



## FAQs

### Florida's Emotional Support Animal Law (SB 1084)

#### **Summary**

During the 2020 session, the Florida Legislature passed SB 1084, which was sponsored by Senator Manny Diaz. This legislation was later signed into law by Governor Ron DeSantis on June 23, 2020. The law takes effect on July 1, 2020.

This new law places a series of protections in place to reduce emotional support animal fraud in housing by:

- Expressly allowing housing providers to prohibit an animal if it poses a direct threat to the safety, health, or property of others.
- Clarifying that when the individual's disability or disability-related need is not readily apparent, the landlord can request reliable information that may be provided by a federal, state, or local government agency, specified health care practitioners, or telehealth providers.
  - Out-of-state practitioners who have provided in-person care or services to the resident on at least one occasion can also provide verification under the new law, as long as they have personal knowledge of the disability-related need and they are acting within their scope of practice.
- Instituting protections for instances where a resident is requesting an accommodation for more than one ESA.
  - Under the new law, if a person requests more than one ESA, the housing provider may request information regarding the disability-related need for each animal.
- Creating a new cause for disciplinary action against a practitioner who provides supporting information for an ESA without personal knowledge of the patient's disability or disability-related need.
- Establishing a similar deterrent for residents who falsify the need for an ESA by making it a misdemeanor crime to provide false or fraudulent emotional support animal information.

**Below are some FAQs regarding this new law.**

*Please note: This information is provided strictly for informational purposes only and does not constitute legal advice. We recommend that you consult your local counsel or a Fair Housing attorney for all legal guidance. The new Florida law should be viewed in conjunction with the requirements of federal law, which still apply.*

**How is “emotional support animal” defined under the new Florida law?**

Under the Florida law, an emotional support animal is defined as an animal that is not required to be trained to assist a person with a disability but, by virtue of its presence, provides support to alleviate one or more identified symptoms or effects of a person’s disability.

**Can I ask every individual who submits a reasonable accommodation request for an emotional support animal for reliable documentation that supports the existence of their disability or disability related need?**

No. Housing providers should only ask for reliable documentation when the individual’s disability or disability-related need is not readily apparent.

In instances where the disability or disability-related need is not readily apparent, the housing provider can request reliable information that may be provided by a federal, state, or local government agency, or by specified health care practitioners or telehealth providers. Out-of-state practitioners who have provided in-person care or services to the resident on at least one occasion can also provide verification under the new law, as long as they have personal knowledge of the disability-related need and they are acting within their scope of practice.

**Can a housing provider create a form for residents to use when providing information to support the reasonable accommodation request for an emotional support animal?**

Yes. Under the new law, a housing provider is authorized to develop a routine process for reasonable accommodation requests relating to emotional support animals, which could include developing a form that can be made available for residents to use. However, the law prohibits the denial of a reasonable accommodation request based only on a resident’s failure to use a specific form or process. This provision in the Florida law is consistent with guidelines provided by the U.S. Department of Housing and Urban Development under the federal Fair Housing Act.

### **What forms of reliable documentation are recognized under the new Florida law?**

Under the new law, supporting information for a disability-related need is reliable when provided by any federal, state, or local government agency, or by a practitioner or provider with personal knowledge of the person's disability or disability-related need for the specific animal requested. This information can be provided by:

- A healthcare practitioner as defined in s. 456.001, F.S.;72.
- A telehealth provider as defined in s. 456.47, F.S.
- A similarly licensed or certified practitioner in good standing with his or her profession's regulatory body in another state, only when the out-of-state practitioner has provided in-person care on at least one occasion.

The documentation provided by a practitioner must identify the particular assistance or therapeutic emotional support provided by the specific animal, but need not identify the specific disability or diagnosis of the person requesting the accommodation. Note that the definitions of a reliable source of verification in the new Florida law are consistent with HUD's January 2020 Notice for compliance with the federal Fair Housing Act.

### **Does this new law impact previously approved reasonable accommodation requests for emotional support animals?**

No. The new law does not address previously approved reasonable accommodation requests for emotional support animals. According to best practices under the Fair Housing Act, previously approved assistance animals should not be subject to "re-verification" solely because of the enactment of the new Florida law or any new guidance as described in HUD's 2020 Notice. Existing approved assistance animals should be considered to be "grandfathered in" under the new Florida law. Further information regarding federal Fair Housing Act emotional support animal requests should reference [guidance from the U.S. Department of Housing and Urban Development \(HUD\)](#).

### **Under the new law can I charge pet rent or pet fees for an emotional support animal?**

No. A housing provider may not charge a deposit, fee, or surcharge for an assistance animal.

### **Under the new law, can a housing provider charge a fee to process a reasonable accommodation request?**

No. A fee cannot be charged to process a request for a reasonable accommodation.

### **Can a housing provider ask the individual to disclose information about their disability?**

No. The new Florida law, which is consistent with HUD guidelines, prohibits a housing provider from requesting information that discloses the diagnosis or severity of a person's disability or any medical records relating to the disability.

**Can a housing provider require proof of licensing and vaccination requirements for emotional support animals under the new law?**

Yes. The new law expressly states that landlords may require proof of licensing and compliance with vaccination requirements for each emotional support animal.

**What penalties will now be in place for those who falsify emotional support animal documentation?**

- Under the new law, disciplinary action could be taken against a healthcare practitioner's license for providing supporting information for an emotional support animal without *personal* knowledge of the patient's disability or disability-related need.
- The new law also establishes a misdemeanor crime of providing false or fraudulent emotional support animal information or documentation, and requires a convicted person to perform 30 hours of community service for an organization serving persons with a disability.

**Can I request new reliable documentation for an emotional support animal when residents renew their lease?**

The short answer is no. However, if there is objective evidence to question whether the accommodation previously granted is still "necessary," new verification may be appropriate. Consult your fair housing attorney or [HUD's resource page](#) for specific information regarding assistance animal accommodations.

**Are there protections in Florida law for instances when an emotional support animal may be a danger or a threat to the apartment community?**

Yes. The new Florida law, like the federal Fair Housing Act, includes a provision that states a housing provider may deny a reasonable accommodation request for an emotional support animal if such 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, which threat cannot be reduced or eliminated by another reasonable accommodation.

A previously granted request for accommodation regarding a particular animal can be revoked *as to that animal* if the animal becomes a direct threat to the safety or health of others, and that threat cannot be reduced or eliminated by means other than removal of the animal.

**Is a certificate purchased online considered to be a reliable form of documentation when presented on its own under Florida's new law?**

No. The new law clearly states, "An emotional support animal registration of any kind, including, but not limited to: an identification card, patch, certificate, or similar registration obtained from the internet is not, by itself, sufficient information to reliably establish that a person has a disability or a disability-related need for an emotional support animal."

**Who is liable for damage done by an emotional support animal under Florida's new law?**

The new law states that a person with a disability or a disability-related need is liable for any damage done to the premises or to another person on the premises by his or her emotional support animal.