

# 10 Things to Know About Florida's New Emotional Support Animal Law



*Written on September 1, 2020*

In these uncertain times it is not unusual for boards operating pet-restricted communities to receive even more emotional support animal (ESA) requests than usual. What is unusual is the emerging trend that some people requesting these ESAs are retracting their requests when confronted with a new law in Florida which criminalizes fraudulent requests.

The amendments to Chapter 760 of the Florida Statutes became effective on July 1, 2020. In addition to the eye-opening provisions which make a fraudulent request a crime in Florida subjecting the perpetrator to fines, possible court-ordered

community service and, in extreme cases, jail time, the new law provides these lesser known changes:

- Section 760.27(1)(a) defines an “emotional support animal” to mean an animal that does not require training to do work, perform tasks, provide assistance, or provide therapeutic emotional support by virtue of its presence which alleviates one or more identified symptoms or effects of a person’s disability. This underscores why those ESA certificates printed off the internet are meaningless and therefore provide no credibility to the request.
- Section 760.27(2) makes it unlawful for a housing provider (aka a community association) to require a person to pay extra compensation to keep the ESA. This means that “pet deposits” and fees associated with tags or DNA testing for pets in the community cannot be charged to ESAs and service animals.
- A housing provider may deny a request for a reasonable accommodation if the animal poses a direct threat to the safety or health of others or poses a direct threat of physical damage to the property of others (e.g. the animal has a history of attacking people or other dogs). An aggressive breed alone would not be sufficient to deny a request; your board would have to have specific knowledge of the requested animal’s aggressive behavior.
- If the person’s disability is not readily apparent, the housing provider may request “reliable information” to support the person’s disability claim. Residents and guests who claim that you cannot inquire about their need for an ESA are wrong. Speak to your association attorney about the nature of your inquiry though before proceeding.
- An out-of-state practitioner providing supporting information must have provided “in-person care or services” to the individual on at least one occasion and that practitioner must have personal knowledge of the person’s disability and must be acting within the scope of his or her practice. This portion of the new law is designed to eliminate the medical letters that can be printed out online without the person ever being seen or treated by that medical professional. Don’t assume that tele-counseling does not qualify as “in person care or services”-speak to your association attorney and get a legal opinion.
- If a person requests to keep more than one ESA, the Association can request information to support the need for each animal.
- An association can also require proof that the animal’s owner has complied with state and local licensing and vaccinating requirements. Many boards ask if they can request this information annually-this new law answers that question.

- Section 760.27(3) provides that an Association CANNOT request information that discloses the person's diagnosis or the severity of a person's disability and/or medical records related to the disability. However, an individual is allowed to share this information voluntarily with the association. Many of the discrimination claims brought against associations have not been based upon an outright denial but have been based on the manner in which repeated requests for information were handled. Requesting additional and often sensitive information should be handled solely by your association attorney.
- While an Association can establish a standard policy or procedure for receiving and processing ESA requests it cannot require the use of a specific form or notarized statement and cannot deny the individual's request for failure to follow the policy. Many communities are still using forms and protocols that were created years ago. This new law warrants a complete review of your ESA and service animal forms and policies. Often, less is more in this regard; overly complicated policies and forms can be counterproductive.
- Section 760.27(4) provides that the owner of an ESA is personally liable for any personal or property damage caused by his or her ESA. It's important to remember that the Fair Housing laws require a reasonable accommodation not an unconditional one. If the accommodation for a previously approved ESA or service animal has become unreasonable speak to association counsel about your ability to revoke that accommodation.

This new law certainly won't stop all of the rampant abuse we've seen over the last few years but it is a step in the right direction. With this little bit of cover provided by the Florida Legislature it is now incumbent upon boards and the legal experts they retain to create and enforce the necessary framework within which to properly evaluate ESA requests.

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# Florida Passes New 2020 Law for Emotional Support Animals: What Every ESA Owner Needs to Know

Florida recently [passed new laws](#) governing emotional support animals (ESA) which go into effect on **July 1, 2020**. These new laws clarify how residents of Florida can properly qualify for an emotional support animal and affirm the special rights ESA owners have. These rules were also intended to address a growing concern that tenants are purchasing illegitimate documentation for emotional support animals and wrongly passing off their pets as emotional support animals. The new rules set forth how tenants can obtain effective ESA documentation, including through a [telehealth provider](#).

In this article, we will summarize key points from the new Florida law and examine what steps current and prospective ESA owners should take in order to comply. Under the new law, residents of Florida who falsely claim their pet is an emotional support animal without following the correct procedures may be subject to legal liability and penalties. Now more than ever, it is important to understand your rights as an ESA owner and obtain your ESA documentation from a reputable source.

If you're looking to qualify for ESA documentation in Florida, ESA Doctors can help connect you to a licensed health care professional that can assess whether an emotional support animal is right for you.

## Protections for Florida Tenants who Own Emotional Support Animals

The new rules in Florida are similar in many ways to [Federal Fair Housing rules](#) for emotional support animals and borrow many of the same concepts. An emotional support animal in Florida is an animal that provides assistance or therapeutic emotional support to its owner by its mere presence. An ESA does not need any special training to work or perform tasks for its owner.

