

IMMIGRANT TENANT RIGHTS

Dear Friends:

Every New Yorker who rents a home or an apartment has the legal right to live there in peace. State law prohibits landlords and their employees from harassing or threatening tenants, and these protections apply regardless of a tenant's immigration status. All tenants have rights that are protected by a variety of federal, state, and local housing laws.

As New York's Attorney General, it's my job to protect the rights of every New Yorker. Harassment of tenants based on immigration status is not only appalling, it is unlawful; and my office is committed to enforcing the State's important tenant protections against harassment and discrimination.

The first steps in protecting tenants are to make sure that tenants know their rights and have access to highly qualified legal advocates. This guidance discusses the rights of immigrant tenants in New York, and answers some important questions. It also provides tenants with a hotline — **1-800-566-7636** — operated by the New York State Office of New Americans that you can call if your housing is threatened because of your immigration status.

As your Attorney General, I will continue to fight for the protection of every New Yorker.

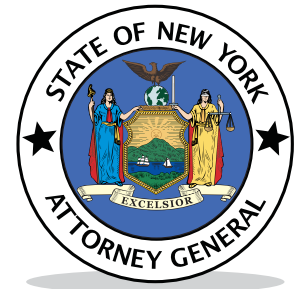
Sincerely,



Eric T. Schneiderman



Eric T. Schneiderman
Attorney General



Immigration Hotline

NYS Office for New Americans

If you are feeling threatened regarding your immigration status please call this NY State Hotline and they will connect you to the right organization.

1-800-566-7636

New York Attorney General Guidance on the Rights of Immigrant Tenants

Immigrant tenants in New York State are protected by federal and state housing and anti-discrimination laws. In addition, some localities provide additional tenant protections, which may depend on the type of housing accommodation. No matter the type of tenancy, however, all tenants—regardless of immigration status—have the right to live in their homes free from harassment and threats by their landlord.

Tenants with specific concerns are advised to consult with a lawyer (the hotline below can help provide access to legal advice), and may also file complaints with the Office of the Attorney General (“OAG”). The Attorney General’s tenant complaint form may be accessed and completed on our website: <https://forms.ag.ny.gov/CIS/tenant-harassment.jsp>. The OAG does not ask tenants to report their immigration status when making a complaint.

Read below to learn more about the rights and legal protections available to non-citizen tenants in New York State, including protections from landlords who threaten or harass them. For more information on the rights and responsibilities of tenants and landlords, please review Attorney General Eric T. Schneiderman’s more comprehensive Tenants’ Rights Guide, which may be accessed at: https://ag.ny.gov/sites/default/files/pdfs/publications/Tenants_Rights.pdf (English) and <https://ag.ny.gov/sites/default/files/pdfs/publications/Spanish%2520Tenants%2520Rights-Full%2520book.pdf> (Spanish).

Can my landlord evict me from my apartment because of my immigration status?

No. If you have a lease, you cannot be evicted on the basis of your immigration status. Tenants with leases are protected from eviction during the lease period as long as they do not violate any substantial provision of their lease or any local housing law or code.

If you do not have a lease and are paying rent on a month-to-month basis, you also have rights against unlawful evictions that apply to all tenants—including non-citizen tenants. Tenants without leases who have lived in their homes for 30 days or more must be given formal notice from the landlord and the chance to go to court before they can be evicted. See NYS RPL § 232-a-b.

All tenants, regardless of their immigration status, can be evicted only after the landlord has served them with a termina-

tion notice and obtained a court-order from a judge authorizing the eviction; and even then, only a sheriff, marshal or constable—and not the landlord—can carry out the court-ordered eviction of the tenant. Also, all tenants, regardless of immigration status, have the right to defend themselves in court.

Landlords are also not allowed to take the law into their own hands to evict non-citizen tenants. It is illegal for a landlord to:

- Threaten tenants with violence to induce them to vacate;
- Lock a tenant out of the apartment;
- Remove a tenant’s possessions; or
- Cut off essential services—such as electricity, heat and water.

If your landlord, for example, locks you out or forces you to leave by denying services, you can go to court to bring an action against your landlord. A judge could then grant you the right to return to your home and, in some cases, the judge could direct the landlord to pay you money damages. In New York City, landlords who unlawfully evict tenants can also be subject to criminal prosecution.

If your landlord does obtain a court order to evict you, you are still entitled to a reasonable amount of time to remove your furniture and other belongings—and landlords are never allowed to keep your possessions.

