

Private or affordable housing: what can I do if I'm rejected because of a criminal record in Philadelphia?

This document explains the rights and options for anyone who's applied for housing on the private market or through an affordable housing provider in Philadelphia but received a denial because of a criminal record.

Do you know what's on your record and options to correct mistakes?

By knowing what is on your record, you can correct mistakes and explore options for expungement and pardon, including for felony offenses. Thousands of Philadelphians have successfully erased information from their record. To find out how to get a copy of your record and learn about erasing options, [click here](#) or go to <https://bit.ly/3bALdrD>.

- **Where can I go for help?**
 - **Philadelphia Lawyers for Social Equity (PLSE):** (267) 519-5323
 - Go to <https://www.plsephilly.org> to sign up for 1:1 support, call and leave a message, or email info@plsephilly.org in English/en Español.
 - **Community Legal Services:** (215) 981-3700
 - Leave a message and an advocate will return your call. Go to <https://clsphila.org> for more information.
 - **Self-Help:** FindLaw's [How to Expunge A Criminal Record in Philadelphia](#)

1. Can I be rejected because of my criminal record?

Private landlords have a lot of freedom to admit or deny applicants with a criminal record. However, they do have to follow some rules. Having a record does not automatically disqualify you from renting.

Private Market:

Private market housing providers are not required to run a background check. If a landlord does so, guidance by the Department of Housing and Urban Development (HUD) **prohibits** them from:

- Banning everyone with a criminal record (“I don’t rent to anyone with a record”)
- Making decisions based on arrests that did not result in conviction

Landlords should also consider the seriousness of the offense and length of time since it was committed. When a landlord uses a tenant screening company to run a background check on you, you have certain rights under the Fair Credit Reporting Act (FCRA) and the Fair Housing Act. See **Question 2**.

New Protections under the Renter’s Access Act 2021:

The Renter’s Access Act effective in 2021 governs how and when a private landlord in Philadelphia can look at a tenant’s rent and credit history.

- Landlords must provide applicants with written screening criteria explaining what information will be used to accept or deny your application, before they apply.
 - *Note: Ask to see the landlord’s screening criteria prior to paying any application fee. Check for their criminal record policies.*
- Landlords must tell applicants in writing when they deny an application, including the reason why, and share copies of any screening reports used to make their decision.
- Landlords may no longer deny applications based on certain eviction cases or solely on credit score. They cannot deny an application based on failure to pay rent or utility bills during the COVID-19 emergency period.

- Applicants have the right to dispute the landlord's decision, correct errors, provide supportive documents, and request reconsideration.

Note: There may be some exemptions. For guidance from the Fair Housing Commission, [click here](#). To learn more, go to phillytenant.org or [click here for a flyer](#).

Where can I report any violations?

- **Philadelphia Commission on Human Relations**, 215-686-4670
- **Philadelphia Fair Housing Commission**, 215-686-4670
- See **Question 9** for more information and ways to contact.

Federally-subsidized affordable housing:

Affordable housing subsidized by HUD MAY have certain restrictions, depending on the funding source. Some programs ban persons required to register (in any state) for sex offenses with a lifetime status or convicted of manufacturing methamphetamine in federally-assisted housing. Other programs have no restrictions at all or allow those denied housing to appeal.

For more information, go to page 26 of National Housing Law Project's "An Affordable Home on Reentry" (<https://www.nhlp.org/wp-content/uploads/2018/08/Reentry-Manual-2018-FINALne.pdf>) or contact Community Legal Services at 215-981-3700.

2. What can I do if I receive a denial notice?

Private Market:

Under the Renter's Access Act in Philadelphia, when an application is rejected, private landlords must provide a written or electronic statement (ex. email or letter) of reasons why that application was rejected. They must also provide a copy of any third-party reports (such as a criminal record, credit report, etc.) used in making the rental decision.

- **Right to Dispute Information or Seek Reconsideration:** You may notify the prospective landlord in writing, through email, or over the phone of your intent to appeal or request a reconsideration of the denial within forty-eight (48) hours of receiving the denial. If you do so, you have seven (7) business days to provide information that corrects any errors or shows you can meet tenancy obligations (ex. pay rent on time, respect neighbors, take care of property, etc.).
- **Right of Action:** If a landlord violates the Renter's Access Act, you can bring them to court to comply and recover up to \$2,000 per violation along with attorney's fees and other relief, as the court determines.

Federally-subsidized affordable housing:

The Fair Credit Reporting Act (FCRA) also provides protections when a landlord uses a consumer report (such as criminal record check, credit check) as the basis for their denial. Landlords must provide a notice in writing, over email or text, or by word of mouth with certain information. *The landlord does **not** have to state exactly what in the consumer report led to denial.*

- **Right to Request a Copy:** the landlord must provide the name, address, and telephone number of the tenant screening company they used. You have the right to request a free copy of the report from the tenant screening company within 60 days.
- **Right to Correct Errors:** See **Question 4** for more details.
- **Right to Privacy:** Landlords may only use information from the screening company for the housing application and must destroy the information afterwards.
- **Fair Housing Rights:** A landlord who asks you about your criminal record when applying for housing must do so for all applicants.

