

Landlord Training - City of Lockport Rental Program

Presented By
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PRAIRIE STATE
LEGAL SERVICES

DISCLAIMER

THIS PRESENTATION DOES NOT CONSTITUTE LEGAL ADVICE OR A LEGAL OPINION ON ANY MATTER DISCUSSED. THIS PRESENTATION IS FOR EDUCATIONAL PURPOSES ONLY.

IT DOES NOT TOUCH ON THE ADDITIONAL LEGAL RIGHTS AND OBLIGATIONS UNDER LOCAL RESIDENTIAL LANDLORD TENANT ORDINANCES, SUCH AS THOSE IN CHICAGO, COOK COUNTY, AND EVANSTON.



PRAIRIE STATE
LEGAL SERVICES

Prairie State Legal Services

Offer free legal services for low-income persons and those age 60 and over who have serious civil legal problems and need legal help to solve them



Focus On Basic Human Needs

- Protection from abuse
- Preserve safe and healthy housing
- Obtain and protect income and benefits necessary for daily living
- Ensure access to medical programs like Medicaid
- Address other basic needs



Summary of Presentation

- I. Tenant application**
- II. Lease**
- III. Eviction process in Illinois**



Tenant Application

Important Sources of Law

Illinois Human Rights Act, 775 ILCS 5/1-101 et seq.

It is a civil rights violation to use a form of application for a real estate transaction, or make a record or inquiry in connection with a prospective real estate transaction, that indicates any preference, limitation, or discrimination based on a person's actual or perceived: race, color, religion, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service, familial status, or an arrest record.

Fair Housing Act, 42 U.S.C. 3601 et seq.

It shall be unlawful to rent, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, disability, familial status, or national origin.

Avoid “have you ever” questions

Have you ever been arrested, prosecuted, cited, plead guilty to, or been convicted of a crime?

Have you ever been evicted or had an eviction case filed against you?

Owner prohibited from considering applicants' arrest records:

- (1) an arrest not leading to a conviction;
 - (2) a juvenile record; or
 - (3) criminal history record information ordered expunged or sealed
- (Section 775 ILCS 5/1-103 of HRA)

Remedies under HRA include damages and fine up to \$16,000 for first violation.

Reducing the risk of potential liability for discriminatory screening practices

Applicant screening policies and practices must serve substantial, legitimate, non-discriminatory interests.

Blanket bans of all convictions do not meet this test and do not constitute a defense to disparate impact liability

Policies or practices that deny housing based on an accurate record of convictions that indicate a demonstrable risk to resident safety and/or property *may* serve substantial, legitimate, nondiscriminatory interests. However, policies or practices that fail to consider the nature, severity, and recency of an individual's conduct are unlikely to be necessary to serve a substantial, legitimate, nondiscriminatory interest.

Discriminatory effect of policy may be further mitigated by an individualized assessment, including: circumstances surrounding criminal conduct; age at time of conduct; evidence of good tenant history before and/or after conduct or conviction; evidence of rehabilitation efforts.

Advice from HUD if using a criminal background screening policy

- Have a written criminal background screening policy made available to all applicants
- Ensure policy is supported by reliable evidence it actually helps protect resident safety and property
- Policy considers the nature, severity, and recency of criminal conduct
- Avoid screening companies that use algorithms that may contain racial or other prohibited biases in their design, or make decisions on behalf of the landlord regarding applicant eligibility
- Before making an adverse decision regarding an applicant based on criminal (or eviction) history, provide the applicant a copy of the report and correct inaccurate information or explain mitigating circumstances surrounding the record
- Individualized assessment that considers mitigating information beyond that contained in the report

HUD, Implementation of the Office of General Counsel's Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions (June 10, 2022)

Tenant Screening Report

Fair Credit Reporting Act, 15 U.S.C. 1681 et seq.

