

Housing and Real Property

H.B. 50

Primary Sponsors: Reps. Humphrey and Seitz

Effective date: September 20, 2024

Certificate of qualification for housing (CQH)

Petition

- Allows an individual who is subject to collateral sanctions for housing as a result of being convicted of or pleading guilty to an offense to file a petition for a CQH.
- For a felony, allows an individual to file a CQH petition any time after the expiration of one year from the individual's release from incarceration or, if the individual was not incarcerated, any time after the expiration of one year from the individual's final release from all other sanctions imposed.
- For a misdemeanor, allows an individual to file a CQH petition any time after the expiration of six months from the individual's release from incarceration and all periods of supervision, or if the individual was not incarcerated, any time after the expiration of six months from the individual's final release from all other sanctions imposed.
- Requires that a CQH petition be accompanied by a \$50 filing fee, unless it is waived or partially waived by the court of common pleas.
- Requires a court that receives a petition for a CQH to provide notice to other courts in which the individual was convicted of or pleaded guilty to an offense and to the county's prosecuting attorney.
- Requires the court to review the petition for CQH and all other evidence.

Issuance of CQH

- Allows the court to issue a CQH if the court finds all of the following by a preponderance of the evidence:
 - Granting the petition will materially assist the individual in obtaining housing;
 - The individual has a substantial need for the requested relief in order to live a law abiding life;
 - Granting the petition would not pose an unreasonable risk to the safety of the public or any individual.
- Provides that an individual is rebuttably presumed to be eligible for a CQH if certain requirements are met.

Denial of petition

- Requires that a petition that meets the requirements for the rebuttable presumption only be denied if the court rebuts the presumption and finds that the applicant has not been rehabilitated.
- Requires that if the court denies a petition for a CQH, the court must provide written notice to the individual of the denial.
- Specifies that if the court denies a petition for a CQH, the individual may appeal the decision to the court of appeals only if the individual alleges that the denial was an abuse of discretion.

Revocation of CQH

- Requires that a CQH be revoked if the individual is convicted of or pleads guilty to a felony or a misdemeanor offense of violence committed after the CQH was issued.

Automatic bar to collateral sanctions

- Provides that the issuance of a CQH lifts the automatic bar of a collateral sanction and the decision-maker must consider on a case-by-case basis whether to provide or deny housing.

Sex Offender Registration and Notification Law

- Specifies that a CQH does not create relief from requirements imposed by and rules adopted under the Sex Offender Registration and Notification Law.

Tort action

- Provides that in a tort action, a CQH issued to an individual may be introduced as evidence of a decision-maker's due care in leasing to the individual if the decision-maker knew of the certificate at the time of the alleged negligence.
- Specifies that in a tort action against a decision-maker for negligent leasing, a CQH issued to an individual provides immunity to the decision-maker as to the claim if the decision-maker knew of the certificate at the time of the alleged negligence.
- Provides that if a lessee subsequently demonstrates dangerousness or is convicted of a felony or a misdemeanor offense of violence, and the decision-maker retains the individual as a lessee, the decision-maker may be held liable in a tort action based on the retention of the individual.

Liability for DRC or court

- Provides that a court's issuance, or failure to issue, or the Department of Rehabilitation and Correction's (DRC) or the Adult Parole Authority's (APA) issuance, or failure to issue a CQH does not give rise to claim of damages against DRC or the court.

PCS Division rules

- Requires the Division of Parole and Community Services of DRC to adopt rules to implement and administer the act.

Private right of action

- Specifies that its provisions do not create or provide a private right of action.

Tenant education, training, and readiness program

- Requires that if DRC or the APA issues a certificate of achievement and employability to a prisoner, it also must issue the prisoner a CQH if the prisoner satisfactorily completes a tenant education, training, and readiness program approved by DRC.
- Provides that a CQH issued under the tenant education, training, and readiness program statute has the same effect as a CQH issued under the CQH statute.

Legal aid society funds

- Revises the law prohibiting financial assistance received by legal aid societies from being used for the provision of legal services in any criminal case or proceeding or in the provision of legal assistance in any fee generating case.

Home construction services

- Subjects contracts that exceed \$25,000 for repairs, improvements, remodels, or renovations of existing structures to the Home Construction Service Suppliers Act, instead of the Consumer Sales Practices Act.

Residential development land exemption

- Modifies the application procedure for the residential development property tax exemption by requiring property owners to apply for the exemption with the county auditor, rather than the Tax Commissioner.
- Prohibits a school district from receiving notice of an application for the exemption and prohibits a school district or other third party from challenging such an exemption.

H.B. 466

Primary Sponsors: Reps. Schmidt and Brennan

Effective date: October 24, 2024

- Requires written agency agreements for licensed brokers representing other parties in residential real estate transactions.