

The Fixed Date (확정일자) System for Residential Leases in Korea

Legal Structure and Practical Guide to Protecting the Security Deposits of Foreign Nationals and Overseas Koreans

At a Glance

A foreign tenant who has **(1) taken possession of the house, (2) completed Alien Registration and a Report of Change of Place of Stay (for foreign nationals of Korean descent: Domestic Residence Report and Report of Change of Residence), and (3) obtained a Fixed Date on the lease contract** may recover the security deposit ahead of junior right holders and general creditors if the house is sold at auction or public sale (the **Preferential Repayment Right**).

1 Concept and Legal Purpose of the Fixed Date

What is a Fixed Date (확정일자)?

A Fixed Date is a system under which an authorized institution designated by law (such as a court, registry office, eup/myeon office, or dong community service center) stamps the residential lease contract with an official date stamp and records a Fixed Date number and date, thereby **officially certifying that the lease contract existed on that date**.

Why is it needed?

It was introduced to prevent fraudulent acts such as a landlord and tenant colluding to change the amount of the security deposit after the fact or backdating the contract.

Are foreigners protected too?

In accordance with Article 6(2) of the Constitution of the Republic of Korea and the legislative intent of the Housing Lease Protection Act, **foreign nationals and foreign nationals of Korean descent are entitled to residential stability and deposit protection on equal terms with Korean nationals**.

2 The Fixed Date and the Preferential Repayment Right

Even without a registered leasehold, a tenant who has met both the **requirements for opposability** and obtained a **Fixed Date on the lease contract** acquires the right to be repaid the security deposit ahead of

junior right holders and other general creditors if the leased house is sold at auction or public sale (the **Preferential Repayment Right, 우선변제권**).

Requirements for Opposability (Possession + Registration/Report) + Fixed Date = Preferential Repayment Right

Opposability for foreigners — registration and reports replacing resident registration

For Korean nationals, the requirements for opposability (대항력) are "possession of the house + resident registration (move-in report)." Since foreigners cannot complete resident registration, this is replaced by registration and reports under the relevant immigration laws.

Category	Required Registration / Report	Legal Basis and Effect
Korean nationals	Resident registration and move-in report	Possession of the house + resident registration (move-in report)
Foreign nationals	Alien Registration and Report of Change of Place of Stay	Under Article 88-2(2) of the Immigration Act, deemed to be resident registration and a move-in report under the Resident Registration Act
Foreign nationals of Korean descent	Domestic Residence Report and Report of Change of Residence	Under Article 10(4) of the Act on the Immigration and Legal Status of Overseas Koreans, deemed to be Alien Registration and a Report of Change of Place of Stay → recognized as replacing resident registration and a move-in report

Registrations/reports of cohabiting family members also count

The registration/report required for opposability includes not only that of the tenant but also the **Alien Registration or Domestic Residence Report of cohabiting family members** such as a spouse or children.

Supreme Court Decisions 2014Da218030 and 2015Da14136, rendered October 13, 2016

When does it take effect?

When does the Preferential Repayment Right arise?

If the Fixed Date was obtained **on or before the day** the tenant took possession of the house and completed the Report of Change of Place of Stay (or Domestic Residence Report), the preferential repayment effect arises as of **00:00 on the day following the report**, which is when opposability takes effect.

3 Where and How to Obtain a Fixed Date

Authorized institutions

Fixed Dates are granted by the eup/myeon office, dong community service center, or si/gun/gu branch office where the house is located; district courts and their branches, and registry offices; or notaries public under the Notary Public Act.

Application methods

Method	Details
In-person application	Apply in person by presenting the original residential lease contract and the applicant's ID (Alien Registration Card, Domestic Residence Report Card, passport, etc.).
Electronic contract / online	An electronic contract concluded through the Real Estate Electronic Contract System can receive an electronic Fixed Date stamp through the information processing system.
Linked to the Housing Lease Report (전월세신고)	When a housing lease is reported under the Act on Report on Real Estate Transactions, etc. and the lease contract is submitted and accepted, a Fixed Date under the Housing Lease Protection Act is deemed to have been granted automatically.