If obtaining a tenant screening report from a consumer reporting agency, the following steps are required:

- 1.) Provide applicant disclosure consumer report may be requested, and obtain written authorization from the applicant.
- 2.) Certify compliance with FCRA requirements
- 3.) Provide applicant adverse action notice if the report has any information that negatively influences the decision in any way to rent to the applicant or the terms of renting: a.) contact info of CRA that supplied report; b.) statement that CRA did not make the decision to take unfavorable action and can't give specific reasons for it; c.) notice of right to challenge the accuracy or completeness of information in the report, and to request within 60 days and obtain a free copy of report from the CRA.

Source of Income discrimination

Effective January 1, 2023

Amendment to the IL Human Rights Act

Adds source of income discrimination as new civil rights violation for real estate transactions, including rentals.

SOI means “the lawful manner in which an individual supports himself or herself and his or her dependents.”

SOI examples: housing choice vouchers (Section 8), SSI, SSDI, retirement income, social security, TANF, child support

Is renting to a voucher holder mandatory starting January 1, 2023?

No.

But landlords will be required to consider the funding from the voucher in the same way they consider other sources of income used to pay rent.

Landlords may reject a tenant with a voucher for other reasons, such as if the voucher doesn't pay enough or if the particular applicant has bad references, or doesn't meet other established eligibility requirements.

DO NOT reject an applicant or require more onerous lease terms solely on the basis of their source of income.



The Lease

Elements of a good lease

Fair/balanced

- **“If the tenant breaks this lease in any way, the security deposit is not refundable.”**
- Return of security deposit is subject to: tenant professionally cleaning carpet and house free of bugs and rodents. **“The above conditions must be met regardless of condition of house when lessee took occupancy. If lessee took occupancy with house in conditions less than above, it is assumed that such occupancy was for value received, and that property will be left as agreed above.”**

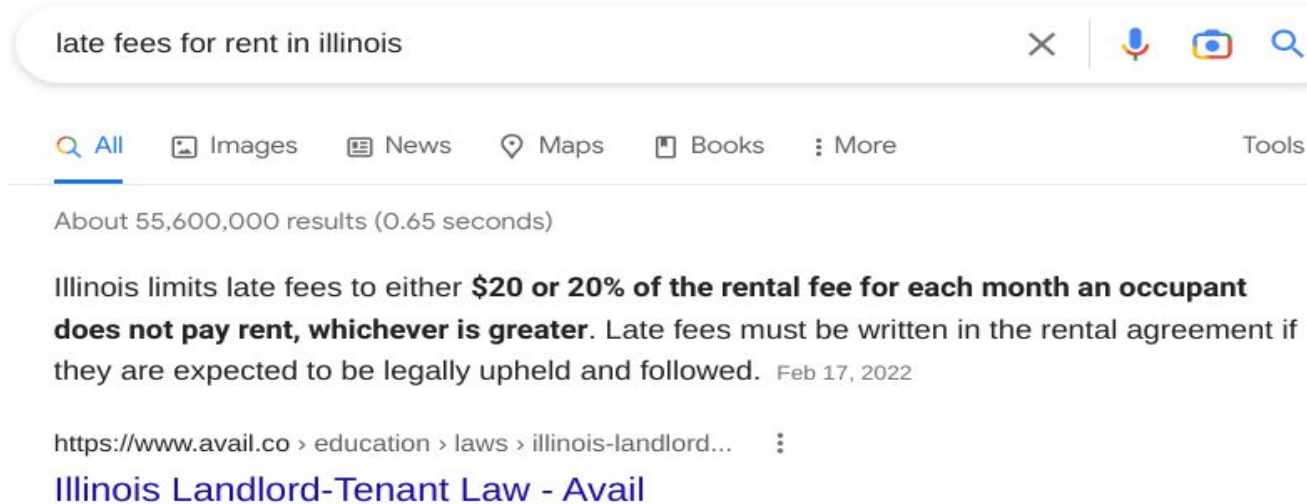
Comprehensive - anticipates potential issues and how to resolve them

Clear - understandable; avoids contradictory terms

- Ambiguities in contract language are interpreted against the drafter.

Complies with laws - retain an experienced attorney in landlord/tenant issues to draft a residential lease or review the one you are using.