- If you think you are being asked about your criminal record because of your race, color, national origin, religion, sex, or disability ([Philadelphia](#) also includes family status, ethnicity, pregnancy, age (over 40)) you should inform a fair housing or legal services organization and file a complaint. See list below in **Question 10** for more options.

Note: Keep a written record of incidents of discrimination. Save any documents, including email and texts. It will be helpful to have names, dates, addresses, rental terms, and any other details about your interaction and experience, if you wish to report the discrimination later on.

3. How can I challenge a denial?

Private Market:

After receiving notice of rejection electronically or in writing:

Step 1. Within forty-eight (48) hours, notify the landlord over the phone, over email, or in person that you would like to dispute information that the landlord used to make their decision or seek reconsideration by providing additional information. [Click here](#) for sample letter.

Step 2. Within seven (7) business days, present any evidence to the landlord of mistakes or provide additional information related to the reason your application was rejected to show you are able to meet tenant expectations.

- **Dispute Information:** Provide evidence that the tenant screening report or information the landlord used to make their decision were inaccurate, incorrectly attributed to you, or based on screening criteria no longer allowed by the Renter's Access Act ([see list here](#)).
 - **Right of Action:** If a landlord violates the Renter's Access Act, you can bring them to court to comply and recover up to \$2,000 per violation along with attorney's fees and other relief, as the court determines.
- **Seek Reconsideration:** Share evidence that shows you can satisfy requirements of tenancy. Examples include but are not limited to:
 - History of on-time rental payments that may not appear in background check (*ex. receipts*)
 - Proof that prior eviction based on nonpayment was based, in whole or in part, on rent that you did not personally owe (*ex. copy of old lease, letter from past housing provider*)
 - New or increased income that is reliable and sufficient to cover rental costs (*ex. paystubs, letter from employer*)
 - Letters of recommendation from employers or former housing providers
 - Changes in circumstance that would make prior lease violations less likely to occur (*ex. letter of explanation of positive changes in life and situation*)

The landlord must review any additional information an applicant provides for reconsideration or correction. It never hurts to be honest and share positive changes in your life since incarceration.

- Consider gathering and sharing letters of support, references, or other documents that speak well of you and your experience. See **Question 8** for examples.
- If you are denied a reasonable accommodation, a housing provider must engage you further. See **Question 9**.
- If feasible, discuss opportunities to include co-signer on the lease or larger security deposit.

If you need more support, see **Question 5**. You can also report violations yourself to the **Philadelphia Commission on Human Relations**, 215-686-4670. For more information, go to www.phila.gov/fairhousingcommission

Federally-subsidized affordable housing:

Housing providers for certain federal programs must allow you a review hearing. The review may also be called informal hearing, grievance, or appeal.

To understand your rights and the appeal process when applying to public housing, [click here](#) or go to Housing Resources on philareentrycoalition.org.

4. What if I was denied because of an error in my background check?

It is not uncommon that reports from tenant screening companies mistake identities or include outdated information. Under the Renter's Access Act and the Fair Credit Reporting Act, you have the right to correct errors. Use the information provided in the denial notice to:

- 1) **Contact the tenant screening company.** They have 30 days to investigate and correct any inaccuracies. They should also notify the landlord of the result of their investigation.
Note: Unfortunately, correcting errors with one tenant screening company does not correct it with other screening companies.
- 2) **Tell the landlord.** Let the landlord know that you think your housing application was denied because of inaccurate information and that you have reported it to the screening company.

Private Market:

See **Question 3**. Under the Renter's Access Act, private market landlords must review any evidence you submit to dispute information. If you provide sufficient information to demonstrate your ability to satisfy tenant obligations, landlords are required to offer the next available rental dwelling unit to you.

Note: Landlords with four or fewer dwelling units for rent within the City of Philadelphia are not required to offer their next unit.

Federally-subsidized affordable housing:

Housing providers for certain federal programs must allow you a review hearing. Follow any instructions provided in the rejection notice to appeal the decision and provide more information. To understand your rights when applying to public housing, [click here](#) or go to Housing Resources on philareentrycoalition.org.

- 3) **Reach out for legal assistance.** If the inaccuracy continues to appear, contact one of the resources listed below under **Question 5**.

5. Where can I get support?

Leave a message with your number and someone will return your call.

