

HOUSE BILL 1077

N1

5lr1296

By: **Delegates Boaf and Wilkins**

Introduced and read first time: February 5, 2025

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Landlord and Tenant – Residential Leases – Prospective Tenant Criminal**
3 **History Records Check**
4 **(Maryland Fair Chance Housing Act)**

5 FOR the purpose of prohibiting a landlord from requiring or requesting from a prospective
6 tenant certain information relating to criminal history and prohibiting a landlord
7 from considering certain information when evaluating the prospective tenant;
8 permitting a landlord to consider certain criminal history information prior to
9 extending a conditional offer to a prospective tenant and requiring the landlord to
10 consider certain information provided by a prospective tenant relating to a criminal
11 history records check; authorizing a landlord to consider certain criminal convictions
12 only after extending a conditional offer to a prospective tenant and authorizing a
13 landlord to withdraw a conditional offer under certain circumstances; prohibiting a
14 landlord from publishing certain housing advertisements; establishing that the lease
15 of residential property to an individual with a criminal record or the decision of a
16 landlord not to conduct a criminal history records check is not the basis of a claim
17 against a landlord; requiring the Attorney General to collect and maintain certain
18 data and publish certain information relating to collected data annually on the
19 Attorney General's website; making a violation of this Act an unfair, abusive, or
20 deceptive trade practice subject to enforcement and certain penalties under the
21 Maryland Consumer Protection Act; and generally relating to the use of criminal
22 history records checks in residential leasing.

23 BY repealing and reenacting, with amendments,
24 Article – Commercial Law
25 Section 13–301(14)(xlii)
26 Annotated Code of Maryland
27 (2013 Replacement Volume and 2024 Supplement)

28 BY repealing and reenacting, without amendments,
29 Article – Commercial Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 13–301(14)(xliii)
Annotated Code of Maryland
(2013 Replacement Volume and 2024 Supplement)

BY adding to
Article – Commercial Law
Section 13–301(14)(xliv)
Annotated Code of Maryland
(2013 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, without amendments,
Article – Real Property
Section 8–218(a)
Annotated Code of Maryland
(2023 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 8–218(b)
Annotated Code of Maryland
(2023 Replacement Volume and 2024 Supplement)

BY adding to
Article – Real Property
Section 8–2A–01 through 8–2A–11 to be under the new subtitle “Subtitle 2A.
Discriminatory Use of Criminal History in Residential Leasing”
Annotated Code of Maryland
(2023 Replacement Volume and 2024 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Commercial Law

13–301.

Unfair, abusive, or deceptive trade practices include any:

(14) Violation of a provision of:

(xlii) Section 12–6C–09.1 of the Health Occupations Article; [or]

(xliii) Title 14, Subtitle 48 of this article; or

(XLIV) **TITLE 8, SUBTITLE 2A OF THE REAL PROPERTY
ARTICLE; OR**

Article – Real Property

8–218.

(a) In this section, “reusable tenant screening report” means a report prepared within the previous 30 days by a consumer reporting agency at the request and expense of a prospective tenant and made directly available to a prospective landlord at no charge for use in the rental application process.

(b) A reusable tenant screening report shall contain the following information regarding a prospective tenant:

(1) A credit report;

(2) For each jurisdiction indicated as a prior residence of the prospective tenant, regardless of whether the residence is reported by the prospective tenant or by a consumer reporting agency preparing a consumer report:

(i) **[A] SUBJECT TO SUBTITLE 2A OF THIS TITLE, A** comprehensive criminal history records check for all federal, state, and local charges against and convictions of the prospective tenant over the previous **[7] 3** years; and

(ii) A comprehensive eviction history for all state and local jurisdictions for the previous 7 years;

(3) Verification of employment and income; and

(4) Current address and rental history.

SUBTITLE 2A. DISCRIMINATORY USE OF CRIMINAL HISTORY IN RESIDENTIAL LEASING.

