Illinois’ New Source of Income Protections
HB 2775
Statewide Source of Income Protections

October 2022
Disclaimer

This presentation does not constitute legal advice. This is for informational purposes only.
What is Source of Income Discrimination

When a landlord, mortgage lender, or other actors treat households unfairly because of their subsidy, non-wage income, or forms of home financing.

Put simply, this occurs because real estate actors want to refuse the household’s legal source of income. The decision can be arbitrary and often serve as a proxy for other forms of discrimination.
Who is Impacted

• **Nearly 3,000 veterans** who utilize Veterans Affairs Supportive Housing vouchers (VASH) in order to avoid homelessness and help pay their rent

• **Nearly 95,000 households** who use Housing Choice Voucher to help pay rent

• **More than 214,000 individuals** who receive survivor benefits

• **More than 264,000 individuals** receiving Social Security Insurance (SSI)

• **About half of all Illinois Households** receive income coming from non-wage source
How this impacts people

Clients, neighbors, friends, and family who...

...are homeless despite having the means to afford their rent

...have Housing Choice Vouchers but no choice in where they can live

...have waited years to get a voucher but lose it because it expires before they find a LL

...can only find already affordable housing options that accept their voucher, reducing the affordable stock for those in need but without a subsidy

...experience rampant disrespect
How this impacts people

Clients, neighbors, friends, and family who . . .

. . . are being discriminated against because of their race

. . . are being discriminated against because of their gender

. . . are being discriminated against because they have children

. . . are being discriminated against because they have a disability

BUT Landlords previously had a get out of jail free card. Because they could say “it’s not you it’s your voucher”, “it’s because you receive SSI”, or “I can’t rely on your child support.”
Why now

Haven’t Illinois advocates been fighting for this for 20 years?
What changed

57,201
Who supported this

- Access Living - Disability Rights Action Coalition for Housing (DRACH)
- Chicago Area Fair Housing Alliance - HCV Leader Board
- Chicago Coalition for the Homeless
- Chicago Lawyers' Committee for Civil Rights Under Law
- HOPE Fair Housing Center
- Housing Action Illinois
- Housing Choice Partners - Suburban HCV Working Group
- Lawyers' Committee for Better Housing
- Northside Community Resources
- Shriver Center on Poverty Law
- Working Family Solidarity
- Illinois Religious Action Center of Reform Judaism (RAC-IL)
How we got here
<table>
<thead>
<tr>
<th>Protected Class</th>
<th>Federal Fair Housing Act</th>
<th>Illinois Human Rights Act</th>
<th>Cook County Human Rights Ordinance</th>
<th>Chicago Fair Housing Ordinance</th>
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<tbody>
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<td>Familial Status (children)</td>
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<td>Disability</td>
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<td>Military/Veteran Status</td>
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<td>Sexual Orientation</td>
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<td>Unfavorable Military Discharge</td>
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<td>Order of Protection Status</td>
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<td>Source of Income</td>
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<td>Gender Identity</td>
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<td>Housing Status</td>
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<td>Covered Criminal history</td>
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<td>Immigration Status</td>
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**Protected Classes under ITPA:**

- Race
- Color
- Religion
- National Origin
- Sex (incl. sexual harassment)
- Familial Status (children)
- Disability
- Ancestry
- Age
- Marital Status
- Military/Veteran Status
- Sexual Orientation
- Unfavorable Military Discharge
- Order of Protection Status
- Source of Income
- Gender Identity
- Housing Status
- Covered Criminal history
- Immigration Status
What the law says

(775 ILCS 5/1-103)

(0-5) Source of income. "Source of income" means the lawful manner by which an individual supports himself or herself and his or her dependents.
Existing Guidance

MEMORANDUM

Date: February 3, 2022, as amended July 21, 2022

To: Cook County Landlords and Rental Housing Providers
From: Cook County Commission on Human Rights Commissioners

Source of Income means the lawful manner by which an individual supports themselves or their dependents. See Revised Code 1:42-150.1. It is unlawful for any person to discriminate against an individual based on their participation in the Housing Choice Voucher (“HCV”) Program (sent to Section 8). See Revised Code 1:42-30 – et seq. and 42-38. Doing so will allow an injured HCV holder to file a complaint with the Cook County Commission on Human Rights. The Commission can impose significant fines for substantiated violations as well as award damages and impose injunctive relief to the injured party. Add at § 42-34(a).

