

PROTECTING IMMIGRANT HOMES:

The importance of strengthening and expanding tenant protections for immigrant New Yorkers



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1. Executive Summary

New Yorkers face a staggering affordable housing crisis. Rents have skyrocketed, and displacement is rampant. More than five million renters have no basic protections from eviction without cause. And those who have certain protections, because they live in rent-regulated households, face landlords who frequently harass them and exploit loopholes to displace them, leaving families at risk. As a result, every year New York loses thousands of units of rent-regulated housing.

This report lays out how this well-documented crisis affects immigrants. More than two million immigrants have no basic tenant protections. Across the state, immigrants are more likely to face rent burdens and overcrowding. As data and testimonies in this report reveal, this pattern holds not just in New York City, but in the downstate suburbs and in the rest of the state. At least 80 percent of low-income immigrant-headed households are rent-burdened in each geography.

Immigrant New Yorkers are also particularly at risk given the threats to rent-regulated housing. Forty-seven percent of all New York City rent-regulated housing is occupied by immigrant-headed households (one million tenants in 394,000 households). Landlords' exploitation of the vacancy bonus and preferential rent loopholes leaves immigrant families in grave jeopardy.

The report concludes with clear policy recommendations:

First, New York must expand renters' rights to cover the whole state. It must do so by:

1. Passing "good cause" eviction legislation to bring renters' rights to tenants in smaller buildings and in manufactured home communities;
2. Removing geographic restrictions in the Emergency Tenant Protection Act (ETPA); and
3. Ending vacancy decontrol (S2591/A1198).

Second, New York must end rent hikes and tenant harassment caused by loopholes in rent stabilization. It must do so by:

- Making preferential rents last for the duration of the tenancy (S2845/A6285-18);
- Eliminating the vacancy bonus (S185/A2351); and
- Eliminating permanent rent hikes caused by major capital improvements and individual apartment increases.

2. New York State's Affordability Crisis

New Yorkers confront a grave affordable housing crisis. Tenants from Brooklyn to Buffalo face surging rents, abusive landlords, and a dire lack of affordable options. Families and neighborhoods are under attack, with rampant displacement changing the very nature of communities.

The depths of this crisis are undeniable. Currently, according to analysis done by the Community Service Society, **there are more than five million renters—in more than 2 million households—who have no basic tenant protections** because their apartments fall outside the system of rent regulation.¹ These tenants are frequently harassed by landlords, subject to enormous rent increases, and refused the opportunity to renew their lease. This includes well over 2.5 million renters (in more than one million households) living in rental units outside of New York City.² The dire lack of affordable housing is also a key factor in the exploding levels of homelessness in New York State, which surpassed 90,000 at the end of 2018.³

To understand the plight of tenants across New York State, **take Teodora, a Westchester resident and Make the Road New York member.** She is a single mother of three who works various odd jobs to earn money to take care of her three children. Teodora has lived in a non-regulated multi-family house in White Plains for 13 years. She has lived with her



Teodora shares her story with legislators at a Make the Road New York community forum in Westchester.

¹ This figure is consistent with data in a recent 2019 report by PolicyLink, the Center for Popular Democracy, and the Right to the City Alliance, "Our Homes, Our Future: How Rent Control Can Build Healthy, Stable Communities." That report finds that 3.13 million New York Households would benefit from "universal rent control" policies. To calculate the number of currently unregulated households, one can subtract the approximately one million households already living in rent-regulated housing. That report is available online: https://populardemocracy.org/sites/default/files/OurHomesOurFuture_Web-fin.pdf

² This figure comes from analysis of the American Community Survey 2016 five-year microsample provided by ipums.org, which is a part of the [Institute for Social Research and Data Innovation](http://www.instituteforsocialresearch.org) at the University of Minnesota.

³ "Today's Read: Number of Homeless People in New York State Continues to Grow." December 18, 2018. Coalition for the Homeless. <http://www.coalitionforthehomeless.org/todays-read-number-of-homeless-people-in-new-york-state-continues-to-grow/>

three children and brother in an attic that was repurposed as an apartment. The landlord has raised rents twice in the last three years without any notice.

