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Landlords Must Accept Felon Tenants

The nation's private and public landlords can no longer use a tenant applicant's criminal background as justification for rejecting an application for housing. Under HUD's new "guidance," felons must be accepted as tenants even though their criminal past may include such crimes as murder, rape, child molestation and other serious crimes.

HUD's rationale declares that the rule is necessary because of a racial imbalance in the prison system. The department reasons that, since there is a preponderance of blacks in the prison system because prosecutors selectively target blacks for prosecution, blacks are more likely to be turned away from housing upon release from prison.

The guidance -- issued in lieu of a new rule to avert congressional scrutiny and possible rejection but which has the force of law -- declares that an individual's arrest record alone can't be used as evidence of commission of a crime.

Instead, public housing authorities and private property landlords must jump through a series of legal hoops to prove that an applicant, showing a preponderance of evidence, engaged in disqualifying criminal activity. Landlords can consider police reports, witness statements, charges filed, and other evidence to determine whether a criminal should be disqualified for tenancy.

"Before a PHA denies admission to the public housing or Section 8 program on the basis of a criminal record, the PHA must notify the applicant of the proposed decision and provide the applicant and the subject of the record with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of the record," the guidance says.

The guidance emphasizes private landlords over PHAs and notes HUD is set to begin strict enforcement of it. Ironically, HUD's actions come just as the Obama administration is poised to release additional criminals before their sentences are fulfilled because the crimes for which they were convicted did not involve violence. The administration's "early release" initiative does not take into consideration any earlier criminal history showing violence, a point frequently cited by critics of the policy.

HUD's move parallels a strategy by the left-leaning Lawyer's Committee for Civil Rights Under Law (LCCR). The organization had already identified 13 landlords imposing blanket ban policies barring renting to anyone with a criminal history.

The LCCR unveiled its strategy at the same time HUD was describing its new guidance. "These blanket bans create significant barriers to housing opportunities for people seeking housing, and may have a disproportionate impact on African-Americans and other minority groups," the LCCR says.

The LCCR's disclosure of the 13 landlords precipitated a nationwide investigation by the organization into housing barriers for criminals.

Info: See the HUD guidance at www.cdpublications.com/docs/8805, and the LCCR strategy at www.lawyerscommittee.org

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