



**Office for
the Aging**

Housing Protections Impacting Older Adults

November 24, 2020

Agenda

- NYSOFA mission and housing access
- Housing challenges facing older adults
- Fair housing basics
- Expectations for lease agreements
- Housing Stability & Tenant Protections Act of 2019
- Foreclosure
- Resources for older adults facing displacement

New York State Office for the Aging

NYSOFA Mission

The mission of the New York State Office for the Aging is to help older New Yorkers to be as **independent as possible** for as long as possible through **advocacy, the development and delivery of person-centered, consumer-oriented, and cost-effective policies, programs and services** which support and empower older New Yorkers and their families, in partnership with the network of public and private organizations which serve them.

8 Domains of Age-Friendly Communities



Source: World Health Organization, 2007

Housing Barriers Facing Older Adults

- U.S. adults age 65 and older will grow from 48 to 79 million over the next two decades
- Older adults face challenges related to affordability, physical accessibility, and access to medical and other services inside and outside the home
- Those in rural areas encounter additional challenges related to their relative isolation from neighbors, services, and amenities
- Most older adults own their homes, with the percentage who rent expected to increase from 21 percent to 23 percent by 2035. Both owners and renters face affordability pressures.
- Existing housing stock — in terms of options, affordability, and accessibility — is ill-suited to meet the needs of an older population wishing to age in place

Source: Joint Center for Housing Studies of Harvard University. 2016. "Projections & Implications for Housing a Growing Population: Older Households 2015–2035," 4–5.

Fair Housing in New York State

- Zero Tolerance for housing discrimination based on:
 - Race
 - Color
 - Creed
 - National Origin
 - Sex
 - Disability
 - Familial Status
 - Military Status
 - Age
 - Sexual Orientation
 - Gender Identity
 - Source of Income (effective 2019)
- Anyone who has experienced housing discrimination should contact the **New York State Division of Human Rights at 1-844-862-8703** or www.dhr.ny.gov.

Source: [New York State Division of Human Rights](http://www.dhr.ny.gov)

Expectations for Lease Agreements

- Landlord should provide habitable apartment and make needed repairs, including heating/utility facilities
- Maintain shared areas of dwellings with two or more apartments
- Do not harass or discriminate against tenants
- Take precautions to prevent foreseeable crime
- Provide written receipt of rent payments
- Prohibited from locking tenant out of apartment without bringing court proceeding

Housing Stability & Tenant Protection Act of 2019

- Signed by Governor Cuomo on June 14, 2019
- Expanded protections for tenants throughout New York State
- Limitations on security deposit amounts
- Limitations on fees
- Amendments to the eviction process

Security Deposits

- Security deposits or advances may not exceed the amount of one month's rent
- Landlord shall offer tenant the opportunity to inspect apartment prior to vacating
 - Inspection to take place at most 2 weeks and at least 1 week before vacating, on 48-hours notice
 - After inspection, tenant can cure any damage to apartment prior to moving out
- Within 14 days of vacating property, landlord must provide tenant with itemized statement indicating any deductions and a return of the deposit balance
 - If a landlord does not provide this statement within 14 days, they forfeit the right to retain any portion of the deposit
- Willful violations subject to punitive damages up to twice the amount of the deposit

Limits on Fees

- A rent payment can only be considered late if it is received more than five days after it is due
- The most a landlord can charge as a late fee is \$50 or 5% of monthly rent, whichever is less
- Before signing a lease, the most a landlord can charge is \$20 for a credit and background check
- The landlord must provide a copy of the background/credit check, as well as an invoice from the company that performed it. Otherwise, they can't charge for it
- Tenants may provide their own background and credit check to avoid any fees, as long as the background/credit check was done in the past 30 days.

Notice for Rent Increases and Non-Renewal of Lease

- Landlord must give tenants advanced written notice before increasing rent 5% or more
- For rent increases greater or equal to 5% or intentions not to renew a tenancy, written notice must be given as follows:
 - 30-day notice required for tenants who have occupied an apartment for less than one year and do not have a lease term of at least one year;
 - 60-day notice required for tenants who have occupied an apartment for more than one year but less than two years, or have a lease term for at least one year but less than two years
 - 90-day notice required for tenants who have occupied an apartment for more than two years or has a lease term of at least 2 years

Amended Eviction Process

- The landlord **must** to go through a court process for it to be considered a *legal* eviction.
- **Lawful grounds for pursuing eviction in court:**
 - Non-payment of rent
 - holdover past termination notice
 - holdover for breach of lease
- **Types of eviction notices:**
 - 14-day rent demand (must be written)
 - Lease Violation Notice to Cure
 - Court Petition (must be served between 10-17 days prior to court date, three ways)
 - 14-day Notice from local Marshal or Sheriff's Department

Source: [Real Property Actions and Proceedings Law; Sections 702, 711, 713](#)

Expanded Protections in Case of Eviction

- A landlord cannot bring a tenant to court for non-payment of rent unless they have given a 14-day written rent demand
- In a non-payment case, a tenant can only be evicted for nonpayment of rent and may **not** be evicted for non-payment of other fees (late fees, legal fees, etc.)
- Until a tenant is evicted (i.e. the Sheriff or Marshal executes a warrant of eviction), the non-payment case may be dismissed if tenant pays all owed rent
- Must keep tenant's belongings safe and dry for reasonable time after eviction takes place following eviction
- Threatened use of force, removing possessions from the unit, removing the doors, changing the locks, or otherwise preventing access = **unlawful eviction**
 - Violations are now classified as a class A misdemeanor and subject to civil penalties of no less than \$1,000 and no more than \$10,000 for each violation

Residential Foreclosure

- Right to at least 90 days notice informing homeowner of foreclosure risk before a foreclosure suit is filed
- Bank or mortgage servicer is required to help homeowners understand loss mitigation options that may allow them to keep the home
- Homeowners have the right to receive a copy of the legal papers in the foreclosure lawsuit and should consult an attorney or housing counselor during this process

Source: [New York State Department of Financial Services – Foreclosure Bill of Rights](#)

Tenants in Foreclosed Properties

- Bank must notify **all** tenants that the property is the subject of a foreclosure before any post-foreclosure eviction action may be brought in court
- Before ownership is transferred, tenants remain subject to the requirements of their lease agreements, including payment of rent to the landlord
- After foreclosure, tenants may retain occupancy either until the end of their lease term or for 90 days after receipt of the notice from the new owner, whichever is greater

Resources for Older Adults Facing Displacement

- Legal services
 - Legal Aid
 - Courtroom advocacy in case of eviction
- [Housing Counseling Agencies](#)
 - Predatory Lending Education Workshops
 - Rental Housing Counseling
 - Resolving/Preventing Mortgage Delinquency Workshops
 - Reverse Mortgage Counseling
- Local Departments of Social Services
 - Emergency financial/rental assistance
 - Shelter placement in cases of unavoidable displacement
- [Executive Order 151](#) – Code Blue during inclement weather

Additional Resources

- [New York State Division of Human Rights – Fair Housing](#)
- [New York State Attorney General – Tenants Rights](#)
- [Discrimination based on source of income](#)
- [Housing rights of people with disabilities](#)
- [Residential foreclosure – Consumer Bill of Rights](#)

Thank you!