

UNLAWFUL EVICTIONS (RPAPL 768) FAQs

New York's Housing Stability and Tenant Protection Act of 2019 created new protections for tenants, including a new provision that makes it a Class A misdemeanor for a person to either evict an occupant from their home without a court order, or to fail to restore an occupant who was evicted without court order. When legally warranted, law enforcement officers should use this new law to assist tenants and occupants be restored to occupancy.

Q: Which individuals are protected from unlawful evictions?

- i. Any occupant who occupies a dwelling unit pursuant to a written or oral lease
- ii. Any occupant who has lawfully occupied a dwelling unit for at least 30 days.

Q: How can law enforcements determine whether a complainant is protected by the law?

- i. How the occupant gained possession
- ii. Whether the occupant has a lease(written or oral)
- iii. Whether the occupant moved in 30 or more days to go

Q: If the occupant's lawful occupancy is disputed, what proof can law enforcement request?

- i. A written lease
- ii. Communications between the parties indicating a intent to create a rental agreement
- iii. Proof of rent payments
- iv. Utility bills proving occupancy
- v. Mail with the dwelling unit's address that is dated more than 30 days prior
- vi. Other documents that show that the occupant has been living in the dwelling unit

Q: Who can be arrested for an illegal eviction?

- i. Any person who intentionally violates or assists in the violation of any of the provisions of [RPAPL] shall be guilty of a class A misdemeanor
- ii. The owner or landlord or any of their agents(managing agent, friend) can be liable of a crime if they engage in any of the activities considered an illegal eviction under the law.
- iii. A tenant or other occupant who allows another occupant(such as roommate, family member or guest) to live with them could be arrested for an illegal eviction.

Q: It is an unlawful eviction if a person evicts or attempts to evict a person by:

- i. Using or threatening the use of force
- ii. Interrupting or discontinuing essential services(i.e. heat, water, electricity)
- iii. Removing the occupant's possessions from the dwelling unit
- iv. Removing the door at the entrance to the dwelling unit
- v. Removing, plugging or otherwise rendering the lock on the entrance door inoperable
- vi. Changing the lock on an entrance door without supplying the occupant with a key
- vii. Any other action which prevents or is intended to prevent the occupant from the occupancy which induces the occupant to vacate.
For example:
 - a) Repeatedly calling the occupant at all hours
 - b) Repeatedly banging on the doors
 - c) Yelling at the tenant
 - d) Repeated demands to get out

Q: For the owner to be criminally liable, the occupant must first request to be restored or request another dwelling unit and the owner must comply if:

- i. The owner committed the unlawful eviction
- ii. The owner knew or had reason to know of the unlawful eviction
- iii. The unlawful eviction occurred with seven days prior to the occupant's request without regard to what the owner or its representative knew or should have known
- iv. There would be three charges of unlawful eviction if an owner changes the locks of an apartment while threatening the occupant and then refused to restore the occupant after the occupant requested to be restored.

