

2022 Regular Session

HOUSE BILL NO. 665

BY REPRESENTATIVE WILLARD

HOUSING: Provides relative to the Louisiana Equal Housing Opportunity Act

1 AN ACT

2 To amend and reenact R.S. 51:2603(introductory paragraph) and to enact R.S. 51:2603(13)  
3 and (14) and 2606.1, relative to housing discrimination; to provide for the Fair  
4 Chance in Housing Act; to prohibit a housing provider from considering the criminal  
5 history record information of an applicant except in certain circumstances; to provide  
6 for withdrawal of a conditional offer to rent or lease a dwelling unit; to provide for  
7 certain factors to be considered following withdrawal of an offer; to provide for  
8 enforcement by the attorney general; to provide for definitions; and to provide for  
9 related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 51:2603(introductory paragraph) is hereby amended and reenacted  
12 and R.S. 51:2603(13) and (14) and 2606.1 are hereby enacted to read as follows:

13 §2603. Definitions

14 As used in this Chapter, the following terms have the following meanings:

15 \* \* \*

16 (13) "Conditional offer" means an offer to rent or lease a rental dwelling unit  
17 to an applicant that is contingent on a subsequent inquiry into the applicant's criminal  
18 record, or any other eligibility criteria that the housing provider may lawfully utilize.

19 (14) "Criminal history record" has the meaning ascribed in R.S. 14:133.7,  
20 with the exception that records of juvenile conduct shall be included.

1 \* \* \*

2 §2606.1. Fair Chance in Housing Act

3 A.(1) A housing provider shall not require an applicant to complete any  
4 housing application that includes any inquiries regarding an applicant's criminal  
5 history record prior to the provision of a conditional offer.

6 (2) Notwithstanding Paragraph (1) of this Subsection, a housing provider  
7 may consider whether the applicant has ever been convicted of drug-related criminal  
8 activity for the manufacture or production of methamphetamine on the premises of  
9 federally assisted housing, and whether the applicant is subject to a lifetime  
10 registration requirement under a state sex offender registration program.

11 B. A housing provider shall not make any oral or written inquiry regarding  
12 an applicant's criminal record prior to making a conditional offer.

13 C.(1) An applicant may provide evidence to the housing provider  
14 demonstrating inaccuracies within the applicant's criminal history record or evidence  
15 of rehabilitation or other mitigating factors.

16 (2) Prior to accepting any application fee, a housing provider shall disclose  
17 in writing to the applicant:

18 (a) Whether the eligibility criteria of the housing provider include the review  
19 or consideration of an applicant's criminal history record.

20 (b) A statement that the applicant may provide evidence demonstrating  
21 inaccuracies within the applicant's criminal history record or evidence of  
22 rehabilitation or other mitigating factors.

23 D. A housing provider shall apply the standards established by this Section  
24 to each applicant in a nondiscriminatory manner.

25 E. A housing provider shall not, either before or after the issuance of a  
26 conditional offer, evaluate an applicant based on any of the following types of  
27 criminal records:

28 (1) Arrests or charges that have not resulted in a criminal conviction.

29 (2) Expunged convictions.

1           (3) Convictions erased through executive pardon.

2           (4) Vacated and otherwise legally nullified convictions.

3           (5) Juvenile adjudications of delinquency.

4           (6) Records that have been sealed.

5           (7) Nonviolent misdemeanor convictions.

6           F. After issuance of a conditional offer to an applicant, a housing provider  
7           may only consider the following convictions in an applicant's criminal history  
8           record:

9           (1) A violent misdemeanor or nonviolent felony conviction within the three  
10           years immediately preceding the issuance of the conditional offer.

11           (2) A violent felony conviction within the five years immediately preceding  
12           the issuance of the conditional offer.

13           G.(1) A housing provider may withdraw a conditional offer based on a  
14           applicant's criminal history record only if the housing provider determines, by  
15           preponderance of the evidence, that the withdrawal is necessary to fulfill a  
16           substantial, legitimate, and nondiscriminatory interest.

17           (2) If a housing provider withdraws a conditional offer, the housing provider  
18           shall provide the applicant with written notification that includes, with specificity,  
19           the reason or reasons for the withdrawal of the conditional offer and an opportunity  
20           to appeal the denial by providing evidence to the housing provider demonstrating  
21           inaccuracies within the applicant's criminal history record or evidence of  
22           rehabilitation or other mitigating factors.