Also, depending on where you live, your apartment may be subject to the rent-regulation laws, which provide tenants with additional protections against landlord harassment and prevent landlords from forcing you out of your home.

Rent-regulated tenants have extra protections. How do I know if I am a rent-regulated tenant?

In New York City, apartments or rooms generally are rent-regulated if the building was built before 1974 and contains six or more housing units. Other buildings that are receiving tax benefits from the government are also subject to the rent-regulation laws. Limited areas outside of New York City also have rent-regulated buildings, including Nassau, Rockland, and Westchester counties.

To find out if your apartment is rent-regulated, or should be, you can contact the NYS Division of Housing and Community Renewal (HCR) at: (718) 739-6400 or rent-info@nyshcr.org. Or call the NYS Office of New Ameri-

CALL THIS HOTLINE: 1-800-566-7636

If you are feeling threatened regarding your immigration status please call this NY State Hotline and they will connect you to the right organization.

cans hotline 1-800-566-7636 and ask to be connected with a legal services provider to help you find out if your apartment is rent-regulated.

What rights do I have if I am an immigrant rent-regulated tenant?

Rent-regulated tenants, regardless of immigration status, have especially strong protections. Tenants living in rent-stabilized apartments, with few exceptions, have the right to a renewal lease with a limited increase in rent. This means that if you live in a rent-stabilized apartment, your landlord is not allowed to deny you a new lease when your current lease expires. Your landlord can also only raise the rent by a limited amount determined by the Rent Guidelines Board, which regulates rent-stabilized apartment leases. Tenants in other rent-regulated housing, such as rent-controlled apartments and rent-stabilized hotel rooms, also have the right to remain in their homes unless a court finds there is a legal basis for termination of their tenancies.

In addition, the rent-regulation laws prohibit landlords from harassing their tenants in order to force them to leave their apartments or give up their rights, and landlords who harass rent-regulated tenants may be subject to civil and/or criminal penalties.

Landlords of rent-regulated buildings must also register their buildings and apartments, including the rent they are charging you, with a State agency, HCR. You have the right to view the records submitted about your apartment to make sure that your landlord is not lying about how much they are charging you or whether your apartment is rent-regulated.

Tenants, regardless of their immigration status, can file complaints with HCR if they believe they are being harassed or overcharged, denied or experiencing reductions in services, like heat, water or building access, or if their landlord requires them to provide immigration status information as a condition to renew their lease. To protect tenants from discrimination, HCR has created the Fair and Equitable Housing Office (FEHO). An FAQ guide on Immigration Status, Housing Discrimination and Tenant Harassment can be found at <http://www.nyshcr.org/AboutUs/Offices/FairHousing/Immigrant-Protection-Fact-Sheet.pdf>

If my apartment is not rent-regulated, and my landlord makes threats and demands that I leave, are there other laws that protect me?

Yes. All tenants have the right to live in their homes free from harassment and threats from landlords.

New York State laws make it illegal for landlords to engage in any action that is intended to force immigrant tenants out of their homes or to force immigrant tenants to give up their rights under law. This means that your landlord or anyone acting on your landlord's behalf is legally prohibited from interfering with your privacy, comfort, and quiet enjoyment of your home. For example, landlords cannot threaten physical violence, engage in verbal abuse aimed at you or your family, deny you essential services like heat or hot water, or repeatedly take you to court based on frivolous claims.

In New York City, the laws against tenant harassment are especially strong. The New York City Tenant Protection Act, for example, makes it illegal for most landlords to repeatedly demand that you accept unwanted buyout offers intended to make you leave your home.

As with the other laws governing the landlord-tenant relationship, New York's tenant harassment protections apply to all tenants, regardless of immigration status.

If your landlord is harassing you, you should contact a lawyer to find out if you should file a complaint in court or with a government agency against your landlord.

My landlord says that I have to leave because I am an immigrant; is that legal?

No. But your rights differ depending on where you live and the type of housing you live in.

In New York City, if you live in a rent-regulated apartment, the laws apply to housing regardless of your immigration status. All tenants living in rent-stabilized apartments are entitled to protections, including guaranteed renewal leases with limited rent increases. In addition, landlords are not allowed to terminate a rent-regulated tenancy simply because they fear being investigated by law enforcement regarding their tenants' immigration status.

There are also various civil rights laws that protect immigrant tenants from housing discrimination.

