

# FAIR HOUSING GUIDE

Race  
Color  
Creed  
National Origin  
Sex  
Age  
Disability  
Marital Status  
Familial Status  
Sexual Orientation  
Military Status

**KNOW  
YOUR  
RIGHTS**

NEW YORK STATE  
DIVISION OF  
**HUMAN  
RIGHTS**

ANDREW M. CUOMO, GOVERNOR  
GALEN D. KIRKLAND, COMMISSIONER

**Discrimination  
really hurts.**

**If you see it  
or experience it, call us.**

**We're here.**

NEW YORK STATE  
DIVISION OF  
**HUMAN  
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# Introduction

Housing discrimination is an evil that hurts both its victims and society as a whole. It goes against our vision of a free society and its elimination is a strong New York State and National priority. Housing discrimination seriously injures its victims, causing them emotional and financial harm. There are strong National, State and Local Laws that prohibit housing discrimination. They provide many places to go to file housing discrimination complaints. The laws also provide many different forms of relief to victims and to society, including monetary damages and fines. The laws also permit a court to order violators to stop discriminating and to make up for past wrongdoing.

In New York State, the Executive Law (Human Rights Law) prohibits housing and lending discrimination, as well as many other different forms of discrimination. The New York State Division of Human Rights is responsible for enforcing the Executive Law. The Division receives and investigates housing and lending discrimination complaints and, if warranted, holds hearings and issues enforceable orders. If you think your rights have been violated, you can file a complaint with the Division and they will investigate. You do not need a lawyer to file a complaint.

This pamphlet describes your fair housing rights under the Executive Law. It describes who is protected by the law, who must follow the law, what actions are prohibited, and what to do if your rights have been violated. It is important to remember that there are also federal and local laws prohibiting discrimination. If something is not prohibited by the Executive Law, you should consult federal and local law, because they might prohibit it. To help you determine whether your rights have been violated, this publication offers examples of behavior that appear to violate the law. Generally, however, more investigation is necessary to decide whether behavior is illegal. The government agencies and organizations listed at the end of this pamphlet can conduct such investigations.

# Who is Protected?

The New York State Executive Law prohibits housing discrimination on the basis of several “protected characteristics.” It is illegal for someone to discriminate against you because of one of these protected characteristics. The protected characteristics are:

## **RACE**

### **CREED**

Except: A religious institution can, under certain circumstances, limit the sale or rental of housing to a member of the same religion to further its religious principles.

### **COLOR**

### **NATIONAL ORIGIN**

### **SEX**

Except: Single-sex housing accommodations such as female- or male-only dormitories at a college are permitted.

### **AGE**

Except: Housing accommodations restricted to people 55 years old or older are permitted;

Except: Housing discounts to people 65 years or older are permitted.

### **DISABILITY**

Except: Housing discounts to people with disabilities are permitted.

### **MARITAL STATUS**

### **MILITARY STATUS**

### **FAMILY STATUS**

### **SEXUAL ORIENTATION**

The Executive Law does not give preference to any one particular race, creed, color, national origin, sex, age, disability, marital status, family status, or sexual orientation. If somebody denies housing to you, and the reason is one of these characteristics, whatever that characteristic happens to be, it is illegal.

Examples:

A landlord instructs a real estate agent not to rent apartments in his building to "minorities."

A landlord refuses to rent apartments to single people.

A housing complex has an "adults only" rental policy.

# Who Must Follow The Law?

Anybody who sells, rents, or leases housing must follow the Executive Law. This includes:

Examples: A family member who assists her relative in selling her home cannot discriminate.

**Owners**

**Tenants**

**Subtenants**

**Managing agents**

**Real estate brokers**

**Real estate agents**

**Agents and employees of the above persons**

A tenant of an apartment cannot discriminate if subletting the apartment to another person.

# What is Prohibited?

## I. IN CONNECTION WITH THE SALE, RENTAL, OR LEASING OF HOUSING

The Executive Law makes it illegal to discriminate in the sale, rental, or leasing of housing because of a protected characteristic. Specifically, the law makes it illegal to do the following because of a protected characteristic:

### **Refuse to sell, rent, or lease housing.**

Example: An owner refuses to sell a home to any Asian Americans.