- **Philly Tenant Hotline:** 267-443-2500
 - Tenant-related questions or legal advice and referrals, phillytenant.org
- **Community Legal Services:** 215-981-3700
 - Free legal advice and assistance to low income individuals, clsphila.org
- **Tenant Union Representative Network:** 215-940-3900
 - Renter's Rights webinars, counseling, education, and more, rturn.net
- **SeniorLAW Center:** 215-988-1242
 - Direct legal services and representation for seniors, seniorlawcenter.org

6. What if my criminal record is related to a disability, including past substance use?

Past substance use can be considered a disability if you demonstrate that you are in recovery. Under the Fair Housing Act, you have the right to ask the provider to waive its admissions criteria as a “reasonable accommodation”. A reasonable accommodation is a change in policy that allows a person with a disability to access housing.

You will need to show through documentation and letters of support that:

- You have a disability;
- Your criminal record is related to your disability; and
- You are doing everything you can to manage the disability (such as attending 12-step meetings and remaining sober).

To learn more about reasonable accommodation, [click here](#) or go to: <https://bit.ly/3esmYxt>

7. What if my criminal record is related to being a survivor of domestic violence?

Applies only to federally-subsidized housing: Under the Violence Against Women Act (VAWA), applicants who otherwise qualify for assistance or admission may not be rejected because they have experienced domestic violence, dating violence, stalking, or sexual harassment. As a result, the landlord should disregard a criminal record if it is connected to being a survivor of abuse and proper documentation is provided.

Learn more at <https://nhlp.org/files/VAWA-2013-Packet.pdf> or call the Philadelphia Domestic Violence Hotline 866-723-3014. You can also use the resources in **Question 5** for support.

8. What can I do differently next time I apply for an apartment?

- **Ask for screening criteria/policy before applying.** As of October 2021, Philadelphia landlords must provide tenants with written criteria used to evaluate all potential renters.
- **Consider gathering and sharing letters** of support, references, or other documents that speak well to you and your experience. Present positive information about you that the landlord can consider to outweigh your criminal record. You can present documents and letters when you apply or, if denied, as part of an appeal. Positive information could include:
 - **Letters of support:** Letters from an employer, parole/probation officer, clergy, case worker, teacher, neighbor, community leader, volunteer supervisor, former landlord, or anyone else who can speak to you as a responsible person.
 - **Other documents:** educational certificates earned during or after incarceration (such as job training or GED), disability verification letters, VAWA documentation, other treatment forms.
- **Check your record** and understand the timing of correction opportunities (See **top of page 1 and Question 4**).
- **Practice** talking with a housing counselor, friends, sponsor, or mentor about your record, positive changes in your life since then, and how you can demonstrate that you will be a tenant who pays rent on time and is a good neighbor.
- **Keep a written record and save any documents**, conversations, or other relevant information about interactions with a housing provider to submit discrimination claims in the future.

9. What are considered discriminatory policies?

While having a criminal record is not a protected class under the Fair Housing Act, HUD recognizes that black and brown people are disproportionately incarcerated in the United States, and race is a

protected class. The following policies may be considered to violate the Fair Housing Act because they have a disproportionate effect on black and brown people (have a “disparate impact”):

- Blanket bans (A landlord says, “I don’t rent to anyone with a record”)
- Denial on the basis of an arrest record only (with no conviction).
- Background checks on the basis of race (a housing provider performs background checks on black or brown applicants but not white ones).
- Denial on the basis of a long ago conviction when you have not been convicted since then.
- Denial on the basis of criminal record as a means to discriminate on another basis, such as sexual orientation, disability, or national origin.
- You have a criminal record due to a past addiction, but has since successfully completed a rehabilitation program. See **Question 6**.
- Domestic Violence (you are a survivor of domestic violence and with a record or eviction history that stems from that violence). See **Question 7**.

9. Where can I report discrimination?

Contact a fair housing or nonprofit legal services organization near you OR contact and/or file a complaint with your local HUD Office. You have one year to file an administrative complaint from the time of the incident.

- **PA Fair Housing Hotline:** 855-866-5718
 - Call toll-free to help filing a discrimination claim and for any other questions.
- **Housing Equality Center of PA:** 866-540-FAIR
 - Call, email info@equalhousing.org or complete the online form at <https://www.equalhousing.org/report-discrimination/>
- **Philadelphia Fair Housing Commission:** 215-686-4670
 - Call, email a [completed intake questionnaire](#) to fairhousingcomm@phila.gov, or go in person to 601 Walnut St, Suite 300 South, 8:30 am – 5:00pm M-F. For more information, go to www.phila.gov/fairhousingcommission
- **HUD’s Office of Fair Housing and Equal Opportunity (FHEO):** 800-669-9777
 - Call to speak with a FHEO intake specialist.
 - Use online form in English or en Español.

For more information and other language access options, visit:

https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint.

Note: The information provided is not intended to and does not constitute legal advice. Information adapted from Root and Rebound’s Roadmap to Reentry, Fair Housing Center of Rights and Research, and other resources online.