If you are a New York City resident, the New York City Human Rights Law protects you. This civil rights law prohibits discrimination on the basis of actual or perceived immigration status—meaning that your landlord is not allowed to deny you a lease, or refuse to rent to you, or demand special papers

CALL THIS HOTLINE: 1-800-566-7636

If you are feeling threatened regarding your immigration status please call this NY State Hotline and they will connect you to the right organization.

from you just because you are an immigrant. An immigrant tenant in New York City may also not be evicted, threatened, or harassed simply because of actual or perceived immigration status. See N.Y.C. Admin. Code § 8-107(5). This means that if you live in New York City, it is illegal for your landlord to discriminate in any way against you on the basis of your (or a family member's) immigration status. Landlords in New York City are also generally prohibited from requiring tenants to reveal their immigration status except in very limited circumstances.

If you live outside of New York City, there are other anti-discrimination laws that may apply to your situation, such as the federal Fair Housing Act and the New York State Human Rights Law.

The federal Fair Housing Act, which covers most rental buildings, prohibits discrimination based on race, color, national origin, religion, sex, familial status, and disability. See 42 U.S.C. § 3604.

In addition, the New York State Human Rights Law prohibits landlords, property managers, and their agents from refusing to rent to, renew the lease of, or otherwise discriminate against, any person or group of persons because of race, religion, color, national origin, sexual orientation, military status, sex, age, disability, marital status, or familial status. See NYS Executive Law § 296(5).

As an example, statewide, it would be illegal for a landlord to request documents only from immigrants of a certain national origin (the country where you are from) or race, or for the landlord to refuse to rent to immigrants or try to evict immigrants based solely on their national origin.

Are there are any other rights that I should know about?

Yes. You should know that your landlord is not allowed to retaliate against you for asserting your rights.

Both New York City and State human rights laws forbid landlords from retaliating against tenants who claim that they have been discriminated against. See NYS Executive Law § 296(7); N.Y.C. Admin. Code § 8-107(5). Even if you file a complaint in court or with a government agency about anything at all, for example, because your landlord turned off your hot water or denied you another basic service, a separate section of the law forbids your landlord from retaliating against you for defending your rights as a tenant. See NYS RPL § 223-b.

¹ You may also wish to review the NYS Division of Human Rights' Fair Housing Guide at: <https://dhr.ny.gov/sites/default/files/pdf/nysdhr-fair-housing-guide.pdf> (English language version); https://dhr.ny.gov/sites/default/files/pdf/DHR_FairHousing_Spanish4.11.pdf (Spanish language version).

² You may also wish to review informational materials from the NYC Commission on Human Rights, including a Fair Housing Guide at: <http://www1.nyc.gov/site/fairhousing/about/informational-materials.page>.

Together these laws make it illegal for landlords to threaten you or take other negative action simply because you have filed a tenant complaint with the Office of the Attorney General or a legal complaint in court.

What should I do if my landlord is harassing me or threatening to evict me because of my immigration status?

If you are feeling threatened by your landlord due to your immigration status, consult a lawyer or call the NYS Office of New Americans statewide hotline and they can help connect you with a lawyer or legal services organization. The hotline's number is: 1-800-566-7636.

You can also submit a complaint to the Office of the Attorney General online at <https://forms.ag.ny.gov/CIS/tenant-harassment.jsp>.

If you have been subject to discrimination relating to your housing, you can file a complaint with the New York State Division of Human Rights, which can be contacted at (888) 392-3644 (a toll free number).¹ If you live in New York City, you can also call 311 to file a complaint with the New York City Commission on Human Rights.²

It is important to remember that as a tenant in New York you have rights and laws that protect you—regardless of your citizenship status. The laws governing the landlord-tenant relationship protect you from harassment and unlawful evictions. Under federal and New York law, landlords are prohibited from discriminating based on race, national origin, among a variety of other protected classes. And under New York City law, it is illegal for landlords to discriminate on the basis of actual or perceived immigration status.

Is there anything else that my neighbors and I can do?

Yes, you can organize!

Immigrant tenants—like all tenants—have the right to organize. Tenants, regardless of immigration status, may form, join, and participate in tenant organizations for the purpose of protecting their rights. Landlords must permit tenant organizations to meet, at no cost, in any community or social room in the building, even if the use of the room is normally subject to a fee. These meetings should be held at reasonable times and in a peaceful manner. See NYS RPL § 230.

Office of NYS Attorney General

800-771-7755 | ag.ny.gov