### **Discriminate in the terms, conditions, or privileges in the sale, rental, or leasing of housing.**

Examples: A landlord requires higher security deposits from African American families in connection with renting apartments.

A homeowner decides to require a larger down payment from a Latino family in connection with the sale of a home.

### **Discriminate in providing facilities or services in connection with the sale, rental, or leasing of housing.**

Example: A landlord refuses to allow Latino children only to play unattended at a playground.

### **Print or circulate a statement, advertisement, or publication expressing a limitation, specification, or discrimination in the sale, rental, or leasing of housing.**

Example: A landlord asks all persons who call in response to a housing advertisement “what kind of name” they have.

### **Use an application for housing that expresses any limitation, specification, or discrimination in the sale, rental, or leasing of housing.**

Example: A real estate application asks questions about a protected characteristic.

**Make any record or inquiry in connection with the prospective purchase, rental, or lease of a housing accommodation that expresses any limitation, specification, or discrimination.**

Example: A landlord asks whether prospective co-tenants of the opposite sex are married.

**Discriminate against a sight- or hearing-impaired person because of his or her use of a guide dog, hearing dog, or service dog.**

## **II. RETALIATION, AIDING AND ABETTING, AND COERCION**

The Executive Law also prohibits participating in discrimination or retaliating against someone for helping to enforce the Law. Specifically, the Law prohibits:

**Aiding someone in violating the Executive Law.**

Example: A real estate agent carries out a landlord's instructions not to rent to single men.

**Coercing someone to violate the Executive Law.**

Example: A neighbor threatens a homeowner with physical harm if she sells her home to an African American family.

**Retaliating against someone for opposing housing discrimination, filing a complaint, or testifying or assisting in any enforcement action under the Law.**

Example: A real estate agency fires an employee for reporting that a landlord refused to rent to her Latino client.

### **III. REAL ESTATE BROKERS, SALESPERSONS, AND EMPLOYEES; REAL ESTATE BOARDS**

In addition to the above restrictions, the Executive Law adds additional obligations on real estate brokers, real estate salespersons, and their employees. Specifically, it is illegal for them to:

It is also illegal for a real estate board to exclude or expel any person, or discriminate against a person in the terms, conditions, and privileges of membership on the board on account of a protected characteristic.

#### **Refuse to negotiate for the sale, rental, or leasing of housing.**

Example: A real estate agent refuses to negotiate for the rental of housing with a person with a disability.

#### **Represent that housing is not available for sale, rental, or lease when it is available.**

Example: A real estate salesperson shows housing to a white person but then tells a minority person that the same housing is not available for rental.

#### **IV. REASONABLE ACCOMMODATIONS FOR PERSONS WITH DISABILITIES**

In addition to prohibiting discrimination on the basis of disability, the Executive Law requires persons covered by the law to undertake efforts to accommodate the needs of persons with disabilities so they can live in housing. Specifically, the Executive Law requires covered persons:

**To permit a person with a disability to make reasonable modifications of the housing, at the person's expense, if the modifications are necessary to allow the person to have full enjoyment of the housing.**

Example: A landlord permits a person in a wheelchair to widen the internal doors of his apartment to accommodate the wheelchair.

**To make reasonable accommodations in rules, policies, practices, or services, when such accommodations are necessary to permit a person with a disability equal opportunity to use and enjoy the housing.**

Example: A landlord makes an exception to a "no pet" policy to allow a blind person to have a guide dog.

**Must provide that in all buildings constructed after March 13, 1991:**

**The public and common areas of housing are readily accessible to and usable by persons with disabilities.**

Example: The entry to such a building is accessible to a person in a wheelchair.

**All doors are sufficiently wide to allow passage by persons in wheelchairs.**

**All multi-family buildings contain accessible passageways, fixtures, outlets, bathrooms, and kitchens.**

Example: Bathroom walls are able to support grab bars.

