

MEMORANDUM IN OPPOSITION

Int. No. 632 by Council Member Powers

Date: August 2022
Contact: Michael Kelly

On behalf of the New York State Association of REALTORS®, which represents more than 64,000 licensed real estate professionals statewide, including 13,000 members residing in New York City, we write in opposition to Int. 632 sponsored by Council Member Powers. This bill would prohibit housing discrimination based on arrest record or criminal history in sales, rentals, leases, subleases, or occupancy agreements in New York City. Landlords and real estate brokers would be prohibited from inquiring about criminal record information at any stage in the process, with limited exceptions.

REALTORS® recognize that all people need decent and safe housing, including those with criminal records. Many of our members have helped those previously involved with the criminal justice system access housing. Simply eliminating a key element of screening applicants for housing hurts other tenants by possibly placing them in dangerous situations.

Although the bill has been amended substantially since it was introduced during the last Council session, the prohibition on criminal history inquiries is still very expansive. For example, while the new bill exempts owners of duplexes from the prohibition on criminal history inquiries, owners of buildings with as few as three units would not be allowed to conduct a criminal background check. Furthermore, the bill's prohibition on criminal history inquiries now applies to purchases, which would impact thousands of New Yorkers who reside in condominiums and cooperatives. We must continue to oppose the bill because of this expansiveness.

We thank the sponsor for preserving some discretion for a real estate broker or landlord to deny or take other adverse actions against applicants based on criminal history, provided the broker or landlord can justify the adverse action in writing. This is similar to what other jurisdictions, including Seattle and San Francisco, have done with their fair chance laws. However, the expansive reach of the prohibition on criminal history inquiries means that many landlords and brokers wouldn't be able to conduct a criminal background check to begin with.

REALTORS® have long advocated for fair housing, most recently working with state lawmakers in passing significant fair housing reforms as well as working to expand access to housing through legislation like coop transparency in various counties throughout the State. REALTORS® are ready to continue to work with the New York City Council on the housing needs of all New Yorkers, including those with criminal records.