8–2A–01.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “CONDITIONAL OFFER” MEANS AN OFFER TO LEASE A RESIDENTIAL PROPERTY TO A PROSPECTIVE TENANT THAT IS CONTINGENT ON A SUBSEQUENT INQUIRY INTO THE PROSPECTIVE TENANT’S CRIMINAL HISTORY.

(C) (1) “CRIMINAL HISTORY RECORDS” HAS THE MEANING STATED IN § 10–239 OF THE CRIMINAL PROCEDURE ARTICLE.

(2) “CRIMINAL HISTORY RECORDS” INCLUDES RECORDS OF:

(I) CRIMINAL COMPLAINTS;

(II) AN ENTRY OF PROBATION BEFORE JUDGMENT; AND

(III) A PLEA OF NOLO CONTENDERE.

8-2A-02.

A LANDLORD THAT CONDUCTS A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH THIS SUBTITLE SHALL DO SO FOR EVERY PROSPECTIVE TENANT.

8-2A-03.

(A) A LANDLORD MAY NOT:

(1) (I) REQUIRE A PROSPECTIVE TENANT TO SUBMIT TO A DRUG OR ALCOHOL TEST; OR

(II) REQUEST OR REQUIRE A PROSPECTIVE TENANT TO CONSENT TO THE RELEASE OF INFORMATION ABOUT THE PROSPECTIVE TENANT FROM A DRUG ABUSE FACILITY OR ALCOHOL ABUSE FACILITY; OR

(2) REJECT A PROSPECTIVE TENANT BASED ON THE PROSPECTIVE TENANT'S CRIMINAL HISTORY EXCEPT AS PROVIDED IN § 8-2A-05 OF THIS SUBTITLE.

(B) PRIOR TO ACCEPTING AN APPLICATION FEE, A LANDLORD SHALL PROVIDE IN WRITING TO A PROSPECTIVE TENANT:

(1) NOTICE REGARDING THE USE OF A CRIMINAL HISTORY RECORDS CHECK IN DETERMINING ELIGIBILITY FOR LEASING, INCLUDING A STATEMENT THAT CONVICTION FOR A CRIME LISTED IN § 8-2A-05 OF THIS SUBTITLE MAY BE CONSIDERED BY THE LANDLORD ONLY AFTER THE EXTENSION OF A CONDITIONAL OFFER; AND

(2) INFORMATION ON THE ABILITY OF THE PROSPECTIVE TENANT, IN RESPONSE TO A CRIMINAL HISTORY RECORDS CHECK, TO PROVIDE EVIDENCE DEMONSTRATING:

(I) INACCURACIES IN THE TENANT'S CRIMINAL HISTORY RECORDS;

(II) EVIDENCE OF REHABILITATION; AND

(III) MITIGATING FACTORS.

(C) A LANDLORD SHALL NOTIFY A PROSPECTIVE TENANT THAT AN INDIVIDUALIZED ASSESSMENT WILL BE CONDUCTED AFTER THE EXTENSION OF A CONDITIONAL OFFER.

8-2A-04.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, BEFORE EXTENDING A CONDITIONAL OFFER TO A PROSPECTIVE TENANT, A LANDLORD MAY NOT:

(I) REQUEST OR REQUIRE THE PROSPECTIVE TENANT TO DISCLOSE IN A HOUSING APPLICATION WHETHER THE PROSPECTIVE TENANT HAS A CRIMINAL HISTORY OR HAS BEEN ACCUSED OF OR CHARGED WITH ANY CRIMES; OR

(II) MAKE AN ORAL OR WRITTEN INQUIRY REGARDING THE CRIMINAL HISTORY OF THE PROSPECTIVE TENANT.

(2) IF REQUIRED BY FEDERAL LAW, A LANDLORD MAY REQUIRE INFORMATION REGARDING WHETHER A PROSPECTIVE TENANT:

(I) HAS BEEN CONVICTED OF MANUFACTURING METHAMPHETAMINE ON THE PREMISES OF FEDERALLY ASSISTED HOUSING; OR

(II) IS SUBJECT TO A LIFETIME REGISTRATION REQUIREMENT UNDER A STATE SEX OFFENDER REGISTRATION PROGRAM.