Beware of internet lease forms and search results



A screenshot of a Google search interface. The search bar contains the text "late fees for rent in illinois". Below the search bar, there are navigation options: "All" (selected), "Images", "News", "Maps", "Books", "More", and "Tools". The search results show "About 55,600,000 results (0.65 seconds)". The first result is a snippet from a website, stating: "Illinois limits late fees to either **\$20 or 20% of the rental fee for each month an occupant does not pay rent, whichever is greater**. Late fees must be written in the rental agreement if they are expected to be legally upheld and followed. Feb 17, 2022". Below the snippet is the URL "https://www.avail.co > education > laws > illinois-landlord..." and the title "Illinois Landlord-Tenant Law - Avail".

late fees for rent in illinois

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Where does this come from?

Self-Service Storage Facility Act, 770 ILCS 95/7.10(c) - Late fees

Monthly rent of storage unit ranges from \$50 - \$300.

There is no statute that provides what is reasonable late fees for unpaid rent under residential leases.

Illinois case law has held:

- Late fee has to be the reasonable recoverable expense for a late payment.
- Cannot be a penalty to secure timely payment of rent.
- **Hidden Grove Condo. Ass'n v. Crooks**, 318 Ill. App. 3d 945 (2001), the court found reasonable a one time \$25 late fee; found unreasonable continued monthly charge of \$25 for every subsequent month the condo assessment remained unpaid.



Eviction Process

Illegal Lockouts

Under Illinois law, a landlord cannot use force to lock out a tenant of their dwelling unit. The use of force includes:

- Changing locks
- Removing tenant belongings from the unit
- Removing doors or windows of the unit, and
- Shutting off the heat, water, electricity, or other essential utilities.

The only way to evict a tenant in Illinois is through the eviction court process, by order of the court and enforcement by the sheriff's office.

Liability for Illegal Lockout

Temporary restraining order requiring to return possession of unit to the tenant

Reimbursement of tenant's alternate lodging expenses due to lockout

Punitive damages

Attorney fees

Costs of an eviction

Unpaid back rent

Future rent until property re-rented

Unpaid utilities (if village/city requires payment prior to allowing change under new tenant)

Filing fees in Will County - \$139 (possession only); \$314 (possession + rent)

Service of summons in Lockport by WC Sheriff: \$58 or \$66 (per person served)

Attorney fee: \$700 - \$1,000

Realtor's commission for new rental - usually one month's rent

Court-based Rental Assistance (CBRAP)

Requires:

- Pending eviction case
- Tenant experienced financial hardship during COVID pandemic
- Household income is at or below 80% AMI

May qualify for up to \$25,000 in rental assistance payments that can include 15 months of past-due rent and 3 months of future rent payments.

Currently, once both parties complete the application, it's taking IHDA about 2 weeks to review.

Other local rental assistance

Spanish Community Center (properties within City of Joliet) and **Community Service Council** (properties in Will County, excluding Joliet):

- Up to 3 months of past-due rent
- Tenant must have experienced a direct or indirect COVID-related financial hardship
- Household income at or below 80% AMI
- **Does not require pending eviction case to apply for assistance**

Will County Center for Community Concerns - assistance with delinquent water bills or utilities.

Eviction Timeline

Pre-Court

1. Non-payment of rent or other lease violation
2. Notice from landlord
3. Service of complaint and summons

Court

4. First court date
5. Trial
6. Physical eviction by Sheriff



Private and Subsidized: Evictions (In Court)

- Landlord can only take possession of unit **with valid order from the court**
- Begins with notice for possession (5 day, 10 day, 30 day)
- Personal service of summons & complaint
- (At least) 2 court dates
 - Return of service
 - Trial



Eviction outcomes

- Default

- Tenant is no show and court orders possession

- Dismissal

- With or without prejudice
- Ends court matter

- Settlement

- With or without mediation
- Agreement between parties
 - Repayment plan, move out date, etc.
- final or conditional

- Trial

- Judge (or jury) makes decision on who will get possession, and money if joint rent claim made

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THANK YOU

QUESTIONS?

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