

## ATTENTION ALL COOK COUNTY SCREENERS

### The new Just Housing Ordinance is in effect 1/1/2020

*The minimum penalties for non-compliance will be a fine of between \$100.00-\$500.00 for each offense, each day a violation continues.*

#### Here is a summary of what you will need to be prepared for.

1. Read and familiarize yourself with the Just Housing Ordinance and the Just Housing Amendment Interpretive Rules. Visit the Cook County Government to learn more:  
<https://www.cookcountyil.gov/agency/commission-human-rights-0>
2. Change your paper based or online application to eliminate any question about an applicant's criminal history. Your application cannot inquire about criminal history until the tenant is preapproved for tenancy.
3. Establish your new screening criteria (more on this below) for 2020 and package together with your application as they need to be a part of the package any applicant will see before they pay an application fee.
4. Check with your attorney to ensure your planned policies and screening criteria comply with the new law.

#### Your Screening Criteria and Notices to an Applicant:

In order to comply with the ordinance, before you accept an application fee, you must disclose to every applicant your **tenant selection criteria** that you will use to evaluate whether the applicant's criminal conviction history negatively impacts their ability to fulfill the responsibilities of tenancy. Your criteria should not only cover what you expect in terms of credit, rental history, etc., (prequalification screening) but should have a section on what you will review with regards to criminal history IF they are approved on your prequalification screening. Your criminal review can only be conducted if they are prequalified and can only look back 3 years for convictions.

Criminal screening criteria cannot have a blanket ban, or criteria that says denial is definitive if a conviction exist, except for a current sex offender registration. And, even in the case of a current sex offender registration, you must still provide the applicant a copy of the Criminal Background Check and give the applicant notice and an opportunity to dispute the accuracy and relevance of the sex offender registration.

You must also provide **notice of the applicant's right to dispute** the accuracy or relevancy of any adverse information that may appear on their criminal background search.

Lastly, you must provide a notice in the form of **copy of the Cook County Commission on Human Rights' Procedural Rules or a link to the Cook County Commission on Human Rights' website along with the Commission's address and phone number.**

**Everything described here needs to be provided BEFORE you accept an application fee.** You should consider making this a packet of information to maintain consistency and avoid the risk of leaving anything out.

### **Ok – ready to accept an application fee and application:**

Your **pre-qualification screening** should be conducted and **if preapproved**, you will provide notice to the applicant of preapproval and you will now be performing the criminal background check. If an applicant is not preapproved, you simply need to provide a standard adverse action letter in compliance with the Fair Credit Report Act as you have always done.

### **Processing the Results of Criminal Screening:**

- A. No criminal conviction within last 3 years. You simply need to provide the report via email, text, certified mail, or in-person delivery and proceed with normal move-in procedures.
- B. Criminal history shows a current requirement for sex offender registration. You need to provide the report via email, text, certified mail, or in-person delivery and inform the applicant they have 5 business days to submit evidence that disputes the accuracy or relevance of the sex offender registration requirement.
  - a. Within 3 days of receiving their evidence of dispute, if the registration requirement is still deemed to be accurate, you may deny admission and provide in writing the denial to the applicant.
  - b. If the applicant has proved the sex offender registration requirement is inaccurate, you may approve admission if they have no other convictions, see C. below.
- C. The applicant has criminal conviction history within the last 3 years, that is not covered in B. above. You need to provide the report via email, text, certified mail, or in-person delivery and inform the applicant they have 5 business days to submit evidence that disputes the accuracy or relevance of the conviction(s) or shows evidence of rehabilitation.
  - a. Within 3 days after receiving the applicant's evidence, and after completing an individualized assessment, **you deny their admission**, you are required to provide a written denial explaining why the applicant's conviction history is necessary to protect against a demonstrable risk to the personal safety of others or against a serious risk to the property of others. Additionally, you must notify in writing their right to file a complaint with the Cook County Commission on Human Rights.
  - b. Based on the evidence they provide and after your individualized assessment, you decide to **approve their admission**, and feel their conviction history does not create "a demonstrable risk to personal safety and /or property of others," you can inform them of such in writing and proceed to your normal move-in procedures.

**We know this is a great deal of information and could be scary the first few times through.**

Consider having a qualified real state attorney familiar with the Just Housing Ordinance on hand to review your procedures, including application and screening criteria and when you come across a prequalified applicant who then has a criminal conviction history, set a meeting to walk through the communication creating a roadmap for future applicants.

The Cook County Board has instituted a “grace period” in which The Commission on Human Rights will not enforce penalties for violations of the Just Housing Ordinance Amendment until after January 31, 2020.

**Friends of NTN - Attorneys or legal advice that may be of assistance:**

Michael Griffin	<a href="http://www.sanfordkahnllp.com">www.sanfordkahnllp.com</a>	Office: 312-263-6778
David Barhydt	<a href="http://www.barhydtlaw.com">www.barhydtlaw.com</a>	Office: 630-218-4921
Verella Osborne	<a href="http://www.alawclerk.com">www.alawclerk.com</a>	Office: 312-726-0036

**A few definitions as provided in the rules and interpretation that may be helpful:**

**Demonstrable Risk** as referenced in § 42-38(c)(5)(c), refers to the likelihood of harm to other residents’ personal safety and/or likelihood of serious damage to property. When the applicant is a person with a disability, “demonstrable risk” must be based on (a) objective evidence and (b) a conclusion that any purported risk cannot be reduced or eliminated by a reasonable accommodation.

**Conviction** means a judgment of liability entered upon a plea, verdict or finding of guilt for an offense, rendered by a legally constituted jury, court or administrative authority of competent jurisdiction. Conviction excludes any “juvenile record” as defined below.

**Covered criminal history** means information regarding an individual’s arrest, charge or citation for an offense; participation in a diversion or deferral of judgment program; record of an offense that has been sealed, expunged, or pardoned in accordance with applicable law; juvenile record; and conviction.

**Evidence of rehabilitation** means any information produced by the individual, or produced on their behalf, with respect to their rehabilitation or good conduct, including but not limited to: the individual’s satisfactory compliance with all terms and conditions of his or her sentence; court-issued certificates of good conduct; employer recommendations; educational attainment or vocational or professional training since the conviction; completion or active participation in rehabilitative treatment; and letters of recommendation from community organizations, counselors or case managers, teachers, community leaders, religious institutions or leaders, or parole/probation officers who have observed the individual since his or her conviction.

**Individualized assessment** means a process by which a person considers all factors relevant to an individual’s conviction history and whether that history negatively impacts the individual’s ability to fulfill the responsibilities of tenancy, including but not limited to: (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; and (7) The individual's tenant history before and/or after the conviction  
Juvenile record means juvenile court records, as defined in 705 ILCS 405/1-3(8.1) or comparable state law, and juvenile law enforcement records, as defined in 705 ILCS 405/1-3(3.2) or comparable state law.

**Offense** means a violation of any penal statute, ordinance, law, or code of any jurisdiction. Person shall mean any person as defined in Section 46-31(15) of this article that is also an owner, lessor, sublessor, assignor, managing agent, or other individual, firm, or corporation having the right to sell, rent, lease, or sublease any housing unit within Cook County, or any agent, broker, or other individual working on behalf of any such individual, firm, or corporation.

**Business Day** means any day except any Saturday, Sunday, or any day which is a federal or State of Illinois legal holiday.