NEW YORK STATE OF OPPORTUNITY. | Homes and Community Renewal

KATHY HOCHUL
Governor

RUTHANNE VISNAUSKAS
Commissioner/CEO

Office of Integrated Housing Management Memorandum #2025 - B - 3

February 26, 2025

To: Owners, Managing Agents and Site Managers for Housing located in New York City that is financed by New York Homes and Community Renewal, including All Limited-Profit and Limited-Dividend Housing Companies (Mitchell-Lama)

From: New York State Homes and Community Renewal

Subject: New York City Fair Chance Housing Law (Local Law 24)

This bulletin notifies all Owners, Managing Agents and Site Managers for housing located in New York City that is financed by New York Homes and Community Renewal (NYSHCR), including all Mitchell-Lama Limited-Profit and Limited-Dividend Housing Companies (together, "State-Financed Housing") of the "Fair Chance for Housing Act" (Local Law 24, N.Y.C. Admin. Code § 8-102a), passed by New York City.

Effective January 1, 2025, the NYC Fair Chance Housing Law prohibits housing discrimination on the basis of criminal history, with limited exceptions. Additionally, landlords, owners, brokers, and other covered entities located in New York City may not consider an applicant's criminal record until *after* determining a housing applicant's other qualifications.

NYSHCR will hold a webinar training for all Owners, Managing Agents and Site Managers for Housing located in New York City that is financed by New York Homes and Community Renewal, including All Limited-Profit and Limited-Dividend Housing Companies (Mitchell-Lamas) on: March 13, 2025 at 11:00 AM – 12:00 PM. Please use this link to join the webinar: New York City Fair Chance Housing Law (Mitchell-Lama)

NYSHCR already has a robust tenant selection policy aimed at reducing barriers to State-financed affordable housing for individuals with a history of criminal legal system involvement. However, for New York City projects specifically, the policy has been adapted to reflect the update in local law. State-financed housing entities (including condos and coops) are required to follow this law and the policies, procedures, guidance, Worksheets, and forms published by NYSHCR, available here: https://hcr.ny.gov/marketing-plans-policies#credit-and-justice-involvement-assessment-policies

What types of convictions can now be reviewed in State-financed housing located in NYC?

- Misdemeanor convictions that occurred within 1 year prior to the consideration of the application for a unit;
- Felony convictions that occurred within 5 years prior to the consideration of the application for a unit;
- Release from incarceration that occurred within 1 year prior to the consideration of the application for a unit; and

- Any conviction registered on the New York sex offense registry, the federal sex offense registry, or on a register in any other jurisdiction for which an individual is required to register as a sex offender.

What types of convictions *cannot* be taken into account when determining eligibility/ suitability for tenancy/ownership in State-funded NYC housing?

- Convictions that do not involve physical danger or violence to persons or property or that do not adversely affect the health, safety, and welfare of other people;
- The following incidents: (a) prior arrests or criminal accusations that have been resolved in the applicant's favor, (b) youthful offender adjudications, (c) pending arrests with adjournments in contemplation of dismissal, (d) convictions that are sealed, expunged, otherwise vacated, subject to an executive pardon, the subject of relief from disabilities, (e) a conviction of a violation, or the equivalent of (a)-(e) from another jurisdiction;
- Convictions for offenses that occurred before the applicant turned 18;
- Convictions that occurred in another state or jurisdiction, the conduct for which would have been lawful if the conduct had occurred in New York City, and involved: (a) having sought, obtained, provided, or facilitated reproductive or gender affirming care, (b) having engaged in "legally protected health activity" as defined in NYS Criminal Procedure Law §570.17; or (c) possession of cannabis that would not constitute a felony in the state of New York; and
- Any pending arrests that have not resulted in conviction.

When and how can housing providers conduct a criminal background check?

Before running a criminal background check, the Owner/Agent must:

1. Conduct all other eligibility screening (i.e., the applicant's ability to meet the terms of the program and lease);
2. Provide notice to the applicant that they are otherwise eligible for the affordable housing program and that a unit is available to them conditioned only upon: (1) a criminal background check conducted in accordance with the process laid out in NYSHCR's policy, or (2) an unrelated material omission, misrepresentation, or change in the qualifications for tenancy that was not known at the time of the conditional offer;
3. Provide notice that the owner/managing agent will perform such criminal background check (notice in the application for the housing suffices); and
4. Provide a written copy of both NYSHCR's Know Your Rights (hcr.ny.gov/NYCKYRCrim) and the NYC's Fair Chance Housing Notice (https://www.nyc.gov/assets/cchr/downloads/pdf/publications/FairChanceHousing-Notice.pdf) summarizing the rights available regarding criminal background checks.

Before rejecting an applicant based on criminal legal system history:

- The Owner/Agent must provide the following to the applicant:
    1. An "Additional Information Request Notice" informing the applicant that they have 10 business days to submit any information identifying errors in the criminal history information, and any supplemental or mitigating information in support of their application (Sample available here: https://hcr.ny.gov/feho-justice-involved-information-request); and
    2. Copies of any information or records about the applicant's history of criminal legal system involvement for the applicant to review; and
    3. NYSHCR's Know Your Rights document for NYC (hcr.ny.gov/NYCKYRCrim)

- The Owner/Agent must have conducted an individualized assessment examining factors like the length of time since conviction and evidence of rehabilitation, per NYSHCR's published Worksheet (hcr.ny.gov/NYCCrimWorksheet).

Along with the rejection based on criminal legal history, the Owner/Agent must provide:

- A copy of the fully completed NYSHCR Worksheet detailing the reason for the rejection (hcr.ny.gov/NYCCrimWorksheet);
- A copy of supporting documents that were reviewed;
- A 10-business day period in which the applicant may appeal the determination; and
- The NYSHCR's Know Your Rights document for NYC (hcr.ny.gov/NYCKYRCrim) in the relevant language and NYC's Fair Chance Housing Notice (https://www.nyc.gov/assets/cchr/downloads/pdf/publications/FairChanceHousing-Notice.pdf).

NOTE: State-financed housing owners, managing agents and site managers for developments located outside of New York City must still comply with NYSHCR's Criminal Legal System Involvement Policy.