(B) IN RESPONSE TO THE RESULTS OF A CRIMINAL HISTORY RECORDS CHECK, BUT BEFORE THE WITHDRAWAL OF A CONDITIONAL OFFER, A PROSPECTIVE TENANT MAY PROVIDE, AND A LANDLORD SHALL CONSIDER, EVIDENCE DEMONSTRATING:

(1) INACCURACIES IN THE PROSPECTIVE TENANT'S CRIMINAL HISTORY RECORDS;

(2) EVIDENCE OF REHABILITATION; AND

(3) ANY OTHER MITIGATING FACTORS.

8-2A-05.

(A) AFTER THE EXTENSION OF A CONDITIONAL OFFER TO A PROSPECTIVE TENANT, A LANDLORD MAY CONSIDER ONLY THE FOLLOWING CONVICTIONS AS POTENTIAL GROUNDS FOR WITHDRAWAL OF THE OFFER:

(1) MURDER IN THE FIRST DEGREE UNDER § 2–201 OF THE CRIMINAL LAW ARTICLE;

(2) HUMAN TRAFFICKING UNDER § 3–1102 OF THE CRIMINAL LAW ARTICLE;

(3) ANY CRIME RESULTING IN LIFETIME REGISTRATION IN A STATE SEX OFFENDER REGISTRY; AND

(4) IF THE CONVICTION OCCURRED WITHIN 2 YEARS IMMEDIATELY PRECEDING THE CONDITIONAL OFFER:

(I) A SEXUAL OFFENSE UNDER TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE;

(II) CHILD PORNOGRAPHY UNDER § 11–207 OF THE CRIMINAL LAW ARTICLE;

(III) KIDNAPPING UNDER § 3–502 OF THE CRIMINAL LAW ARTICLE; AND

(IV) ARSON UNDER §§ 6–102 AND 6–103 OF THE CRIMINAL LAW ARTICLE.

(B) (1) A LANDLORD MAY WITHDRAW A CONDITIONAL OFFER BASED ON A PROSPECTIVE TENANT’S CRIMINAL HISTORY RECORDS CHECK, AFTER AN INDIVIDUALIZED ASSESSMENT, ONLY IF THE LANDLORD DETERMINES THAT THE WITHDRAWAL IS NECESSARY TO FULFILL A SUBSTANTIAL, LEGITIMATE, AND NONDISCRIMINATORY INTEREST.

(2) A LANDLORD MAY NOT RENT THE UNIT TO A NEW TENANT WHILE THE LANDLORD IS CONDUCTING THE PROSPECTIVE TENANT’S INDIVIDUALIZED ASSESSMENT UNDER THIS SUBSECTION.

(C) IF A LANDLORD WITHDRAWS A CONDITIONAL OFFER, THE LANDLORD SHALL PROVIDE THE PROSPECTIVE TENANT WITH WRITTEN NOTICE OF THE WITHDRAWAL THAT INCLUDES:

1 (1) A SPECIFIC REASON FOR THE WITHDRAWAL OF THE CONDITIONAL
2 OFFER; AND

3 (2) A STATEMENT THAT THE PROSPECTIVE TENANT MAY APPEAL THE
4 WITHDRAWAL BY PROVIDING EVIDENCE TO THE LANDLORD DEMONSTRATING:

5 (I) INACCURACIES IN THE PROSPECTIVE TENANT'S CRIMINAL
6 HISTORY RECORDS;

7 (II) EVIDENCE OF REHABILITATION; OR

8 (III) ANY OTHER MITIGATING FACTORS.