Teodora's landlord offered her a lease when she first arrived but has denied giving her a new one for over four years, making it hard to prove where she lives when dealing with government agencies and her children's school. Meanwhile, the attic has inadequate insulation, so she and her family suffer from extreme heat in the summer and frigid cold in the winter. The landlord dismisses her complaints and tells her that she can leave if she is unsatisfied. When Teodora has sought help, she has been told that there is no regulation of her unit, so the owner can kick people out whenever they want. Meanwhile, local legal services aren't available for undocumented people like her. Teodora explains: "It seems only the owners have rights when it comes to housing. As a tenant, what can I do? I don't have any rights. It is too hard to find another place and too expensive, so I just suck it up and stay here."



Berónica Cedeño, Make the Road New York member and Queens tenant, spoke about the need for expanded tenant protections at a press conference in Albany.

Tenants like Teodora suffer from extreme rent burdens. Across the state, 47 percent pay more than 30 percent of their household income, the maximum standard to be deemed "affordable," in gross rent. In Across the suburban counties of Nassau, Westchester, and Rockland, the figure is higher: 50 percent of all tenants are rent-burdened.⁴

Moreover, even within the rent-regulated housing system that has protected millions of New Yorkers for decades, tenants face grave threats. The system of vacancy decontrol that has allowed tenants to leave the rent-regulated system once they reach a certain rent has long given landlords an incentive to raise rents by whatever means possible. Two key loopholes—the vacancy bonus (also known as the "eviction bonus"), by which landlords can increase rents by 20

⁴ The figures in this paragraph come from analysis of the American Community Survey 2016 five-year microsample provided by ipums.org, part of the [Institute for Social Research and Data Innovation](http://www.isri.umn.edu) at the University of Minnesota.

percent upon vacancy, and the preferential rent loophole, through which landlords can increase rents exorbitantly on units that have been previously given preferential rents—put tenants at risk every day.

As of 2015, the median gap between monthly preferential and legal maximum rents had risen to \$444, according to a data analysis conducted for ProPublica by New York City’s Independent Budget Office.⁵ For a low-income family paying \$1,000 per month for a rent-regulated unit with such a preferential rent, such a gap would mean that the landlord could hike up their rent by more than 44 percent in one fell swoop, putting them at severe risk of displacement. It was not always this way. Before 2003, landlords who offered tenants preferential rents had to continue them as long as the tenant stayed in the apartment, with any increases based on the discounted rate rather than the legal maximum.

Without concerted action to strengthen the rent laws and close these loopholes at the state level, **from 2010 to 2017, New York City alone has lost more than 82,000 rent-regulated units.**⁶

The threats to rent-stabilized tenants are rampant, as **Berónica Cedeño, a member of Make the Road New York and Queens resident**, knows all too well. When Berónica first moved into her rent-stabilized apartment in 2015, her monthly rent was 1,150 per month. After regular \$50 per year increases, her landlord then tried to raise her rent to \$2,245—an increase of 80 percent. Before this was finalized, the building was sold to a new landlord, who is now trying to increase her rent to \$1,833, an increase of nearly 60 percent that Berónica cannot afford. In both cases, the landlord’s justification has been that Berónica’s apartment has a preferential rent (of which she was never told when she moved in) which, now that real estate prices are higher in the neighborhood, allows him to hike the rent by an enormous margin.

Now the landlord is asking Berónica to sign a lease that she cannot sign because she cannot afford the large rent increase. In fact, building management

⁵ Podkul, Cezary. “New York Landlords Exploit Loophole to Hike Rents Despite Freeze.” ProPublica. April 25, 2017. Available online: <https://www.propublica.org/article/new-york-landlords-exploit-loophole-to-hike-rents-despite-freeze>

⁶ “Changes to the Rent Stabilized Housing Stock in New York City in 2017.” May 24, 2018. New York City Rent Guidelines Board. Figure compiled from data presented on page 15. Available online here: <https://www1.nyc.gov/assets/rentguidelinesboard/pdf/changes18.pdf>. Note: because the data essentially rely on voluntary reporting by landlords, they are likely conservative.

is trying to revoke all preferential rents remaining in the building. Berónica says, "I have been living in this building for decades and it frustrates us that they are trying to use this loophole to push us out. Where are families like mine supposed to go when we cannot afford the supposedly affordable housing available in our city?"

3. The Affordability Crisis for Immigrants and the Importance of Strong Tenant Protections

The affordability crisis has an enormous impact on immigrant communities. This report provides data on how this crisis affects immigrants across New York and how crucial it is that New York strengthen its existing rent laws and expand tenant protections statewide.

