

KNOW YOUR RIGHTS

What to Do About Housing Issues After Hurricane Katrina

Produced by:

Southeast Louisiana Legal Services
www.lawhelp.org/LA

Landlord-Tenant Issues

Q: The apartment I lived in was totally destroyed by Hurricane Katrina. What happens to my lease?

A: When rental property is totally destroyed, the lease ends. You can get your security deposit back. If your apartment was partially destroyed, you can either end the lease or ask for a rent reduction.

Q: How do I get my security deposit back?

A: You should send a letter telling your landlord that you want your deposit refunded. You must give him your forwarding address, and give him at least 30 days to refund your deposit. If he does not give it back or you disagree with his response, file a lawsuit in Small Claims Court for the money. If you win your Small Claims Court lawsuit, you can also get a \$200 penalty, interest, court costs, and attorney fees.

Q: What if my personal property was damaged?

A: The landlord is usually not responsible for damages to your personal property. If you have renter's insurance, you should file a claim with your insurance company. Otherwise, you should file a claim with FEMA as soon as possible by calling 1-800-621-3362.

Q: My landlord told me he is raising my rent. Can he do that to me?

A: If you have a written lease that has not yet run out, your landlord can't raise your rent UNLESS the lease allows for rent increase during the term of the lease. But, if the lease allows the landlord to end your lease by giving 30 days notice, you may not want to fight the rent increase.

If you do not have a written lease for a specific term, your landlord can raise your rent by giving you at least 10 days notice before the first day of the next rental period. If you think the only reason that your landlord is raising the rent is because he can get more after the hurricane, you may want to file a complaint of price

gouging (unreasonably raising prices due to high demand) with the state. You can call 1-800-488-2770 or go to www.ag.state.la.us.

Q: What if my landlord sells my apartment?

A: If you don't have a lease, your rights to stay in your apartment end with the sale. The new owner should let you stay for as long as you have paid for, and you may be able to work out a new lease.

If you have a lease and you recorded it by registering at the local office of the Parish Recorder, you probably have the right to stay until the end of your lease term. Read your lease to see if it says anything different. If you did not record your lease, you only have the right to stay until the end of your lease term if your landlord sold the building with a requirement that your lease be honored by the new owner. Otherwise, the new owner may have the right to evict you. If you are evicted, you may have a damages lawsuit against your old landlord, who cannot get out of his contract with you by selling the building. If you cannot find a new apartment for the same price, your landlord may owe you the difference in rent for the rest of the time covered by the old lease.

Q: Do I have any special rights if I lived in an apartment where the government, HUD, or the Housing Authority helped pay part of my rent?

A: Yes. If you lived in an apartment where the rent was subsidized by HUD or if you had a housing voucher through a housing authority, you should be eligible for housing through the Disaster Voucher Program. You can call 1-866-373-9509 for more information. You can also apply for this help if you were homeless before the hurricane.

Evictions

Tenants often have defenses to evictions. To learn more about eviction defenses, go to the Housing Law section of www.lawhelp.org/La.

If you are served with eviction papers, you should file an ANSWER, which explains to the court the legal reasons why you should not be evicted. If you don't file an answer, you lose your right to appeal the eviction. A lawyer can help you figure out if you have legal defenses to an eviction. See the "Contacts" section of this brochure for information on how to get a lawyer. If you cannot get one, you can go to www.lawhelp.org/La (click "Housing") for complete instructions on how to fill out the ANSWER form. Make sure you review your written lease (if you have one) and any other written rules and regulations to figure out if the landlord's eviction was filed in the right way. Sometimes the lease will require that the landlord give you a "cease and desist," or warning notice first. Sometimes the landlord has to give you a chance to pay your rent or move.

If you think your landlord is reasonable, try to discuss the case with him. If you just want more time, want to pay the rent or work out a payment plan, or have corrected a problem that was your fault, let him know. If you can't resolve the problem, you will have to file the ANSWER form with the court that the eviction papers came from.

FEMA and your rights

Q: What kind of benefits does FEMA provide?

A: To be eligible for FEMA benefits you must first register with FEMA at 1-800-621-FEMA (3362) (hearing/speech impaired ONLY-call TTY: 1-800-462-758 or your nearest FEMA disaster Recovery Center. FEMA offers an Individuals and Households Program (IHP) for housing assistance. This program has three parts: (1) temporary housing assistance which has provided \$2,358 for three months rent which may be extended by recertifying with FEMA and meeting requirements for additional rental

assistance; mobile homes have also been provided to hurricane victims; (2) grants to homeowners to repair, replace or rebuild their damaged homes; before a homeowner is eligible for such a grant, he or she must have completed any insurance claims for which they are eligible and, normally, applied for a loan from the Small Business Administration; if you are eligible for such a loan, you may receive up to \$200,000 for damage to your home; if you are denied an SBA loan you may then be eligible for a FEMA grant; (3) grants for other needs; which can be used for assistance for several purposes such as personal property, moving and storage and medical and dental expenses.