Florida's laws prohibit housing providers from discriminating against tenants with a need for an emotional support animal. ESA owners are allowed to live with their animal companions as "reasonable accommodation", even in buildings that generally prohibit pets. Landlords are also not permitted to charge extra compensation for allowing the animal, meaning they cannot [charge a fee or pet deposit](#) for ESAs.

Housing providers in Florida must generally accept a valid request from a tenant to live with their emotional support animal, with certain exceptions. A landlord can deny a reasonable accommodation request for an ESA that poses a direct threat to the health or safety of others or poses a direct threat of damage to property, but only if those threats cannot be reduced or eliminated by another reasonable accommodation.



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Fair Housing Act and Florida law gives emotional support animals special rights when it comes to apartments, condos, and rental homes.

### **How to Qualify for an Emotional Support Animal in Florida**

[Qualifying for an emotional support animal under Florida law](#) is similar to the procedure under federal Fair Housing rules. Generally, owners of emotional support animals have invisible disabilities such as depression, anxiety, PTSD or phobias. A tenant can prove that they have a disability related need for an emotional support animal by submitting an ESA recommendation letter from a licensed health care practitioner to their landlord.

A wide range of health care practitioners are permitted to provide ESA letters in Florida, including:

- psychologists
- mental health counselors
- marriage and family therapists
- social workers
- psychiatrists
- doctors
- registered nurses
- and other licensed professionals.

***Telehealth providers who provide their services remotely are also permitted to provide ESA documentation.***

In addition to being allowed to ask for an [ESA letter from a licensed provider](#), landlords are also permitted to request proof of compliance with state and local requirements for licensing and vaccination of the ESA. An emotional support animal is not exempt from general licensing and vaccination rules that generally apply to all animals in the tenant's jurisdiction.

Similar to [Fair Housing rules](#), owners with emotional support animals have certain rights to privacy when it comes to sensitive, confidential details about their medical condition. Landlords are not permitted:

- to request information that details the diagnosis or severity of the tenant's disability, and
- they cannot request any medical records relating to the tenant's disability.

The new rules in Florida also address landlords that create unnecessary barriers for tenants who request ESA accommodation. Under the new rules, housing providers cannot require the use of a specific form or a notarized document. Landlords also cannot deny an ESA request solely because the tenant did not follow the landlord's routine procedure for ESA accommodations.

That means that landlords must consider an ESA request if the tenant submits valid ESA documentation from their health care practitioner. They cannot further insist that the tenant submit additional forms or follow a different procedure if the tenant has otherwise complied with ESA rules.



## Steps To Getting An Emotional Support Animal

1

Determine if you would benefit from an ESA's support

2

Connect with a licensed professional

3

Choose the type of animal to adopt, if you currently do not have one

4

Train your ESA to be a good citizen

5

Properly use your ESA letter



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### Invalid Forms of ESA Documentation in Florida

Like the recent [guidelines issued by the U.S. Department of Housing](#), the new law in Florida attempts to curb the spread of inadequate forms of ESA documentation. In Florida, registrations, identification cards, patches, certificates or similar registrations obtained online will not by themselves be sufficient to establish the tenant has a disability-related need for an emotional support animal.

Florida's ESA rules make clear that in order to have a valid emotional support animal, the tenant must possess documentation from a licensed health care practitioner.

All prospective ESA owners should understand that a mere certificate, ID or registration bought online will not be enough to properly qualify their animal companion as an ESA.

If you do not currently have a licensed health care professional familiar with your mental health, or you are having difficulty finding one, [ESA Doctors can help](#) connect you to a licensed practitioner. The practitioners we work with are licensed professionals who are knowledgeable about emotional support animals. They can help evaluate whether an ESA is right for you and, if you qualify, can provide you with documentation to submit to your landlord.

## RED FLAGS FOR FAKE ESA LETTERS



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**Consequences for Faking the Need for an Emotional Support Animal**



In Florida, it is now more important than ever to ensure that your ESA documentation is from a licensed health care practitioner. The new law in Florida contains penalties for tenants who knowingly provide fraudulent documentation for an emotional support animal. Providing fake documentation in Florida is punishable as a misdemeanor offense.

It is never a good idea under any circumstance to provide [fake documents](#) for an emotional support animal. Misrepresenting your pet as an assistance animal is unethical and harms the reputation of the community of emotional support animal owners who obtain their documents from reliable sources. In Florida, presenting illegitimate ESA documentation may now result in potential legal consequences as well.

If you are interested in [qualifying for an emotional support animal](#) in Florida, make sure you are being evaluated by a licensed health care professional. The new rules in Florida make clear that solely presenting a certification, registration or ID is not sufficient to qualify an emotional support animal. It is important for ESA owners to be aware that these documents and accessories are not enough to make a valid claim for reasonable accommodation of an ESA.

Current and prospective ESA owners in Florida should possess a valid ESA recommendation letter from a licensed professional before requesting ESA accommodation from their housing provider. If you are interested in qualifying for an ESA in Florida, ESA Doctors can help connect you to a licensed healthcare professional that is knowledgeable about emotional support animals.

<https://esadoctors.com/florida-passes-new-2020-law-for-emotional-support-animals/>