

housing information

www.housing-information.org

What to know if you rent

A guide to landlord
and tenant rights and
responsibilities



A project of **Consumer Action**

Finding a home to rent that's affordable and meets your needs can take time and effort. Understanding your rights and responsibilities as a tenant and how to maintain a good relationship with your landlord will help you avoid major disputes or the need to relocate.

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Depending on where you live, housing rules and tenant protections vary. In addition to federal laws, such as the Fair Housing Act, which apply nationwide, there are state laws and city ordinances that govern the landlord-tenant relationship. Most states and some counties offer landlord-tenant handbooks that spell out specific rental housing laws. This is the best place to learn about the rules that apply to you and your landlord. (Most handbooks can be found at your public library or online. Do an Internet search for key words "landlord tenant handbook" plus your state. For example, "landlord tenant handbook California".)

Some landlord-tenant rights and responsibilities are consistent across most states.

Finding the right home

It takes time and money to move, so it pays to find the right home for yourself and your family the first time around. You can improve your chances of success by learning about the community you want to live in, not just the rental property. If you don't know the area well, you can research the crime rate in the area, the proximity of emergency services (fire, police and hospitals), the quality of nearby schools, and the availability of public transportation, shopping and other services. (See "Community Research" under the *Assistance and information* section.)

Aim to spend no more than 30% of your gross (before-tax) income on rent. Be careful not to rent a home that will stretch your budget too far. Otherwise, you could be forced to move out sooner than you had planned—a potentially expensive mistake.

Before beginning the search for your new home, check your credit report and tenant history report (if you have rented before) to make sure the information is correct. Checking your reports in advance gives you time to correct any inaccuracies and to improve your report before a prospective landlord views it. (See the *Assistance and information* section for ordering information.)

The rental agreement or lease

Prospective renters should always ask for a written agreement. Don't rent from a landlord who won't put the terms in writing. A rental agreement is a legal contract that spells out the rules that you and the landlord must follow while you live in the property.

This document should contain certain key information, including:

- whether you are renting on a week-to-week or month-to-month basis or you have a fixed-term lease;
- the amount of rent, when it's due, who the payment should be made to and at what mailing address, as well as whether there is a grace period, and the amount of any late or bounced-check fees;
- the names of all tenants (all tenants named in the agreement or lease have full rights to use of the home as well as legal responsibility for the entire monthly rent);
- the amount of the security deposit, how it may be used, when it will be returned, and whether you will earn interest on it (state law sets many security deposit requirements and limits);
- who is responsible for maintenance of specific parts of the property (such as a garden);
- what you are not allowed to do on the property (have pets, smoke, get an additional roommate or conduct a business, for example);
- any other specifics you agree to (such as who is to pay for utilities).

If you rent on a week-to-week or month-to-month basis there is no defined end period—the rental agreement continues from period to period until you or the landlord gives notice of termination.

Under these open-ended agreements, the landlord can raise the rent with proper written notice (usually 30 days), within state, county or city rent control guidelines. Typically, either party can end the tenancy for any reason with the proper written notice (usually, but not always, 30 days). Some cities and a few states require a landlord to have a valid reason, or “just cause,” before they can end the tenancy. Examples of just cause: If you sell drugs from the home or repeatedly disturb other tenants with loud music late at night.

A fixed-term tenancy, or lease, grants you the right to occupy a property for a predetermined period, typically six months or a year. During the lease period, the terms, or rules, of the tenancy, including the amount of rent, cannot be changed. Neither you nor the landlord can legally end the rental agreement prematurely unless one of you seriously violates the lease terms. (Depending on where

TIP: Don't agree to rent from a landlord who will not give you a written lease. Watch out for clauses that require you to provide notice before the lease term ends or your lease will automatically renew for another year. This kind of clause requires you to notify the landlord (usually 30 days before the lease ends) that you want to continue your tenancy on a month-to-month basis.

you live, you might successfully break your lease for personal health reasons, particularly those brought on or worsened by your living area, or due to military reassignment. Check local housing ordinances.) After the lease ends, the tenancy automatically becomes month-to-month, unless one party decides to terminate or both parties agree to a new lease.

Both a rental agreement and a lease are contracts—break any one of the terms and you could face eviction or owe the landlord damages (money awarded in a lawsuit). If you break your lease without just cause, you will be responsible for paying the rent for the remaining lease term. Depending on your state’s laws, just cause for breaking your lease might include safety issues (broken locks and windows that go unrepaired, for example) or habitability issues (such as a consistent lack of hot water). Even if you move out without just cause, most states require the landlord to try to rent the unit as soon as possible to limit how much rent you must pay for time you are not living there.