Immigrant New Yorkers are a critical part of our state. Across the state, as Table One shows, 22.7 percent of residents are immigrants, and immigrants are more likely than native-born New Yorkers to actively participate in the labor force and operate small businesses. Large immigrant communities extend throughout the state. While the largest immigrant communities are in New York City (37.8 percent), one in five Long Islanders is an immigrant, immigrants are roughly nearly ten percent of the population in Rochester and Buffalo, and make up 13 percent of Syracuse's population, according to the 2017 American Community Survey.

Table One: Statistics About Immigrant New Yorkers	
Number of immigrants in New York State	4,491,000
Immigrants as percentage of the New York State population	22.7%
Number of immigrants in New York City	3,081,000
Immigrants as percentage of the New York City population	37.8%
Immigrant-headed households as percentage of New York City households	40.9%

Sources: US Census Bureau, Selected Characteristics of the Native and Foreign-Born Populations; 2017 American Community Survey; 2017 NYC Housing and Vacancy Survey

The Affordability Crisis

Yet immigrants suffer enormously from the lack of affordable housing. Across New York, immigrants face enormous rent burdens and overcrowding. As Table Two illustrates, immigrant-headed households face a higher rate of gross rent burdens than households headed by US-born New Yorkers. For the table below, a rent-burdened household is one in which the gross rent burden exceeds 30 percent of income. A severely rent-burdened household is one in which gross

rent burden exceeds 50 percent of income. And a low-income person is one whose income is less than two times the federal poverty line.

The figures are dire for all regions of New York and for immigrant-headed households and non-immigrant household alike. **But, across every category and geography, immigrant-headed households face higher rent burdens.** Reviewing New York City, the downstate suburban counties covered by the Emergency Protection Tenant Act (ETPA)—Nassau, Westchester, and Rockland—and the rest of the state, at least 80 percent of low-income immigrant-headed households are rent-burdened in each geography. The figures are highest for the three suburban counties, where the figure rises to a whopping 88 percent.

Table Two: Rent Gross Burdens for New Yorkers, Foreign-born vs. US-born		
Share of all New Yorkers with rent burdens	Foreign-Born	US-Born
New York City	52%	42%
Suburban ETPA Counties (Nassau, Westchester, Rockland)	56%	45%
Rest of State	47%	45%
Share of low-income New Yorkers with rent burdens	Foreign-Born	US-Born
New York City	82%	74%
Suburban ETPA Counties (Nassau, Westchester, Rockland)	88%	77%
Rest of State	80%	76%
Share of all New Yorkers with severe rent burdens	Foreign-Born	US-Born
New York City	24%	17%
Suburban ETPA Counties (Nassau, Westchester, Rockland)	26%	19%
Rest of State	20%	19%
Share of low-income New Yorkers with severe rent burdens	Foreign-Born	US-Born
New York City	49%	41%
Suburban ETPA Counties (Nassau, Westchester, Rockland)	57%	50%
Rest of State	43%	39%

Source: Analysis of the American Community Survey 2016 5-year microsample provided by ipums.org, which is a part of the [Institute for Social Research and Data Innovation](#) at the University of Minnesota.

An astounding number of households also face severe rent burdens. At least 43 percent of immigrant-headed households are severely rent-burdened in each geography, with the figure rising to 49 percent in New York City and 57 percent in the three suburban counties mentioned above.

Immigrant New Yorkers also face substantially higher overcrowding rates (percentage of units with more than one person per room) than New Yorkers writ large. As Table Three indicates, 15.9 percent of all immigrant-headed households live in units with more than one person per room, compared with 9.6 percent of all households. For low-income households, 22.1 percent of immigrant-headed households live in such overcrowded conditions, compared to 15.6 percent of the broader population.

Table Three: Overcrowding for Immigrant NYC Residents	
Percentage with more than one person per room, immigrant-headed households	15.9%
Percentage with more than one person per room, all households	9.6%
Percentage with more than one person per room, immigrant-headed low-income households	22.1%
Percentage with more than one person per room, all low-income households	15.6%

Source: US Census Bureau; 2017 New York City Housing and Vacancy Survey

The Importance of Rent-Regulated Housing for Immigrant New Yorkers

In New York City, immigrant communities rely on the rent regulation system to stay in the modest amount of affordable housing that remains. The rent regulation system is often the only way that immigrant tenants can access affordable housing. As Table Four indicates, a full 31 percent of immigrant-headed households in New York City currently reside in rent-regulated housing, and **more than 47 percent of all rent-regulated units are occupied by immigrant-headed households.** For approximately one million tenants in 394,000 immigrant-headed households, rent regulated housing is often the only way for them to remain in their communities.