# What Housing is Covered?

The Executive Law applies to nearly all housing accommodations. The only exceptions are:

**Rental units in two-family homes occupied by the owner.**

Example: The Owner of a two-family home who lives in the ground floor unit can discriminate.

**Rentals in rooming houses occupied by the owner or member of the owner's family.**

Example: The Owner of a rooming house, who lives in the building, can discriminate.

***It is important to remember that although the Executive Law does not apply to these housing accommodations, federal or local fair housing laws might apply.***

# What About Lending Discrimination?

The Executive Law also prohibits discrimination in connection with real estate lending. It is illegal to discriminate in connection with real estate lending on the basis of the same characteristics that are protected in connection with the sale or rental of housing. However, age can be considered in determining the credit worthiness of an applicant when age has a demonstrable and statistically sound relationship to determining credit worthiness. The Executive Law prohibits the following in connection with an application for a loan for the purchase, acquisition, construction, rehabilitation, or repair or maintenance of a home:

**Discriminating in granting, withholding, extending, renewing, or setting the terms, rates, or conditions of the loan.**

Example: A lender charges higher interest rates to African Americans.

**Using an application for a loan or making any record or inquiry about an applicant that expresses any limitation, specification, discrimination.**

Example: A credit application asks whether the applicant has children.

**Asking an applicant about her capacity to have children or about use or advocacy of any form of birth control or family planning.**

Example: A loan officer asks a couple applying for a loan whether they plan to have children.

**Refusing to consider sources of an applicant's income or discounting an applicant's income because of a protected characteristic, including childbearing potential.**

Example: When considering the loan application of a married couple, a creditor refuses to consider the income of the wife because she is of childbearing age.

**In connection with considering an applicant's credit worthiness, considering statistics or assumptions relating to a protected characteristic, including the likelihood of bearing children.**

Example: A creditor refuses to lend in predominantly minority neighborhoods.

# How Do I Know If My Rights Have Been Violated?

It is not always easy to tell if your fair housing rights have been violated. People will rarely come right out and say: “I will not rent this apartment to you because you are a young single woman” or “I will not rent the house to you because you are black and this is a white neighborhood.” Instead, the signs of discrimination are usually more subtle.

One way to determine if you have been discriminated against is to seek the help of an agency or organization that can conduct a test. As the following section illustrates, some HUD funded private organizations investigate complaints of discrimination and can test a real estate agency or landlord to see if it is discriminating. In a test, the agency hires pairs of individuals, or testers, to pose as undercover home seekers. In each pair, the two testers have the same qualifications for the housing, but differ in the protected characteristic that is the basis for the discrimination. If a person

suspects that a real estate agency is discriminating because she is African American, the testers will have similar qualifications for the home seekers, but one tester will be white and the other will be African American. Each tester will make a separate trip to the real estate office. If the real estate agent shows the white tester the housing in question and tells the African American tester that nothing is available in her price range that is strong evidence of discrimination.

The following examples are meant to demonstrate when you might suspect that discrimination has occurred. If you think discrimination has occurred, you are encouraged to take action by contacting one of the agencies or organizations listed in the next section.

**Example 1:**

Mr. Lowery, a single African American male, is looking for an apartment. He sees an advertisement in a newspaper describing an apartment that meets his needs. Mr. Lowery calls the real estate agency and speaks to Mr. Connor, who tells Mr. Lowery that the apartment is available and asks him to come to the office to see it. Thirty minutes later, Mr. Lowery gets to the office, identifies himself, and meets Mr. Connor. Mr. Connor says: "There must be some mistake." Mr. Lowery assures him he spoke to him on the phone. Mr. Connor then asks Mr. Lowery to wait while he checks to see if the apartment is available. Mr. Connor returns a few minutes later and informs him that he just checked with the landlord, and the apartment is no longer available.