Be sure to keep a copy of the rental agreement or lease in a safe place. You may need it at some point to prove your tenancy and protect your rights should your landlord, for example, illegally lock you out of your home.

The security deposit

A security deposit is money you give the landlord before you move in to cover unpaid rent or damage you cause. This is different from an “earnest money” deposit you might make to reserve the rental unit until you and the landlord sign the rental agreement or lease. Earnest money is usually refundable if your application is rejected. Many landlords charge prospective tenants for a credit check—a cost that is not refundable, even if you are not chosen.

Typical security deposits are equal to one or two months’ rent, but limits and rules governing security deposits vary from state to state. For example, some states require landlords to keep a tenant’s deposit in a separate interest-bearing account, while other states do not.

Generally speaking, a landlord can only withhold your deposit for damage (such as a carpet ruined because you spilled a bottle of red wine), or for the cost of cleaning if you do not leave the property as clean as it was when you moved in. Your deposit cannot be withheld to cover normal wear-and-tear.

The best way to avoid a dispute is to document the condition of the property with photos and a checklist before you move in. Check not only the appearance of the home, but how things work. Does the toilet flush properly? Do the kitchen drawers open and close smoothly? Both you and the landlord should sign the checklist—this is what you’ll use when you

move out to determine what repairs, if any, you are responsible for.

Typically, landlords are required to return your security deposit within 14 to 30 days after you move out, or provide a written explanation of why any portion is not being refunded.

Renters insurance

If there were a fire, flood or break-in, your possessions most likely would not be covered under the property owner's insurance policy. Renters insurance protects you from these types of losses, and typically includes some liability coverage for accidents and injuries that occur in your home, as well. Renters insurance is low-cost for the amount of protection it provides. Make absolutely sure your policy will protect specific items of value, such as jewelry or electronics, from loss or theft.

Your responsibilities while you rent

It's your responsibility to understand and observe the terms of your rental agreement, including:

- paying your full rent each month, on time (in some states, landlords have the right to begin the eviction process if the rent is even one day past due);
- keeping the property clean and avoiding damage;
- providing proper notice of needed repairs or plans to move out;
- restoring the property to its move-in condition when you leave.

Failure to abide by the terms of your lease or rental agreement could result in eviction or a lawsuit for damages.

Your rights while you rent

While you may have additional rights granted by the state or local government where you live, all tenants generally are entitled to:

A habitable home. A property owner that offers a home for rent provides a warrant of habitability, an implied guarantee that the property is fit to live in. That means, among other things, the landlord must provide clean water, a working heating system, working kitchen appliances (if they are included), functioning doors and windows, and protection from pests and the weather. Refer to your state's landlord-tenant handbook for specific requirements.

Your landlord should make urgent repairs—such as a broken furnace—immediately. Non-urgent but necessary repairs that you notify your landlord about in writing should be made within a reasonable amount of time. Whether your landlord must take care of minor repairs depends on factors such as the type of repair and whether or not there's potential for

injury. Purely cosmetic repairs are not legally required.

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A habitable home also is free of dangerous contaminants, such as lead and certain types of mold. Federal law requires owners of certain properties built before 1978 to notify new renters of any known lead-based paint or hazards on the property. While there is no federal law regarding standards for mold in buildings, a few states and cities have passed such legislation. Whether or not your landlord can be sued over mold depends on where you live, the toxicity of the mold, and whether the cause of the mold was the landlord's failure to maintain the property.

A safe home. The property should be structurally sound, and there should be adequate locks on doors and windows. Your city may or may not require smoke detectors. Even if it doesn't, request them, or purchase and install them yourself.

Privacy. Your landlord should enter your home only at a reasonable time and for a valid reason, such as to make repairs, or to show the property to a prospective tenant, buyer or contractor. He or she should provide at least 24-48 hours notice, and should try to arrange a time that's convenient for you. Advance notice is not required if there's an emergency, such as a fire, a gas leak or a major water leak.

Resolving disputes

Sometimes a disagreement is unavoidable. Here are some ways to resolve your dispute.

Talk it out. If you have been a good tenant, it's likely the landlord will try to keep you happy. Ask for a specific solution—a repair or more privacy, for example. Give the landlord a chance to respond.

