

## **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.

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

By knowing what is on your record, you can correct inaccuracies and explore options for expungement and pardon, including for felony offenses. Last year over 80% of pardon applications in Pennsylvania received a positive recommendation from the Board of Pardons ([PLSE Pardons Training](#)). To find out how to get a copy of your record and learn about cleaning 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](mailto: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](#)

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

Private landlords have a lot of discretion to admit or deny applicants with a criminal record. However, 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) guidance **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 take into account the severity 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**.

### ***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?**

Under the Fair Credit Reporting Act (FCRA), if a landlord uses a consumer report (such as criminal record check,

credit check) as the basis for their denial, they must provide an oral, written, or electronic notice 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?

While there is no formal route to appealing a decision by a private landlord, you can still reach out to have a conversation or write a letter to explain your situation. Ask why you were denied. 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.

### 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 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. Federally-subsidized housing providers must allow you a review hearing.
- 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](http://phillytenant.org)
- **Community Legal Services:** 215-981-3700

- Free legal advice and assistance to low income individuals, [clsphila.org](http://clsphila.org)
- **Tenant Union Representative Network:** 215-940-3900
  - Renter's Rights webinars, counseling, education, and more, [rturn.net](http://rturn.net)
- **SeniorLAW Center:** 215-988-1242
  - Direct legal services and representation for seniors, [seniorlawcenter.org](http://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.**
- **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](mailto: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](mailto: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](http://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](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.