Table Four: The Importance of Rent-Stabilized Housing for Immigrant Communities in New York City	
Percentage of immigrant-headed households in rent-regulated housing	31.0%
Percentage of all households in rent-regulated housing	28.3%
Percentage immigrant-headed low-income households in rent-regulated housing	34.2%
Percentage of all low-income households in rent-regulated housing	30.3%
Number of immigrant-headed households in rent-regulated housing	394,000
Percentage of rent-regulated households that are immigrant-headed	47.2%

Source: US Census Bureau; 2017 New York City Housing and Vacancy Survey

Sadly, those in rent regulated housing are all too often subject to enormous rent increases and harassment by landlords. Such was the case for Berónica Cedeño, recounted above. Moreover, as with all low-income New York households, there is not even remotely enough rent regulated housing stock in New York to ensure sufficient affordable housing for all immigrants. The challenge is multiplied for households headed by undocumented immigrants, who cannot access public housing, Section 8, and various types of local and state housing benefits.

The unfortunate reality is that an enormous number of immigrant New Yorkers who have no tenant protections whatsoever because the current rent regulation system is so limited. As Table Five shows, according to data analysis by the Community Service Society, **more than five million New York renters—in more than two million households—have no basic tenant protections** because their apartments fall outside the system of rent regulation.⁷ And **more than two million of these tenants without protections live in 800,000 immigrant-headed households**. The problem extends statewide. Of these two million immigrants, 876,000 live in New York City, 544,000 live in three suburban counties (Nassau, Westchester, and Rochester), and 585,000 live in the rest of New York State.

⁷ See calculation method above.

Table Five: Millions of Tenants Across New York with No Protections	
Tenants statewide with no protections	More than 5,000,000 (2,030,000 households)
Immigrant tenants statewide with no protections	More than 2,000,000 (800,000 households)
New York City	876,000 (350,000 households)
ETPA suburbs (Nassau, Westchester, Rockland)	544,000 (218,000 households)
Rest of New York State	585,000 (234,000 households)

Sources: American Community Survey five-year summary data via American Factfinder; New York City Housing and Vacancy Survey; data from the Department of Homes and Community Renewal

Take Martha Davila, a Make the Road New York member and Queens resident, who currently lives in an unregulated apartment. The owner of Martha's prior rent-stabilized unit routinely neglected her unit, failing to do necessary repairs. In her next apartment, the landlord harassed the family, entering the apartment without permission and failing to repair damages. When there was an infestation of vermin, she had to call 311 to get extermination because the landlord ignored her. Even worse, Martha explains, "Though we always paid our rent on time, the landlord kicked us out of the apartment after a year. If our apartment had been regulated, my family and I wouldn't have had to live in constant fear of having nowhere to live, and we would still be in our apartment."

The dire situation for tenants who lack access to tenant protections extends throughout the state.

Take Jody Francis, a tenant in Rochester and member of the City-wide Tenant Union of Rochester. Jody explains, "On September 1st, I was devastated when I came home to a note that said I had 30 days to leave my home. Apparently, a young white developer had bought my building and gave all the tenants 30 days to move for no fault of our own. Some of my neighbors had been here 17 years. He had



Jody Francis, a Rochester tenant, has faced two no-cause evictions in a year.

never even met us. We immediately knew we were facing another mass eviction, another clear out of an entire building to make room for gentrification in Rochester."

For Jody, this was his second such eviction in just one year. And he's not alone: in 2015, roughly one out of every four Rochester residents in Rochester was living in a different house than they had been a year ago.⁸ Without rent stabilization or protections against this type of eviction, Jody adds: "we can never have development without displacement. When my family came from Jamaica we came for a better life. My family also taught me that any business we start should also provide a service to the community, not tear it down."

The situation is similar for tenants on Long Island, where affordable rental housing is scarce. **For Alexandra Sanjuan, an immigrant renter in Suffolk County and member of Make the Road New York,** finding decent, affordable housing has been a constant struggle since she arrived on Long Island 13 years ago. Alexandra notes, "Across New York State, five million renters like me have zero renter protections. For my family, this means at the end of my current six-month lease, my landlord can evict my family without 'good cause' or raise my rent again by any amount he chooses. Because I don't have basic protections, I would need to vacate my apartment and possibly leave my community. Most landlords here want between \$2,800 and \$3,000 per month—a rate my family cannot afford." Alexandra and Jody, like tenants across New York State, believe that all tenants should have basic protections.



