

GUIDE TO HOUSING APPLICANT INQUIRIES

1. It is unlawful under the Maine Human Rights Act to make or cause to be made any **written or oral inquiry** concerning the race, color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin, or familial status of any prospective purchaser, occupant or tenant of the housing accommodation.
2. It is also unlawful for any person furnishing rental premises or public accommodations to refuse to rent or to impose different terms of tenancy on any individual who is a recipient of federal, state, or local public assistance, including medical assistance and housing subsidies, primarily because of the individual's status as recipient.
3. Inquiries are not unlawful if they are consistent with business necessity and are not based on protected-class status.
4. Most housing for older persons, as defined by law, is exempt from the law that prohibits familial status discrimination (except for advertisements) and may inquire about an applicant's familial status. Please contact the Commission if you have any questions about your status as a provider of housing for older persons.
5. The Commission recommends that in selecting tenants, housing providers should focus exclusively on an applicant's legitimate qualifications for the housing offered.
6. Housing inquiries that are made in conformance with the instructions from, or requirements of, an agency or agencies of the local, state, or federal government in connection with the administration of subsidized housing programs are not unlawful under the MHRA.
7. The MHRA does not prohibit asking an applicant to voluntarily provide information that would aid in compliance with a valid affirmative action plan.
8. The list of "lawful" and "unlawful" questions contained herein is not exhaustive. It is meant to illustrate the type of questions that are frequently asked.

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CATEGORY	EXAMPLES OF LAWFUL INQUIRIES	EXAMPLES OF UNLAWFUL INQUIRIES
ANCESTRY/ NATIONAL ORIGIN	<ul style="list-style-type: none"> • Whether applicant is a U.S. citizen. • Whether applicant is legally eligible to remain permanently in the U.S. • Applicant's current address. • How long applicant has lived in this State or local community. • Former places of residence when necessary to check references. 	<ul style="list-style-type: none"> • Nationality, lineage, ancestry, descent, or birthplace of applicant or relatives. • Applicant's native or primary language. • How applicant acquired the ability to read, write, or speak a foreign language. • Maiden or former name (unless necessary to check references). • Photograph with application. • How long applicant has lived in the U.S.
RELIGION		<ul style="list-style-type: none"> • Religious denomination, affiliation, place of worship, religious leaders, or religious holidays observed. • Name of religious leader as reference.
RACE		<ul style="list-style-type: none"> • Race of applicant or relatives. • Complexion or color of skin or eyes. • Photograph with application. • Arrest record.
SEX/ PREGNANCY	<ul style="list-style-type: none"> • Names of persons in household. 	<ul style="list-style-type: none"> • Whether applicant is pregnant, has children, or plans to have children. • Marital status. • Maiden name. • Questions asked only of one sex but not of the other, e.g., asking only women about ability to mow lawn or shovel snow. • Sex of persons in household.
FAMILIAL STATUS	<ul style="list-style-type: none"> • Number of persons in household. • Dates of birth when necessary to conduct background check to determine ability to comply with lease. 	<ul style="list-style-type: none"> • Number of children in household. • Ages of persons in household (unless related to "housing for older persons" exception). • Pregnancy, future childbearing, custody, or adoption plans.
SEXUAL ORIENTATION		<ul style="list-style-type: none"> • Sexual orientation, gender identity, or gender expression of applicant. • Relationship between household members. • Marital status. • Name of spouse or significant other. • Photograph with application.
DISABILITY	<ul style="list-style-type: none"> • Whether the person is able to meet the requirements of the lease or rental agreement, if provided with reasonable accommodations for disability, provided this question is asked of all applicants. • If person requests reasonable accommodation or modification, the person may be asked for verification of disability and need for accommodation or modification. • Whether person has a pet. 	<ul style="list-style-type: none"> • Whether the person has any health conditions, unless to determine qualification for a housing program for people with disabilities. • Whether applicant has or has had an alcohol or drug addiction problem. • Whether person needs reasonable accommodations or modifications in order to have equal enjoyment of the premises, unless first requested by the applicant. • Whether person has service, therapeutic, or support animal, unless first identified by the applicant.
Other	<ul style="list-style-type: none"> • Smoking (or non-smoking). 	
RECEIPT OF PUBLIC ASSISTANCE (such as Section 8, TANF, and General Assistance)	<ul style="list-style-type: none"> • The Maine Human Rights Commission recommends that owners and managers avoid making oral or written inquiries that might make a person believe that they were denied housing because of their status as a recipient of public assistance. • It is not unlawful to ask an applicant how he or she intends to pay the rent. 	

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