**Example 2:**

Mr. Martin and Ms. Vernon are married. Mr. Martin is white and Ms. Vernon is African American. They are in the process of purchasing a co-op apartment. They have signed a contract and need to meet with the co-op board for final approval. Mr. Martin has been handling all the details of the transaction and has been assured by the co-op owner, the building managing agent, and the co-op president, all of whom he has met, that there will be no problem at the interview

with the co-op board. Ms. Vernon gets to the interview first, and is informed by the co-op president that she is in the wrong place. She insists she is in the right place and is Mr. Martin's wife. The co-op president expresses surprise. At the interview, a Board member asks Mr. Martin and Ms. Vernon whether they face hostility because of their "mixed marriage" and whether it has had any impact on their children. Ultimately, the Board refused to approve them for the apartment.

**Example 3:**

Ms. Abernathy, an African American, views an apartment she likes. Afterwards, she calls the real estate agent, Mr. Davis, and tells him she wants to rent it. Mr. Davis tells her the apartment is rented. Ms. Abernathy is suspicious and asks her friend, who is white, to pose as an apartment seeker. Her friend goes to the real estate office and meets Mr. Davis, who says the apartment is still available. Ms. Abernathy then calls Mr. Davis to confront him. He admits he lied to Ms. Abernathy, but claims he lied not because of her race, but because the landlord did not like Ms. Abernathy because she was "pushy" and "aggressive."

# Where Can I Go to Protect My Rights?

If you suspect you have been the victim of discrimination, there are a number of government agencies and private organizations that can help you.

## I. GOVERNMENT AGENCIES AND COURTS

You can file a discrimination complaint with many different government agencies, seeking damages, the housing in question, and other appropriate relief such as a promise from the housing provider not to discriminate. You can file a complaint on your own. You do not need a lawyer. Under the Executive Law, you can file housing or lending discrimination complaint with:

### **The New York State Division of Human Rights**

One Fordham Plaza, 4<sup>th</sup> floor  
Bronx, NY 10458  
718- 741- 8400

### **The New York State Division of Human Rights**

Agency Building 2  
Empire State Plaza  
28th Floor  
Albany, NY 12220  
(518) 474-2705

### **The New York State Division of Human Rights**

NYS Office Building Annex  
44 Hawley Street, 6th Floor  
Binghamton, NY 13901-4465  
(607) 721-8467

### **The New York State Division of Human Rights**

55 Hanson Place  
Room 304  
Brooklyn, NY 11217  
(718) 722-2856

### **The New York State Division of Human Rights**

The Walter J. Mahoney  
State Office Building  
Fifth Floor - Suite 506  
65 Court Street  
Buffalo, NY 14202  
(716) 847-7632

**The New York State  
Division Of Human Rights**

20 Exchange Place, 2<sup>nd</sup> Floor  
New York, NY 10005  
(212) 480-2522

**The New York State  
Division Of Human Rights**

Harlem State Office Building  
163 West 125th Street - 4th Floor  
New York, NY 10027  
(212) 961-8650

**The New York State  
Division Of Human Rights**

175 Fulton Avenue  
Hempstead, NY 11550  
(516) 538-1360

**The New York State  
Division Of Human Rights**

State Office Building  
Veterans Memorial Highway  
Hauppauge, NY 11787  
(516) 952-6434

**The New York State  
Division Of Human Rights**

One Monroe Square  
259 Monroe Avenue  
3rd Floor  
Rochester, NY 14607  
(716) 238-8250

**The New York State  
Division Of Human Rights**

333 East Washington Street  
Room 401  
Syracuse, NY 13202  
(315) 428-4633

**The New York State  
Division Of Human Rights**

8 John Walsh Blvd.  
Suite 204  
Peekskill, NY 10566  
(914) 949-4394

**The New York State  
Division Of Human Rights**

Office Of Sexual Harassment  
Issues  
55 Hanson Place, Room 347  
Brooklyn, NY 12217  
(718) 722-2060

**The New York State  
Division Of Human Rights**

Office Of Aids Discrimination  
Issues  
20 Exchange Place, 2nd Floor  
New York, NY 10005  
(212) 480-2493

