in Contemplation of Dismissal (ACDs)
- adjudications as a youthful offender or for juvenile delinquency
- terminations in favor of an individual, including but not limited to, acquittals, reversals upon appeal, and exonerations)
- Dispositions of criminal matters under federal law or another state's law that are comparable to those listed here.

It is illegal for a covered housing provider to consider information in these categories. In addition, tenant screening companies may be held liable under federal fair housing laws for discriminatory decisions by housing providers.

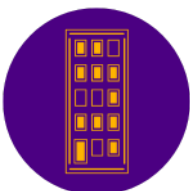


Right to Provide Support for Your Application

After considering only reviewable convictions, a covered housing provider that wants to revoke a housing offer must **FOLLOW THE FAIR CHANCE HOUSING PROCESS** while holding a unit open. They must:

1. Give you a copy of all criminal history information they received and/or reviewed
2. Allow you 5 business days to respond by:
 - pointing out errors in the conviction history
 - identifying any information that should not have been considered (any information outside the lawfully reviewable convictions)
 - sharing information on your background, personal and professional references, and/or any information that supports your application.

You are not required to provide information to support your application at this stage. A housing provider must complete an individualized assessment even if you do not provide supporting information.



Right to an Individualized Assessment of Your Application

A covered housing provider must conduct an individualized assessment of the reviewable convictions, together with any other information that you have timely submitted.



A covered housing provider **CANNOT** revoke a conditional offer of housing after running a criminal background check except in two **limited circumstances**:

After conducting an individualized assessment if they show in writing BOTH:

- a legitimate business interest AND
- how the legitimate business interest is linked to your individual history.

If they show *new information, unrelated to criminal history*, that impacts your qualifications for tenancy and that they did not know at the time of your conditional offer.

Legitimate Business Interest

A covered housing provider's legitimate business interest must be specific and objective. Compliance with a particular lease term is a permissible legitimate business interest. Purely discriminatory motives, stigma, stereotypes, or assumptions never constitute a legitimate business interest.

A covered housing provider that shows a legitimate business interest must also **explain** the link between that interest and your particular individual history in light of the individual information you shared to justify a decision to revoke your conditional offer of housing. **The existence of a conviction alone never creates that link.**

The following are not legitimate business interests and do not establish a sufficient link to justify a housing provider's decision to revoke an offer:

- "I don't want a hot spot for law enforcement"
- "The applicant seems likely to commit another crime and I want tenant safety"
- "This is a family building"
- "We don't want bad guys hanging around"
- "My tenants don't want criminals"
- "My insurance rates will go up"
- "This will impact my property value"

Revoking a Conditional Offer of Housing

Before a covered housing provider can revoke a conditional offer because of your criminal history, the housing provider **MUST** take the following steps:

1. Do an individualized assessment of your reviewable convictions **AND** the information you provided
2. Give you copies of all documents that it received and/or reviewed
3. Give you a written statement that explains:
 - the decision to revoke based on your conviction history **AND** the link to a legitimate business interest
 - how your individual information and circumstances were taken into account

Exemptions for Housing Providers

- Housing provider-occupied properties with 2 or fewer rooms or units are not covered by the NYC Fair Chance Housing Law.
- State or federally funded housing providers, including public housing authorities that are required or authorized to take specific actions related to criminal history **CAN** take such specific actions without violating the NYC Fair Chance Housing Law.

For additional information about tenants' and buyers' rights & housing providers' responsibilities under the NYC Fair Chance Housing Law, and to see this notice in multiple languages, visit [NYC.gov/FairChanceHousing](https://www.nyc.gov/FairChanceHousing).

REMINDER: All New Yorkers have a right to be free from retaliation in housing. It is illegal for housing providers in NYC to punish you or treat you negatively for telling them about your rights or for reporting discrimination or harassment.