What foreign tenants should prepare

Item	Details and Required Documents
Where to apply	Eup/myeon office or dong community service center where the house is located, district court/registry office, notary public office; automatically granted upon filing the Housing Lease Report
Documents to submit	(1) Original residential lease contract (2) Alien Registration Card (or Domestic Residence Report Card, or passport) (3) Report of Change of Place of Stay form (if processed at the same time)
Who may apply	The foreign tenant, an agent, the landlord, a licensed real estate agent, etc.

4 Contract Requirements for a Fixed Date

Before granting a Fixed Date, the institution checks that the lease contract meets all of the following requirements. Please check them before applying.

Requirement	What is checked
Completed document	It must be a completed document that clearly states the personal details of the landlord and tenant, the leased property, the lease term, and the rent and security deposit.
Signatures / seals of the parties	It must bear the signatures or names and seals of the contracting parties (or their agents).
Marking blanks and corrections	Blank spaces within lines where text would continue must be crossed out with a diagonal line to show no text is there, and for any corrections, the number of corrected characters must be written in the margin and signed/sealed by the parties.
Tally seals and no prior Fixed Date	If the contract has two or more pages, it must have tally seals between pages (or be hole-punched), and it must not already have a Fixed Date (except for renewals such as a deposit increase).

5 The Fixed Date Register and Lease Information Requests

Fixed Date Register

The institution prepares and maintains a Fixed Date Register recording the Fixed Date number, date granted, the parties' personal details (resident registration number / alien registration number), the location of the house, and the deposit and rent. Under Article 3-6 of the Housing Lease Protection Act, **the personal details, deposit, rent, lease term, etc. of foreign nationals (including foreign nationals of Korean descent) are also registered and maintained**, and they are subject to information requests by interested parties, ensuring the same public notice effect as for Korean nationals.

Who can request information?

- **Interested parties:** The landlord and tenant of the house, the owner, right holders on the register (mortgagees, jeonse right holders, etc.), and financial institutions that have succeeded to a Preferential Repayment Right may request information (inspection and written copies) such as the Fixed Date, deposit, rent, and lease term.
- **Prospective tenants:** A person intending to enter into a lease may request this information from the institution with the landlord's consent.

6 Legal Duties of Landlords and Licensed Real Estate Agents

- **Landlord's duty to disclose:** When entering into a residential lease, the landlord must present the tenant with information such as the Fixed Dates, rent, and deposits for the house, and may substitute this by consenting in advance to an information request.

- **Real estate agent's duty to explain:** When brokering a residential lease, a licensed real estate agent must faithfully and accurately explain to the client that they may request information from the Fixed Date institution before signing the lease.

7 Essential Checklist for Foreign Tenants

- ☑ **Meet the deadline for the Report of Change of Place of Stay** — You must file the report with the competent si/gun/gu office or immigration office within 14 days of moving in to keep your opposability intact. (Immigration Act, Article 36(1))
- ☑ **Verify your personal details in the contract** — Your English name, passport number, and alien registration number (or domestic residence report number) in the lease contract must exactly match your Alien Registration Card to avoid disadvantages in later auction proceedings.
- ☑ **Obtain a Fixed Date** — Bring the original contract and your Alien Registration Card (or Domestic Residence Report Card, or passport) to obtain a Fixed Date, or have it granted automatically by filing the Housing Lease Report.
- ☑ **Check senior rights and use your right to inspect** — Before signing, check for senior mortgages or other tenants' deposits; after signing, you can request lease information (inspection of Fixed Date records) from the institution to check the safety of your deposit.

This document is a general guide to the Fixed Date system for residential leases and does not constitute legal advice on any individual matter. In case of any discrepancy, the Korean version and Korean law prevail.