

Renters' Second Amendment Rights Are in Danger. Here's How to Protect Them



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Talking Points: The Problem

- Only Ohio, Minnesota, and Texas have laws that prohibit landlords from banning guns on rental properties.
- In recent years, the number of American renters has hit an all-time high.
- Also in recent years, the U.S. rental market has consolidated more than ever before, leaving tenants with fewer rental options and empowering corporate landlords.
- The United States is experiencing a surge in violent crime, which has sparked a sharp increase in gun sales.

Talking Point: The Solutions

- State lawmakers should consider passing laws that specifically prohibit landlords from banning guns on rental properties. At the very least, such rules should be imposed on large corporations.
- State policymakers could pass laws that explicitly declare that when federal funding is involved, gun bans for residents in public housing are unconstitutional and thus must be avoided.
- At the federal level, lawmakers could pass a bill that guarantees the Second Amendment rights of renters in cases where federal funding has been accepted by landlords.

Since the Great Recession, the total number and percentage of U.S. renters has hit an all-time high.¹ Moreover, the Federal Reserve has raised interest rates several times since the start of 2022, making owning a home, considered by many to be “the American dream,” unattainable for millions. Due to these and other extenuating circumstances, more Americans than ever are now renting.

Simultaneously, the United States, especially in urban areas, is experiencing a surge in violent crime, causing more Americans to purchase firearms as a last resort for self-defense.² The defunding of police departments, along with the unwillingness of many district attorneys to hold criminals accountable for their actions, has contributed to a rise in gun sales. Many Americans no longer believe they can count on police to quickly respond in the event of an emergency.³

Despite the growing interest in gun ownership, however, many states do not protect renters' Second Amendment rights. In most states, landlords, including large corporate landlords, can choose to ban gun possession on their premises. This means that, in practice, millions of Americans cannot own a gun, or that gun ownership is extremely burdensome.

State and Federal Laws

Only three states currently have laws on the books intended to protect the Second Amendment rights of renters: Ohio, Minnesota, and Texas. Just one state, Tennessee, has a law that explicitly allows landlords to ban the possession of a firearm. This means that in 46 states lawmakers have failed to address this important issue, raising serious concerns about the rights of gun owners.

To make matters worse, there are no federal laws that protect the gun rights of renters either, although this could change soon. In July 2023, U.S. Rep. Mariannette Miller-Meeks (R-IA) introduced legislation that would ensure that “landlords and rental property managers cannot unlawfully restrict firearm ownership of tenants.” Called the Preserving Rights of Tenants by Ensuring Compliance to (PROTECT) the Second Amendment Act, the bill “would secure the Second Amendment rights of Americans who live in rental properties whose landlords receive financial assistance from the federal government.”⁴

Interestingly, this bill comes on the heels of a court decision by the Tennessee Court of Appeals, which ruled that public housing complexes receiving financial assistance from the federal government may not ban gun possession by tenants. As the Court notes, “in light of the Supreme Court’s most recent decision in *Bruen* and keeping in mind the presumptively unconstitutional status of Columbia Housing’s policy based on the Supreme Court’s decision in *Heller*, we conclude that a total ban on the ability of law-abiding residents—like Mr. Braden—to possess a handgun within their public housing unit for the purpose of self-defense is unconstitutional under the Second Amendment.”⁵

Policy Recommendations

Lawmakers concerned about protecting the right to own and possess a firearm should consider passing laws that would explicitly guard the Second Amendment rights of renters, at least in the case of citizens living in corporate-owned buildings.

Many large corporations now control huge swaths of the U.S. rental market,⁶ and they heavily influence how leases are commonly structured. According to the U.S. Census Bureau, corporations own roughly 18 percent of all rental properties, constituting approximately 45 percent of all rental units in the United States.⁷ Reasonable arguments can and have been made about the importance of maintaining the rights of individual landlords to forbid the possession of firearms in their buildings, but these protections should, at the very least, not exist for corporations, especially large corporations.

For-profit corporations exist to serve the public, not to transform society. They benefit from special legal protections,

tax treatment, and regulations, all paid for directly or indirectly by taxpayers. It is unconscionable that a large corporation that has, for example, received huge amounts of bailouts, subsidies, and liability protections from taxpayer-funded government agencies would also be permitted to turn around and punish some of those very same taxpayers with strict prohibitions on gun possession.

It is one thing for individual owners, such as those that use services like Airbnb or who own small rental properties, to ban gun possession for guests and tenants, but it is quite another when massive public corporations do it, especially when they work together with government or benefit directly from taxpayer funds.

The Second Amendment clearly states, “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” This should apply to all Americans, including the millions who rent from gigantic for-profit corporations, not just those wealthy enough to own their own homes.

Endnotes

- 1 Anthony Cilluffo, A.W. Geiger, and Richard Fry, “More U.S. households are renting than at any point in 50 years,” Pew Research Center, pewresearch.org, July 19, 2017, <https://www.pewresearch.org/short-reads/2017/07/19/more-u-s-households-are-renting-than-at-any-point-in-50-years>
- 2 Jeffrey H. Anderson, “Criminal Neglect,” City Journal, October 4, 2022, <https://www.city-journal.org/article/criminal-neglect>
- 3 John Roman, “One in Five American Households Purchased a Gun During the Pandemic,” NORC at the University of Chicago, March 24, 2022, <https://www.norc.org/research/library/one-in-five-american-households-purchased-a-gun-during-the-pande.html>
- 4 U.S. Rep. Mariannette Miller-Meeks, “Miller-Meeks Joins Feenstra on Legislation to Protect Second Amendment Rights of Tenants,” millermEEKS.house.gov, July 26, 2023, <https://millermEEKS.house.gov/media/press-releases/miller-meeks-joins-feenstra-legislation-protect-second-amendment-rights>
- 5 Eugene Volokh, “Public Housing Complexes May Not Ban Gun Possession by Tenants,” Reason.com, <https://reason.com/volokh/2022/10/13/public-housing-complexes-may-not-ban-gun-possession-by-tenants>
- 6 Carlos Waters, “Wall Street has purchased hundreds of thousands of single-family homes since the Great Recession. Here’s what that means for rental prices,” CNBC.com, February 21, 2023, <https://www.cnbc.com/2023/02/21/how-wall-street-bought-single-family-homes-and-put-them-up-for-rent.html>
- 7 David McMillin, “Investment property statistics and tips,” Bankrate.com, August 15, 2022, <https://www.bankrate.com/mortgages/investment-property-statistics>

