



#### 5 Examples of policies that likely would not violate the Fair Housing Act:

- ✦ A landlord who won't accept a rental application from a tenant with a felony conviction in the last 10 years related to violence or property damage as long as the landlord applies the policy equally to all applicants and tenants.
- ✦ A landlord who won't accept a rental application from a tenant with a criminal history of illegal manufacture or distribution of a controlled substance.

#### 6 How to file a FHA Complaint – If you think you are a victim of housing discrimination, you have the right to file a housing discrimination complaint with HUD by calling 800-669-9777 (TTY 800-927-9275) by visiting [hud.gov](http://hud.gov) or you can use HUD's Housing Discrimination Complaint Application smartphone app.



#### Fair Housing Resources:

- ✦ U.S. Department of Housing and Urban Development (HUD) 1-800-669-9777 or 1-800-927-9275 (TDD)
- ✦ [hud.gov](http://hud.gov)
- ✦ Idaho Legal Aid Services Housing Hotline at 844-804-0386
- ✦ [idaholegalaid.org](http://idaholegalaid.org)
- ✦ Intermountain Fair Housing Council (208) 383-0695
- ✦ [ifhcidaho.org](http://ifhcidaho.org)
- ✦ Idaho Human Rights Commission (208) 334-2873
- ✦ [humanrights.idaho.gov](http://humanrights.idaho.gov)

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# YOUR FAIR HOUSING RIGHTS CRIMINAL HISTORY

# What is the Fair Housing Act?

The Fair Housing Act, Title VIII of the Civil Rights Acts, prohibits discrimination in housing.

## ① The Fair Housing Act (FHA) makes it illegal to discriminate against someone when renting or selling if the person belongs to a protected class. A protected class includes:

Race, color, sex, religion, national origin, disability, and familial status (presence of minor children)

## ② The U.S. Department of Housing and Urban Development has explained the barriers that criminal records may create and how they may violate the Fair Housing Act if, without justification, their burden falls more often on one race or national origin.

- ✦ Because African Americans and Hispanics are arrested, convicted and imprisoned in high numbers compared to their population size, criminal records-based barriers have a unequal impact on minority home seekers.
- ✦ Having a criminal record is not a protected class. However, criminal history-based restrictions do violate the FHA if, without justification, their burden falls more often on one race or national origin.
- ✦ Intentional discrimination occurs if a housing provider treats individuals with comparable criminal histories differently because of their race, national origin or other protected characteristic. Examples:
  - Rejecting a Hispanic applicant based on criminal record but admitting a White applicant with a similar criminal record.



- Landlord helps a White applicant even though the White applicant may have a disqualifying criminal record but the landlord does not help a Black applicant.
- Landlord discourages a Black applicant with a criminal record from applying, but not a White applicant with a criminal record.

- ✦ If a landlord or seller a policy in place that discriminates based on an applicants criminal history, then HUD will evaluate whether the policy is necessary to achieve a substantial, legitimate, nondiscriminatory interest.

- ✦ HUD recommends a policy to screen for criminal histories that looks at the possible risk to the safety of tenants and the property, but also takes into account how long ago the conviction occurred.

- ✦ A housing provider will not be liable under the FHA for excluding individuals because they have been convicted of the illegal manufacture or distribution of a controlled substance as defined in 21 USC 802. (Note, this applies to convictions, not arrests).

## ④ Examples of landlord or seller policies regarding criminal history that would likely violate the Fair Housing Act:

- ✦ Preventing someone from renting for any criminal background regardless of when the conviction occurred or the type of criminal activity.
- ✦ A ban of any criminal history including arrests that did not result in a conviction
- ✦ A ban on any criminal history in the past 10 years, but the manager tells a White applicant the policy can be waived while a Black or Latino applicant was told he would not qualify.