A landlord or property manager may not refuse to rent to a tenant because they are using an HCV. Landlords and property managers shall not:

- Advertise that they are not renting to HCV or Section 8 tenants;
- Refuse to process, or delay processing, a potential tenant’s application (including but not limited to paperwork and inspections) because of use of an HCV;
- Treat HCV holders less favorably than other potential tenants by inflating rents or imposing HCV restrictions more stringently; or
- Utilize a screening, selection, or application tool that is specifically designed to exclude an HCV holder, or (b) in practice automatically excludes an HCV holder.

HCV is a source of income. Accordingly, a landlord or property manager must include the value of an HCV in any screening or rental application calculation of “income.” To calculate the rent-to-income ratio of a prospective HCV tenant, a landlord should only consider the portion of the rent that the HCV applicant would be directly responsible for.

For example, a two-bedroom unit is advertised at a rent of $1,500 per month. The property manager has a policy that all households must have an income of at least three times the rent to qualify for a unit. A household with an HCV applies for the apartment. The tenant’s portion of the rent is $500, and the housing authority will pay the additional $1,000. The housing provider is permitted to require that the tenant have an income of at least $1,500 a month (the tenant portion X 3). The housing provider cannot require that the tenant make three times the total rent for the unit ($4,500) as this would include the portion that will be paid by the housing authority.  

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<th>Rent Due by Tenant:</th>
<th>Without HCV</th>
<th>With HCV</th>
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<td>$1,500</td>
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<th>Income Minimum:</th>
<th>Without HCV</th>
<th>With HCV</th>
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<td>$4,500</td>
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The Commission would rather help landlords and property managers comply with the law than prosecute anyone. Please contact the Commission at the phone number above with questions.

1 HCV is one example of rental assistance covered under this protection. Other examples include emergency rental assistance and homelessness prevention program funds.

2 The example and chart used are based on information available at [https://www.hud.gov/programs/compliance/rental-assistance](https://www.hud.gov/programs/compliance/rental-assistance). Final rent amounts are set per discussions between the government entity that issued the voucher and the housing provider. An HCV holder with no income would not be responsible for any rent per HCV program rules but can still qualify for a unit because the government entity in that instance covers all the rent. Such an HCV holder has an infinite rent-to-income ratio when compared to a market tenant.
What this changes for renters

• Can no longer treat types of income preferentially
  • E.g. preferring wages over child support and alimony
• Can no longer refuse to rent to someone because of their occupation
  • E.g. healthcare worker of service industry worker
• Can no longer refuse to accept or consider Emergency Rental Assistance
  • E.g. refusing to complete a application for COVID related rent relief
• Can no longer refuse to rent to someone because they have a Housing Choice Voucher
  • Incl. cannot refuse to complete paperwork or allow inspections
• Allows victims of illegal SOI discrimination to seek justice in court for the first time in Illinois
What this changes for homebuyers

• Mortgage underwriting is unaffected. Lenders can consider source of income when making lending decisions.
  • BUT, The Equal Credit Opportunity Act (ECOA) already prohibits discrimination against public aid in lending decisions.

• Borrowers with FHA, VA, and similar loan types cannot be discriminated against when seeking to purchase a home.

• Participants in Homeownership Voucher programs cannot be discriminated against when seeking to view or purchase a home.
What to do if you or a client has been discriminated against

- Document it as close to the event as possible.
  - Who you spoke to
  - The address
  - What was said
  - When it happened
  - Save any digital communications or voicemails
  - Save any ads or listings

- Connect with your local fair housing agency
Resources

There are several organizations (outside of Cook County) that can help a potential victim of source of income discrimination:

- HOPE Fair Housing Center: https://hopefair.org/service-area
- South Suburban Housing Center: https://southsuburbanhousingcenter.org/who-we-serve
- Open Communities: https://www.open-communities.org/services
- Prairie State Legal Services: www.pslegal.org/fairhousing
There are many remedies possible:

- Injunctions and temporary restraining orders
- Obtaining or keeping the housing
- Policy changes (i.e. set asides for HCVs)
- Monetary damages (emotional distress, lost housing opportunity costs, and expenses)
- Complainant’s attorneys fees and costs
- Punitive damages to deter future conduct
How to learn more:

Contact HOPE Fair Housing Center to request a in-person fair housing intake clinic for your clients in Southern or Central Illinois, for a customized training to your staff or clients, or for educational materials.

michael.chavarria@hopefair.org
630-690-6500 x114
hopefair.org