9 (D) ON REASSESSMENT OF THE APPLICATION BY THE LANDLORD
10 FOLLOWING AN APPEAL BY THE PROSPECTIVE TENANT, A LANDLORD'S
11 DETERMINATION OF A SUBSTANTIAL, LEGITIMATE, AND NONDISCRIMINATORY
12 INTEREST MUST BE REASONABLE IN LIGHT OF THE FOLLOWING FACTORS:

13 (1) THE NATURE AND SEVERITY OF THE CRIMINAL OFFENSE;

14 (2) THE AGE OF THE PROSPECTIVE TENANT AT THE TIME OF THE
15 OCCURRENCE OF THE CRIMINAL OFFENSE;

16 (3) THE AMOUNT OF TIME THAT HAS ELAPSED SINCE THE
17 OCCURRENCE OF THE CRIMINAL OFFENSE;

18 (4) ANY INFORMATION PRODUCED BY THE PROSPECTIVE TENANT, OR
19 PRODUCED ON THE PROSPECTIVE TENANT'S BEHALF, REGARDING REHABILITATION
20 AND GOOD CONDUCT SINCE THE CRIMINAL OFFENSE;

21 (5) THE DEGREE TO WHICH THE CRIMINAL OFFENSE, IF IT
22 REOCCURRED, WOULD NEGATIVELY IMPACT THE SAFETY OF OTHER TENANTS OR
23 THE PROPERTY;

24 (6) WHETHER THE CRIMINAL OFFENSE OCCURRED ON, OR WAS
25 CONNECTED TO, PROPERTY THAT WAS RENTED OR LEASED BY THE PROSPECTIVE
26 TENANT; AND

27 (7) ANY OTHER MITIGATING FACTORS.

28 (E) (1) WITHIN 30 DAYS AFTER THE LANDLORD'S NOTICE OF
29 WITHDRAWAL OF THE CONDITIONAL OFFER, THE PROSPECTIVE TENANT MAY
30 REQUEST THAT THE LANDLORD PROVIDE A COPY OF ALL INFORMATION THAT THE

LANDLORD RELIED ON IN CONSIDERING THE PROSPECTIVE TENANT, INCLUDING
CRIMINAL HISTORY RECORDS.

(2) WITHIN 10 DAYS AFTER RECEIPT OF A TIMELY REQUEST, THE
LANDLORD SHALL PROVIDE THE INFORMATION REQUESTED UNDER PARAGRAPH (1)
OF THIS SUBSECTION.

8-2A-06.

(A) A LANDLORD MAY NOT KNOWINGLY OR INTENTIONALLY PUBLISH, OR
CAUSE TO BE PUBLISHED, ANY ADVERTISEMENT THAT EXPRESSLY STATES THAT THE
LANDLORD WILL NOT CONSIDER A PROSPECTIVE TENANT WHO HAS BEEN ARRESTED
OR CONVICTED OF A CRIME.

(B) A LANDLORD MAY NOT PUBLISH OR DISTRIBUTE ANY STATEMENT,
ADVERTISEMENT, PUBLICATION, OR SIGN, USE ANY FORM OF LEASE APPLICATION,
OR MAKE ANY INQUIRY IN CONNECTION WITH THE PROSPECTIVE RENTAL, LEASE, OR
SUBLEASE OF REAL PROPERTY THAT EXPRESSES, DIRECTLY OR INDIRECTLY, A
LIMITATION OR SPECIFICATION RELATING TO CRIMINAL HISTORY RECORDS THAT IS
INCONSISTENT WITH THE REQUIREMENTS OF THIS SUBTITLE.

(C) UNLESS OTHERWISE REQUIRED BY LAW, A LANDLORD MAY NOT:

(1) DISTRIBUTE OR DISSEMINATE A PROSPECTIVE TENANT'S
CRIMINAL HISTORY RECORDS TO ANY PERSON WHO IS NOT EXPECTED TO USE THE
CRIMINAL HISTORY RECORDS FOR THE PURPOSE OF EVALUATING THE
PROSPECTIVE TENANT IN A MANNER CONSISTENT WITH THIS SUBTITLE; OR

(2) USE A PROSPECTIVE TENANT'S CRIMINAL HISTORY FOR A
PURPOSE THAT IS INCONSISTENT WITH THIS SUBTITLE.