Alexandra Sanjuan lives in Suffolk County and has consistently struggled to find affordable rental housing.

⁸ "Final Notice: An Analysis of Evictions and Housing Instability in Syracuse, NY." 2017. A Report by the Maxwell Community Benchmarks Program. Page 44. Available online: https://www.maxwell.syr.edu/uploadedFiles/paf/benchmarks/paf_410/2017SpringFinal%20Notice%20Report%20Spring%202017_Accessible.pdf

4. Protecting Immigrant New Yorkers through Strengthened Rent Laws and Tenant Protections for All

Given the affordable housing crisis that afflicts immigrant New Yorkers, like so many other New Yorkers, it is critical that the State take bold steps to expand tenant protections and strengthen the rent regulation system. The good news is that there are concrete policy steps that the New York legislature and Governor Cuomo can take together this year to ensure that every tenant in New York, no matter where they live, deserves the same basic protections. The report concludes with concrete recommendations:

First, New York must expand renters' rights to cover the whole state. The legislature and Governor Cuomo can do so by:

- Passing new "good cause" eviction legislation to bring renters' rights to tenants in smaller buildings and in manufactured home communities (S2892):** Rent stabilization only applies to buildings with six or more units. But more and more, smaller buildings are being bought up by large corporate landlords, and tenants who live in them face escalating rents and displacement. In gentrifying parts of New York City, like East New York and Bushwick, the housing stock is overwhelmingly smaller buildings. As the housing affordability crisis extends outside of New York City to the rest of the state, it is imperative that we bring rent relief to smaller buildings as these residents increasingly come under threat of displacement. Good cause eviction would bring the right to a renewal lease at limited rent increases set by a local price index to all tenants.
- Removing geographic restrictions in the Emergency Tenant Protection Act (ETPA):** The ETPA of 1974 allows local municipalities to opt into rent stabilization in the event of a local housing emergency. Under rent stabilization, landlords are subject to regulated rent increases and tenants benefit from the right to a renewal lease. However, only municipalities in Nassau, Westchester, Rockland counties and New York City are eligible to opt-in to renters' rights. This geographic restriction should be struck from the ETPA so that renters across the State can fight to bring rent controls to their communities.
- Ending vacancy decontrol (S2591/A1198):** Vacancy decontrol allows landlords to permanently deregulate apartments once the rent reaches \$2,733 a month

and the current occupant leaves the unit. This loophole has led to the loss of hundreds of thousands of stable homes and will lead to the eventual phasing out of all renter protections—a windfall for landlords and a catastrophic loss for tenants. Vacancy decontrol should be repealed and units that have been lost to this egregious loophole should be re-regulated.

Second, New York must end rent hikes and tenant harassment caused by loopholes in rent stabilization. The legislature and Governor Cuomo can do so by:

- **Making preferential rents last for the duration of the tenancy (S2845/A6285-18):** As described above, in units with preferential rents, when tenants renew their leases, landlords can revert to the higher rent, leading to sudden and massive rent hikes. These rent hikes, often hundreds of dollars, accelerate gentrification by forcing tenants to give up their homes and move. Some 266,000 families in New York City have preferential rents, as do thousands more in the three suburban counties—meaning that they may be one lease away from an eviction. This bill mandates that landlords renew rent stabilized leases with increases, if any, based upon the existing rent level the tenant pays.
- **Eliminating the vacancy bonus (S185/A2351):** The vacancy bonus gives landlords a large incentive to harass and evict long-term tenants from the place they've called home for years. The preferential rent loophole and the eviction bonus are often used together. With these two measures, the legislature created an outright scam that victimizes tenants and destroys housing affordability, especially in low-income communities of color. This one-two deregulatory punch opened a wound that has led to the bleeding of thousands of units from the system.
- **Eliminating permanent rent hikes caused by major capital improvements and individual apartment increases:** Under our current system landlords that upgrade building systems and individual apartment finishes can pass the cost of those repairs onto tenants forever. Many of these building systems repairs are necessary after years and years of neglect, however, and landlords often overstate the cost and extent of renovations. Landlords should no longer be able to pass these costs onto tenants.