Use mediation. Mediation means a neutral third party will listen to both sides of the issue and try to help you and your landlord reach a mutually acceptable resolution. Mediation is usually quick and inexpensive (many communities offer free or low-cost services), but it is not legally binding, so you and the landlord still have the option of taking legal action if you're not happy with the outcome.

Withhold rent. A few states allow tenants to withhold a portion of the rent if the landlord doesn't make necessary repairs in a reasonable period, or to make the needed repairs themselves and deduct the cost from the rent. But do this only if it is legal in your area (check your state's landlord-tenant handbook) and you have a very strong case, or you could risk being evicted for nonpayment of rent.

File a complaint. If the problem violates local building, housing or health codes, you may be able to convince appropriate government agencies to contact the landlord and get the issue resolved.

Take legal action. If nothing else works, you can take your landlord to small claims court. The amount you can sue for depends on where you live, but most limits are high enough to cover typical tenant grievances, such as an unreturned security deposit. You do not need to hire an attorney for small claims court.

Move out. You may have the right to move out before your lease expires if your landlord seriously violates the terms of the rental agreement.

A landlord cannot raise your rent or evict you in retaliation for your complaint.

Eviction or ‘notice to vacate’

A landlord may require you to vacate (leave) the property for not honoring the terms of your lease or rental agreement, or for no reason at all.

In the case of an eviction (“unlawful detainer”), where you are forced out of your home, the landlord must follow a strict legal process dictated by state or local law. The process must begin with a notice terminating your tenancy.

If you are being evicted because you have violated the terms of your agreement—you didn’t pay the rent or you got a pet, for example—you may be given the opportunity to correct the violation and stay in the property.

An “unconditional quit notice” does not give you a chance to correct the situation. This type of notice typically is allowed only if a tenant has repeatedly violated the rental agreement, seriously damaged the property, or engaged in illegal activity in the home. Only a handful of states allow an unconditional quit notice, and in these cases the notice must be in writing and must contain specific information.

If you have not moved out or stopped the violation, the landlord will probably file a lawsuit to evict you. You have the right to appear in court and argue your case. Be aware, however, that the winner is entitled to collect court costs and attorney fees. For this reason, it’s best to fight an eviction notice only if you feel the landlord is clearly wrong and you have a very strong case. If you lose, it could cost you hundreds or even thousands of dollars. It’s a good idea to consult with a housing attorney so that you can protect your rights while reducing your risk.

If the landlord wins the eviction lawsuit, the court judgment will go to a local law enforcement agency. An officer will remove you and your belongings from the property a few days later if you have not left already.

Subsidized housing tenants and active duty military service members may have additional rights that prevent or delay their eviction.

An eviction is not always required to get a tenant to move out. If you have

an open-ended rental agreement or are continuing to rent after your lease has expired, landlords in most states have the right to ask you to leave the property at any time, for no reason at all. However, you are entitled to a notification period—either a 30-day notice to vacate or a 60-day notice to vacate, though this can vary a bit from state to state. (Under open-ended agreements, you too may leave anytime with proper advance notice to your landlord. Make sure you understand how much notice you must give your landlord if you plan to move out.)

Some cities and a few states do not permit a landlord to ask a tenant to leave without “just cause,” or a good reason.

At no point can your landlord confiscate your property, lock you out of the home, or cut off your utilities.

If you are facing eviction because the property is in foreclosure (being repossessed by the lender), federal legislation passed in May 2009 gives you some new rights. Month-to-month renters now must get at least 90 days to move out. And, unless the new owner intends to live in the property and provides a 90-day notice to quit, a lease agreement will survive the foreclosure. (Previously, tenants lost their lease when there was a foreclosure.)

If you lease your home and a foreclosure forces you to relocate before the agreed upon termination date, you may be able to successfully sue your former landlord for moving and other costs in small claims court.

Subsidized housing

Subsidized housing programs help low- and moderate-income renters reduce their out-of-pocket housing expenses. The major federal subsidized housing program is known as Section 8.

Subsidies are offered by the Department of Housing and Urban Development (HUD) through local public housing agencies (PHAs). If eligible, you are free to choose any housing that meets program guidelines—not just public housing.

Local PHAs can help you determine if you are eligible for subsidized housing. To find your local housing agency, look under Housing in the government pages of your local telephone directory, or visit the HUD website for a state-by-state listing. (See HUD: Local assistance in the Assistance and information section.)