8-2A-07.

A LANDLORD'S DECISION TO LEASE A RESIDENTIAL DWELLING UNIT TO AN
INDIVIDUAL WITH A CRIMINAL HISTORY, OR THE LANDLORD'S DECISION NOT TO
OBTAIN A CRIMINAL HISTORY RECORDS CHECK, MAY NOT BE THE BASIS FOR A CLAIM
AGAINST THE LANDLORD.

8-2A-08.

(A) THE ATTORNEY GENERAL SHALL DEVELOP AND PUBLISH ON THE
ATTORNEY GENERAL'S WEBSITE A MODEL NOTICE DOCUMENT FOR USE BY
LANDLORDS UNDER THIS SUBTITLE.

(B) THE MODEL NOTICE DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) LANGUAGE FOR USE BY A LANDLORD TO ADVISE A PROSPECTIVE TENANT THAT THE LANDLORD HAS WITHDRAWN A CONDITIONAL OFFER OR TAKEN AN ADVERSE HOUSING ACTION BASED ON THE PROSPECTIVE TENANT'S CRIMINAL HISTORY; AND

(2) LANGUAGE NOTIFYING THE PROSPECTIVE TENANT OF:

(I) THE RIGHT OF THE PROSPECTIVE TENANT TO REQUEST A COPY OF ALL INFORMATION ON WHICH THE LANDLORD RELIED IN REACHING A DECISION, INCLUDING INFORMATION FROM CRIMINAL HISTORY RECORDS;

(II) THE PROSPECTIVE TENANT'S RIGHT TO FILE A COMPLAINT UNDER § 13-401 OF THE COMMERCIAL LAW ARTICLE; AND

(III) ANY OTHER INFORMATION THE ATTORNEY GENERAL CONSIDERS APPROPRIATE.

(C) THE MODEL NOTICE DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL BE MADE AVAILABLE IN ENGLISH, SPANISH, AND ANY OTHER LANGUAGE THE ATTORNEY GENERAL CONSIDERS APPROPRIATE.

8-2A-09.

(A) THE ATTORNEY GENERAL SHALL COLLECT AND MAINTAIN THE FOLLOWING DATA RELATING TO COMPLAINTS FILED UNDER THIS SUBTITLE:

(1) THE NUMBER OF COMPLAINTS FILED;

(2) DEMOGRAPHIC INFORMATION REGARDING THE COMPLAINANTS, INCLUDING SEX AND RACE;

(3) THE NAMES OF LANDLORDS SUBJECT TO A COMPLAINT;

(4) THE NUMBER OF INVESTIGATIONS CONDUCTED BY THE ATTORNEY GENERAL; AND

(5) THE DISPOSITION OF EACH COMPLAINT.

(B) (1) THE ATTORNEY GENERAL SHALL PUBLISH ANNUALLY AND POST ON THE ATTORNEY GENERAL'S WEBSITE INFORMATION ON SUBSTANTIATED COMPLAINTS THAT RESULTED IN THE IMPOSITION OF A CIVIL PENALTY UNDER § 8-2A-10 OF THIS SUBTITLE.

(2) THE ATTORNEY GENERAL MAY NOT PUBLISH ANY IDENTIFYING INFORMATION ABOUT A LANDLORD THAT IS THE SUBJECT OF A COMPLAINT IF THE LANDLORD IS IN GOOD FAITH COMPLIANCE WITH REQUIREMENTS IMPOSED BY THE ATTORNEY GENERAL UNDER § 8-2A-10 OF THIS SUBTITLE.

8-2A-10.

(A) A VIOLATION OF THIS SUBTITLE:

(1) IS AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE; AND

(2) IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THE COMMERCIAL LAW ARTICLE, EXCEPT § 13-411 OF THE COMMERCIAL LAW ARTICLE.

(B) A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$1,000 FOR EACH VIOLATION.

8-2A-11.

THE ATTORNEY GENERAL SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2025.