

HEALTH AND SAFETY CODE CHAPTER 765. CRIMINAL HISTORY RECORD
INFORMATION CHECKS OF EMPLOYEES OF RESIDENTIAL DWELLING PROJECTS

HEALTH AND SAFETY CODE

TITLE 9. SAFETY

SUBTITLE A. PUBLIC SAFETY

CHAPTER 765. CRIMINAL HISTORY RECORD INFORMATION CHECKS OF
EMPLOYEES OF RESIDENTIAL DWELLING PROJECTS

Sec. 765.001. DEFINITIONS. In this chapter:

(1) "Department" means the Department of Public Safety.

(2) "Dwelling" means one or more rooms rented for residential purposes to one or more tenants.

(3) "Employer" means a person who employs employees to work at a residential dwelling project.

(4) "Employee" means an individual who performs services for compensation at a residential dwelling project and who is employed by the entity that owns the project or represents the owner in managing or leasing dwellings in the project. The term does not include an independent contractor.

(5) "Occupant" means an individual who resides in a dwelling in a residential dwelling project, other than:

(A) a tenant of the dwelling; or

(B) the owner or manager of the dwelling.

(6) "Residential dwelling project" means a house, condominium, apartment building, duplex, or similar facility that is used as a dwelling or a facility that provides lodging to guests for compensation including a hotel, motel, inn, bed and breakfast facility, or similar facility. The term does not include a nursing home or other related institution regulated under Chapter 242.

Added by Acts 1989, 71st Leg., ch. 1194, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 1993, 73rd Leg., ch. 694, Sec. 1, eff. Sept. 1, 1993. Renumbered from Human Resources Code Sec. 135.001 and amended by Acts 1997, 75th Leg., ch. 572, Sec. 1, eff. Sept. 1, 1997.

Sec. 765.002. APPLICATION OF CHAPTER; EXCEPTION.

(a) This chapter applies to each applicant for a position of employment in a residential dwelling project to whom an offer of employment is made and who, in the course and scope of the employment, may be reasonably required to have access to a dwelling in the residential dwelling project.

(b) This chapter does not apply to a person employed by an occupant or tenant of a dwelling in a residential dwelling project. Added by Acts 1989, 71st Leg., ch. 1194, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 694, Sec. 1, eff. Sept. 1, 1993. Renumbered from Human Resources Code Sec. 135.002 and amended by Acts 1997, 75th Leg., ch. 572, Sec. 1, eff. Sept. 1, 1997.

Sec. 765.003. VERIFICATION OF CRIMINAL HISTORY RECORD INFORMATION. (a) An employer may request an applicant to disclose to the employer the applicant's criminal history at any time before or after an offer of employment is made to the applicant. After an offer of employment is made, the employer may verify through the department any criminal history record information that is maintained by the department relating to that applicant and that the department is authorized to release under Chapter 411, Government Code. The employer may verify the information only with the authorization of the applicant and in compliance with this section.

(b) The department may adopt rules or apply rules adopted under Section 411.086, Government Code, regarding the method of requesting information under this chapter.

(c) The department may adopt rules relating to an employer's access to criminal history record information, including requirements for submission of:

(1) the employer's complete name, current street address, and federal employer identification number;

(2) an affidavit by an authorized representative of the employer that the individual whose criminal history is requested has been offered a position of employment by the employer in a residential dwelling project and that, in the course and scope of the employment, the individual may be reasonably required to

have access to a dwelling in the residential dwelling project; and

(3) the complete name, date of birth, social security number, and current street address of the individual signing the affidavit.

(d) An affidavit submitted under Subsection (c) must include a statement, executed by the individual offered the position of employment, that authorizes the employer to obtain the criminal history record of the individual.

(e) The department may not provide an employer with the criminal history record information of an applicant under this chapter unless the employer is entitled to receive the information under Section 411.118, Government Code.

(f) This chapter does not require an employer to obtain criminal history record information under this chapter.

Added by Acts 1989, 71st Leg., ch. 1194, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(57), eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 694, Sec. 1, eff. Sept. 1, 1993. Renumbered from Human Resources Code Sec. 135.003 and amended by Acts 1997, 75th Leg., ch. 572, Sec. 1, eff. Sept. 1, 1997.

Sec. 765.004. PRIVILEGE. Criminal history record information received by an employer under this chapter is privileged and is for the exclusive use of the employer. The employer may disclose the information to an authorized officer, employee, or agent of the employer only for the purpose of making a determination regarding the suitability of an individual for employment. Otherwise, an employer, or any individual to whom the employer may have disclosed information, may not release or otherwise disclose the information received under this chapter to any person or governmental entity except on court order or with the written consent of the individual being investigated.

Added by Acts 1989, 71st Leg., ch. 1194, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 694, Sec. 1, eff. Sept. 1, 1993. Renumbered from Human Resources Code Sec. 135.004 by Acts 1997, 75th Leg., ch. 572, Sec. 1, eff. Sept. 1, 1997.

Sec. 765.005. PENALTY. An individual who is an officer,

employee, or agent of an employer and who knowingly or intentionally violates Section 765.004 or submits false information to the department commits an offense. An offense under this section is a Class A misdemeanor.

Added by Acts 1989, 71st Leg., ch. 1194, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 1993, 73rd Leg., ch. 694, Sec. 1, eff. Sept. 1, 1993. Renumbered from Human Resources Code Sec. 135.005 and amended by Acts 1997, 75th Leg., ch. 572, Sec. 1, eff. Sept. 1, 1997.

Sec. 765.006. EFFECT OF SUBMISSION OF FALSE INFORMATION.

An employer may terminate the employment of an individual who, at the time of the individual's application for employment or after the individual has been employed by the employer, submits false information relating to the individual's criminal history.

Added by Acts 1993, 73rd Leg., ch. 694, Sec. 1, eff. Sept. 1, 1993.

Renumbered from V.T.C.A, Human Resources Code Sec. 135.006 by Acts 1997, 75th Leg., ch. 572, Sec. 1, eff. Sept. 1, 1997.

Sec. 765.007. OTHER INFORMATION. This chapter does not prevent an employer from asking an applicant for employment or an employee to provide other information if the request for that information is not otherwise prohibited by law.

Added by Acts 1993, 73rd Leg., ch. 694, Sec. 1, eff. Sept. 1, 1993.

Renumbered from Human Resources Code Sec. 135.007 by Acts 1997, 75th Leg., ch. 572, Sec. 1, eff. Sept. 1, 1997.