The U.S. Department of Agriculture (USDA) provides rent subsidies to elderly, disabled, and low-income residents of certain multi-family housing complexes. For more information, call your local Rural Development office or USDA Service Center. These agencies can be found in the government section of your telephone directory, or on the USDA website. (See USDA

Subsidized housing renters may have some additional rights and responsibilities, which will be explained to you in detail when you qualify. Be sure you fully understand and abide by the terms of your rental agreement and the subsidy program or you could lose your rental assistance.

Rental housing discrimination

Discrimination in housing is treating one person differently from another when it comes to renting a place to live. Discrimination in rental housing can take many forms. For instance, if you inquire about a rental and are told it is taken, but you notice that unit is still being advertised as available, this may be an indicator of discrimination.

Federal law forbids a landlord to discriminate based on race, color, sex, national origin, religion, family status or disability. Some state and local laws make it illegal to discriminate based on sexual orientation or age. A landlord *can* select tenants based on objective criteria, such as credit score or references from previous landlords.

If you think you may be a victim of housing discrimination, you can file a complaint with HUD and with your state or local housing authority. You may also file a lawsuit.

The federal Fair Housing Act gives tenants with physical or mental disabilities the right to request reasonable accommodations and modifications from their landlords when necessary.

Reasonable accommodation is a change in policy, such as allowing a blind tenant to keep a guide dog when pets are not normally allowed. Reasonable modification is a physical alteration to the property, such as the installation of a ramp for a tenant who uses a wheelchair.

Generally speaking, a landlord can't refuse to let you make justified and reasonable modifications to your dwelling or common areas. Typically, the tenant is responsible to pay for the work. In many cases, the landlord has the right to allow modifications only if you agree to return the home to its original state when you move out, and may require you to pay a deposit to cover the costs of reversing the alteration.

It's best to request an accommodation or modification in writing—larger housing complexes may have their own form for you to fill out. Upon receiving your request, the landlord is permitted to make a counterproposal. However, he or she cannot put the counterproposal in place without your approval.

A landlord cannot evict you for requesting a reasonable accommodation or reasonable modification.

Assistance and information

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U.S. Department of Housing & Urban Development

HUD enforces federal fair housing laws through its Office of Fair Housing and Equal Opportunity (FHEO).

800-669-9777

www.hud.gov

www.hud.gov/offices/fheo

HUD: Tenant rights

Access a state-by-state listing of tenant laws, rights and responsibilities, and find legal help.

www.hud.gov/renting/tenantrights.cfm

HUD: Local assistance

This site provides state-by-state listings of important housing resources.

www.hud.gov/offices/pih/pha/contacts/

HUD: Subsidized housing, tenant assistance

Find your local Public Housing Authority, where you can apply for Section 8 or find a place to live.

www.hud.gov/renting

GOsection8.com

View information on available Section 8 units in your state.

www.gosection8.com

USDA and Rural Development

Find state and local offices where you can learn more about and apply for Rural Development programs.

www.rurdev.usda.gov/recd_map.html

National Fair Housing Alliance

The NFHA works to eliminate housing discrimination.

www.nationalfairhousing.org

National Association of Consumer Advocates

Use the site's searchable database to find a consumer advocate attorney in your state.

www.naca.net

National Association for Community Mediation **10**

This site offers a searchable state-by-state database of mediators. (When looking for a mediator, check with your local small claims court, too.)

www.nafcm.org

Legal Services Corporation

Find low-cost and free legal service providers in your state.

www.lsc.gov

National Housing Law Project

A page on the organization's website provides links to housing resources and assistance.

www.nhlp.org/help

Lawyers.com

The site includes links to individual states' landlord-tenant information.

<http://research.lawyers.com/State-Landlord-and-Tenant-Information.html>

AnnualCreditReport.com

Order a free copy of each of your three credit reports free every 12 months.

www.annualcreditreport.com

877-322-8228

Tenant history reports

You can order your free reports annually at:

- ChoicePoint, at www.ChoiceTrust.com or 877-448-5732
- SafeRent, at www.fadvSafeRent.com or 888-333-2413

Community research

Find out how good the schools are, what the cost of living is, and more before you move to a neighborhood:

- Home Fair: www.Homefair.com
- Sperling's Best Places: www.bestplaces.net/



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Housing Information (www.housing-information.org), a Consumer Action project, is a resource designed to give consumers and community-based agencies serving consumers access to multilingual educational resources promoting intelligent and cost-effective housing decisions.