**TOLL FREE NUMBER  
1-888-392-3644**

**The New York State  
Division of Housing and  
Community Renewal Fair Housing  
and Equal Opportunity**

25 Beaver Street  
New York, NY 10004  
(212) 480-6753

Under the Executive Law, you can also file a lending discrimination complaint with the Superintendent of Banks at the following address:

**New York State Banking Department**

2 Rector Street  
New York, NY 10006  
(212) 618-6442

Federal law also prohibits housing discrimination. You can file a housing discrimination complaint under federal law with:

**The United States Department of Housing and Urban Development**

Manhattan:

26 Federal Plaza  
Room 3532  
New York, NY 10278  
(212) 264-5072

Buffalo:

Lafayette Court  
465 Main Street  
Buffalo, NY 14203  
(716) 846-5785

**TOLL FREE NUMBER  
1-800-496-4294**

**The Office of Fair Housing and Equal Opportunity**

Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Room 5116  
Washington, D.C. 20410-2000  
(202) 708-2878

**NATION-WIDE  
TOLL FREE NUMBER  
1-800-669-9777**

You can also file a complaint with your city, municipality, or county, if it has a law prohibiting housing or lending discrimination. You can contact the State Division of Human Rights for a list of such agencies.

Finally, you can go to court to assert your fair housing rights under New York State Law and federal law. You can file a housing or lending discrimination lawsuit in either the federal district court or the New York State Supreme Court that covers the area where you live.

## **II. PRIVATE ORGANIZATIONS AND ATTORNEYS**

Many private, not-for-profit organizations are dedicated to eliminating housing and lending discrimination. If you suspect you have been discriminated against in housing or lending, many of these organizations can help you investigate. These private organizations can conduct a test of an owner, a real estate agency, or creditor to see if they are discriminating against you. They can also help you decide where to file. Finally, although you do not need a lawyer to file a complaint with an agency, you may want to consult an attorney with expertise in fair housing matters.

Private fair housing organizations often have panels of cooperating attorneys, and they may be able to refer you to an attorney. The Fair Housing Initiative Program (FHIP) provides support to private non-profit organizations located throughout New York State and to strengthen HUD's partnership in enforcing and enhancing compliance with the nation's fair housing laws. The following private non-profit fair housing enforcement organizations are funded by HUD to undertake testing and other enforcement activities to prevent and eliminate discriminatory housing practices:

**Asians Americans for Equality**

40-34 Main Street  
Flushing, New York 11354  
(718) 539-7290

**Fair Housing Council of  
Central New York, Inc.**

327 West Fayette Street  
Syracuse, New York 13202

**H.O.M.E., Inc.**

700 Main Street  
Buffalo, New York 14202  
(716) 854-1400

**Long Island Housing Services**

1747 Veterans Memorial Highway  
Islandia, New York 11722  
(516) 427-1818

**Monroe County Legal Asst. Corp.**

80 St. Paul Street  
Rochester, New York 14604  
(716) 325-2520

**Open Housing Center**

594 Broadway, Suite 608  
New York, New York 10012  
(212) 941-6101

**Westchester Residential Opportunities**

470 Mamaroneck Avenue  
Suite 410  
White Plains, NY 10605  
(914) 428-4507

# When Do I Have to File a Complaint?

Each court and agency has a different deadline, known as a “statute of limitations,” by which you must file a complaint in order to protect your rights.

You have one year to file an administrative complaint with the State Division of Human Rights, the Department of Housing and Urban Development, or the Superintendent of Banks.

You have two years to file a lawsuit under the federal Fair Housing Act. (There is less time to file a claim under the Federal Equal Credit Opportunity Act (two years) and more time to file a claim under the federal Civil Rights Act (three years).

If you need immediate action to protect your right to buy or rent the particular housing in question, the Executive Law permits the Division of Human Rights to act immediately. Alternatively you can file a lawsuit yourself and seek a temporary restraining order in a court. When you want to protect your right to buy or lease the particular housing in question, you should file your complaint right away.

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