23           (3) A housing provider shall perform an individualized assessment of the  
24           application in light of the following factors:

25           (a) The nature and severity of the criminal offense.

26           (b) The age of the applicant at the time of the occurrence of the criminal  
27           offense.

28           (c) The time which has elapsed since the occurrence of the criminal offense,  
29           with particular weight being given to significant periods of good behavior, as well

1 as the applicant or family's recent history, and the likelihood of favorable conduct  
2 in the future.

3 (d) Any information produced by the applicant, or produced on the  
4 applicant's behalf, in regard to the applicant's rehabilitation and good conduct since  
5 the occurrence of the criminal offense.

6 (e) The effects that denial of admission may have on other members of the  
7 family who were not involved in the action or failure.

8 (f) Tenancy supports or other risk mitigation services the applicant will be  
9 receiving during tenancy.

10 (g) The degree to which the criminal offense occurred on or was connected  
11 to property that was rented or leased by the applicant.

12 (h) Whether the applicant was sentenced to community supervision rather  
13 than prison or whether the applicant has received a favorable review by the parole  
14 board.

15 (4) The individualized assessment may also consider both of the following:

16 (a) Whether any eviction records for the applicant were the result of an arrest  
17 or conviction that is prohibited from consideration under Subsections E and F of this  
18 Section.

19 (b) Whether any gaps in an applicant's rental history may be due to  
20 incarceration related to arrests or convictions that are prohibited from consideration  
21 under Subsections E and F of this Section.

22 (5) An applicant may request, within thirty days after the housing provider's  
23 notice of the withdrawal, that the housing provider furnish to the applicant a copy of  
24 all information that the housing provider relied upon in considering the applicant,  
25 including criminal records.

26 (6) A housing provider shall provide the information requested in accordance  
27 with Paragraph (5) of this Subsection at no cost within ten days after receipt of a  
28 timely request.

29 H. The attorney general shall prepare:

1           (1) A model disclosure statement as indicated in Paragraph (C)(2) of this  
2           Section providing notice that a housing provider intends to review and consider a  
3           person's criminal record in determining eligibility for housing or in taking any other  
4           adverse housing action against that person. The statement shall also provide an  
5           explanation of the criminal records that may be considered and the manner in which  
6           they may be considered, in accordance with Subsections A through G of this Section.

7           (2) A model notice that provides notification that a housing provider has  
8           withdrawn a conditional offer or taken an adverse housing action based on a person's  
9           criminal record and space for the housing provider to identify with specificity the  
10          reason or reasons for withdrawing the conditional offer or taking the adverse housing  
11          action. The model notice form shall also notify the person of his right to request that  
12          the housing provider provide a copy of all information relied upon by the housing  
13          provider in reaching its decision, including criminal history records, and the right to  
14          file a complaint with nonprofit, local, state, or federal fair housing enforcement  
15          agencies, as well as the applicable statute of limitations, and shall include such other  
16          additional information as the attorney general deems appropriate.

17          (3) The model documents prepared pursuant to this Subsection shall be made  
18          available on the attorney general's website, at no cost, and shall be in English,  
19          Spanish, and in any other language the attorney general deems appropriate.

20           I. A housing provider shall not:

21           (1) Knowingly or purposefully publish, or cause to be published, any  
22           housing advertisement that explicitly provides that the housing provider will not  
23           consider any applicant who has been arrested or convicted of one or more crimes or  
24           offenses, except for drug-related criminal activity for the manufacture or production  
25           of methamphetamine on the premises of federally assisted housing, and whether the  
26           applicant is subject to a lifetime registration requirement under a state sex offender  
27           registration program.

28           (2) Print, publish, circulate, issue, display, post, or mail or cause to be  
29           printed, published, circulated, issued, displayed, posted, or mailed any statement,

1 advertisement, publication or sign, or use any form of application for the rental,  
2 lease, or sublease, of any real property or part or portion thereof or make any record  
3 or inquiry in connection with the prospective rental, lease, or sublease of any real  
4 property or part or portion thereof which expresses, directly or indirectly, any  
5 unlawful limitation, specification, or discrimination as to criminal record, except as  
6 permitted by this Section and for drug-related criminal activity for the manufacturing  
7 or production of methamphetamine on the premises of federally assisted housing,  
8 and whether the applicant is subject to a lifetime registration requirement under a  
9 state sex offender registration program.