Q: How do I apply for these benefits?

A: The deadline for registering with FEMA has been extended until March 11, 2006. Even if you miss the deadline, you may still be able to apply if you have a good reason.

Q: What if I am denied FEMA benefits or I disagree with the amount I get from FEMA?

A: You have 60 days from the date of the denial or the decision about your benefits to ask for an appeal. Appeals must be in writing. If you would like help with a FEMA appeal, you can call your local legal aid office for assistance.

Q: How can I get a FEMA trailer?

A: Call FEMA, at 1-800-621-3362 and request a trailer. Let FEMA know if you have a place to put the trailer. If you don't have a place to put the trailer, you may be offered a spot in a FEMA trailer park. FEMA trailers are provided as a form of temporary housing assistance. You do not need to pay any rent to live in a FEMA trailer. But you have to pay your utility bills. If you are placed in a FEMA trailer, you can't get any other form of temporary housing payment.

Q: How long can I live in a FEMA trailer?

A: For up to 18 months unless this time is extended by FEMA. If you are still in a FEMA

trailer at the end of 18 months, you can be charged fair market rent to live there. FEMA can end your trailer housing assistance early, if FEMA decides there is adequate other housing available, or if you do not prove to FEMA that you are working toward a permanent housing plan. You can also lose your FEMA trailer if you fail to comply with your FEMA lease agreement, or if FEMA finds that you got housing assistance through fraud or misrepresentation.

Q: If FEMA decides to end my trailer housing assistance, what kind of notice will I get?

A: FEMA must give you a written notice at least 15 days before cutting off your housing assistance. FEMA's notice must state the reasons for the decision, the date of the proposed termination, and how to appeal the decision.

Q: What should I do if I get a termination notice of my FEMA housing assistance?

A: You can ask for an appeal. But you have to do that in writing. You can also call your local legal aid office for possible help.

Information for Homeowners

Q: Can I get relief from making payments on my mortgage?

A: That depends on your lender. Individual companies have their own policies about whether they are willing to give you relief from making future payments on your mortgage and how long this relief will last. It is very important that you immediately contact your mortgage lender if you haven't already to discuss this. Remember that it is best to get any kind of offer for relief in writing.

Q: If I need money to make my house payments, who can I call?

A: If you lost work because of the hurricane, you may qualify for Disaster Unemployment Assistance (DUA). Contact your local

unemployment office for information about DUA. If you are turned down, contact a local legal aid office to see if they can help you appeal the denial. And be sure to explain your work circumstances to your lender, who might be able to make special arrangements until you begin getting a paycheck again.

Q: How can I avoid predatory loans?

A: A predatory loan is a loan with a very high interest rate or high fees, which the lenders give out hoping that they won't be repaid and that they will be able to take your home or property through foreclosure. You should beware of any lender who is not clear about the terms of the loan, who pressures you into accepting terms you do not understand or agree with, who encourages you to lie about your financial situation, who refuses to put everything in writing, or who rushes you through any part of the process. For more information about predatory loans, visit www.lawhelp.org's "Housing" section.

Your Right to Housing

Q: What is the Fair Housing Act?

A: The Fair Housing Act is a federal law that makes it illegal to discriminate on the basis of race, color, national origin, religion, sex, familial status, or handicap in the sale or rental of most housing everywhere in the United States.

Q: What is illegal?

A: The following acts, among others, are against fair housing law if they are motivated by or have the effect of discriminating on a prohibited basis (race, color, religion, national origin, sex, disability and familial status. This includes: refusal to sell or rent housing; eviction; setting different terms for the sale or rental of housing; denial or setting different terms for a mortgage or insurance; discriminatory advertising; or threatening, coercing, intimidating, or harassing

anyone exercising their fair housing rights.

Q: I think I may have suffered from discrimination. What can I do?

A: If you can prove that you have been a victim of discrimination, the FHA may entitle you to receive compensation for actual and emotional damages. Document and date any conversation or event that might serve as evidence of discrimination. The Greater New Orleans Fair Housing Action Center, at www.gnofairhousing.org, can investigate your complaint and determine whether a violation of civil rights has occurred. If appropriate, they will assist you in pursuing administrative and legal remedies, free of charge.

Who to Contact

Southeast LA Legal Services/ New Orleans Legal Assistance:

(504) 529-1000 or (877) 521-6242
www.lawhelp.org/LA

FEMA:

(800) 621-3362; www.fema.gov

National American Civil Liberties Union

(212) 549-2500; www.aclu.org

ACLU of Louisiana:

(504) 592-8056; www.laaclu.org

GNO Fair Housing Action Center

(877) 445-2100; www.gnofairhousing.org

Dept. of Housing and Urban Development

(800) 955-2232; www.hud.gov

Housing Authority of New Orleans

(713) 652-2912 or (504) 362-4210; www.hano.org

LA State Bar Association

(800) 310-7029

Lawyers Committee for Civil Rights Under Law

(202) 662-8600; www.lawyerscommittee.org