10 (3) Distribute or disseminate an applicant's criminal history record to any  
11 person who is not expected to use the criminal history record for the purpose of  
12 evaluating the applicant in a manner consistent with this Section, unless otherwise  
13 required by law.

14 (4) Use an applicant's criminal history record for a purpose that is not  
15 consistent with the provisions of this Section, unless otherwise required by law.

16 (5) Require an applicant to submit to a drug or alcohol test or request the  
17 applicant's consent to obtain information from a drug abuse treatment facility.

18 J. A person shall not interfere with, restrain, or deny the exercise of, or the  
19 attempt to exercise, any right protected under this Section. If the attorney general  
20 or a state court determines that a housing provider has engaged in one or more  
21 unlawful actions against a person with the intent of retaliating against the person for  
22 filing an action against the housing provider pursuant to R.S. 51:2611 et seq, then  
23 each unlawful retaliatory action shall be enforced as a separate and distinct violation  
24 of this Section.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 665 Original

2022 Regular Session

Willard

**Abstract:** Requires a housing provider to conduct individualized assessment of an application and prohibits the consideration of certain criminal history record information for the basis of providing a conditional offer.

Present law prohibits discriminatory housing practices pursuant to the La. Equal Housing Opportunity Act.

Proposed law retains present law and adds provisions requiring a housing provider to conduct individualized assessment of an application and prohibits the housing provider from requiring an applicant to complete a housing application that inquires about the applicant's criminal history records before extending a conditional offer except for certain drug-related offenses.

Proposed law provides for the definitions of "conditional offer" and "criminal history record".

Proposed law prohibits a housing provider from making oral or written inquiries regarding an applicant's criminal history record prior to extending a conditional offer.

Proposed law authorizes an applicant to provide evidence negating the accuracy of the applicant's criminal history record, evidence of rehabilitation, or other mitigating factors.

Proposed law requires a housing provider to disclose to an applicant in writing whether the housing provider uses an applicant's criminal history record as a basis for eligibility and requires the housing provider to notify the applicant that the applicant is entitled to provide evidence to the housing provider of rehabilitation or other mitigating factors.

Proposed law prohibits a housing provider from applying the provisions of proposed law in a discriminatory manner.

Proposed law prohibits a housing provider from, at any time, evaluating an applicant based on the following:

- (1) Arrests not resulting in a conviction.
- (2) Expunged conviction.
- (3) Convictions erased by executive pardon.
- (4) Vacated and nullified convictions.
- (5) Juvenile adjudications of delinquency.
- (6) Sealed records.
- (7) Nonviolent misdemeanors.

Proposed law provides that only after extending a conditional offer may the housing provider consider the following criminal history records in the applicant's history:

- (1) Violent misdemeanor or nonviolent felony conviction within the prior three years.
- (2) Violent felony conviction within the prior five years.

Proposed law only allows a housing provider to withdraw a conditional offer based on an applicant's criminal history record if the housing provider has a substantial, legitimate, and nondiscriminatory interest in doing so.

Proposed law requires a housing provider, following withdrawal of a conditional offer, to provide written notice providing the reasons for the withdrawal and sets forth a procedure for the applicant to appeal a withdrawal based on the applicant's criminal history record.

Proposed law requires the housing provider to perform an individual assessment by considering certain factors set forth in proposed law.

Proposed law authorizes an applicant to request a copy of all information relied upon by the housing provider in considering the application and requires the housing provider to furnish the requested information within 10 days of receipt of the request.

Proposed law requires the attorney general to prepare model forms to assist housing providers and applicants in effectuating the provisions of proposed law and requires the attorney general to provide the forms on its website, at no cost, in English, Spanish, and in any other language the attorney general deems appropriate.

Proposed law prohibits a housing provider from advertising that applicants with one or more convictions will not be considered or any other unlawful limitation, specification, or discrimination as to criminal history record, except for certain drug offenses or when the applicant is subject to lifetime sex offender registration.

Proposed law prohibits a person from interfering with any right protected by proposed law and provides penalties for any unlawful retaliatory actions committed by a housing provider in response to a person filing an action against the housing provider to enforce rights protected by proposed law.

(Amends R.S. 51:2603(intro. para.); Adds R.S. 51:2603(13) and (14) and 2606.1)