

## *Legal Services*

**Statewide Legal Services:** (Entry point for the legal services network in Connecticut). **860-344-0380** Central CT area or **1-800-453-3320**.

### *Other Legal Services Programs:*

#### **Hartford, Hartford County:**

##### **Greater Hartford Legal Aid**

999 Asylum Avenue  
Hartford, CT 06105-2465  
(860) 541-5000  
FAX: (860) 541-5050

#### **Greater New Haven Area:**

##### **New Haven Legal Assistance Association, Inc.**

426 State Street  
New Haven, CT 06510  
(203) 946-4811  
TDD: (203) 946-4811  
FAX: (203) 498-9271

#### **Visit us on the internet:**

[www.slsct.org](http://www.slsct.org)  
[www.ghla.org](http://www.ghla.org)  
[www.nhlegal.org](http://www.nhlegal.org)  
[www.connlegalservices.org](http://www.connlegalservices.org)  
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*This pamphlet was produced by the Legal Assistance Resource Center of CT in cooperation with Connecticut Legal Services, Greater Hartford Legal Aid, New Haven Legal Assistance Association, and Statewide Legal Services.*

*The information in this pamphlet is based on laws in CT as of December 2009. We hope that the information is helpful. It is not intended as legal advice for an individual situation. If you need further help and have not done so already, please call Statewide Legal Services (see above) or contact an attorney.*

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#### **Throughout Connecticut:**

##### **Connecticut Legal Services:**

*Administrative Office:* (860) 344-0447

##### *Offices:*

211 State Street  
Bridgeport, CT 06604  
(203) 336-3851

16 Main Street  
New Britain, CT 06051  
(860) 225-8678

153 Williams Street  
New London, CT 06320  
(860) 447-0323

20 Summer Street  
Stamford, CT 06901  
(203) 348-9216

85 Central Avenue  
Waterbury, CT 06702  
(203) 756-8074

872 Main Street  
Willimantic, CT 06226  
(860) 456-1761

##### *CLS Satellite Offices:*

**Danbury** (203) 348-9216  
**Meriden** (860) 225-8678  
**Middletown** (860) 225-8678  
**Norwalk** (203) 899-2451  
**Norwich** (860) 447-0323  
**Rockville** 1-800-413-7796  
**Torrington** 1-800-413-7797

##### **AIDS Legal Network for CT**

999 Asylum Avenue  
Hartford, CT 06105-2465  
(860) 541-5027 or 1-888-380-3646

# Is Your Landlord Going Through Foreclosure?

## *What a Tenant Needs to Know*



December 1, 2009

***Is Your Landlord Foreclosing? What you need to know...***

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**I have heard that the building I live in is being foreclosed. What does this mean?**

Foreclosure is a court process in which a bank or a mortgage servicing company sues a property owner to take away that property. This is usually done because the property owner is behind on his mortgage payments. A city or town can also bring a foreclosure action if property taxes have not been paid.

*(Note: To make this pamphlet easier to read, we will use “bank” to mean the person or company who is bringing the foreclosure action. Banks are not the only ones who can bring a foreclosure.)*

**Who owns the property and is responsible for it?**

- ***During a foreclosure***, the **old** landlord still owns the property and is responsible for it.
- ***At the end of a foreclosure***, the **bank or a new landlord** owns the property and from that time on is responsible for the property.
  - The new owner (which could be the bank) **MUST** give you in writing the name and address of the person in charge of the property. If you do not get this information, you should ask the bank or new owner for it.

**How is the property transferred to a new owner?**

- ***If your landlord owes the bank more than the property is worth***, the court usually orders ownership transferred directly to the bank. This is known as “strict foreclosure.” The bank will then be your landlord until it sells the property to someone else. As long as the bank is the owner, it is responsible for taking care of the property.
- ***If the property is worth more than the amount owed to the bank***, the court usually orders the property be sold at an auction. Sometimes the bank makes the highest bid and buys the property. Sometimes someone else makes the highest bid. After the court approves the sale, whoever was the highest bidder becomes your new landlord and becomes responsible for the property.

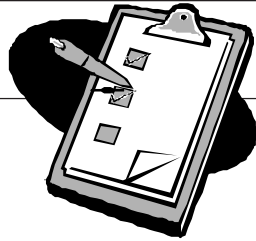
**Will the foreclosure affect me?**

Yes. *When and how* the foreclosure affects you depends on many things. For example, your rights depend on whether or not you are named as a defendant in the foreclosure. Even though you may have done nothing wrong, the bank may be able to use the foreclosure to evict you. In the meantime, you can take steps to protect your rights.

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## Things to Do . . . To Protect Your Rights

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If you hear that a bank is trying to foreclose on your landlord's property or if you receive papers naming you as a defendant, you can take steps to protect your rights.

**1** **If you have a Section 8 or RAP voucher OR you are on state welfare, tell your worker** about the foreclosure as soon as you find out about it.

- Tell your worker even if you have not received court papers naming you as a defendant.

**2** **Keep paying your rent!**  
**If you stop paying your rent, you could be evicted.**

- Until the bank wins the foreclosure and gets title to the property, your *landlord* still owns the property.
- You should keep paying your rent to your *landlord* unless you receive a court order that tells you to pay rent to someone else (known as a “*receiver*”). If you stop paying rent to your landlord, **your landlord could evict you.**

*Note:* You should deal with your landlord on all other matters relating to your apartment, including getting repairs made.

- If the court orders a “receiver of rents,” you will get a notice saying you must begin paying your rent to the *receiver* instead of your *landlord*. If you do not pay the rent to the receiver, **the receiver could evict you** for nonpayment of rent.

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## Things to Do . . . To Protect Your Rights

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**3** **Don't be intimidated into moving.**  
**You cannot be forced to move out right away!**

- In most cases, you will have at least 90 days to move after the foreclosure, and you will often have the right to stay longer.
- The bank can **never** force you to leave while the foreclosure is still going on. You have to move out only if a court orders you to move. The bank can never get a court order to evict you before the foreclosure is over and it has taken title to the building.

**4** **Find out if you are named as a defendant.**

- It is important to find out because what you should do depends on whether you are named in the foreclosure.
- If you are named as a defendant, a marshal will serve you with foreclosure papers from the court. The papers do not have to be handed to you to be considered served--they can be slid under the door to your apartment.

The court papers **must** list **your name** (not just “John Doe” or “Jane Doe”) as a defendant.

- If you are not certain whether you are a defendant, call or go to the court clerk's office and ask the clerk to look up the case for you.

If you are named as a defendant..... go to page 5  
If you are NOT named as a defendant ..... go to page 11

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## If You Are Named as a Defendant

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**If you are named as a defendant, do not ignore the foreclosure!** Pay attention to court deadlines and file your court papers on time. The steps in foreclosure and what you should do follow a certain order.

**Once you get the first court papers** (*Summons and Complaint forms*), **you should act quickly.** The checklist below should help you keep track of what you need to do. (See the following pages for more details).

### You should:

- Talk to a lawyer.
- Find the return date on the Summons and write it here.  
(*Return date is \_\_\_\_\_.*)
- File an Appearance form within 2 days of the return date.  
*If you have missed this deadline, file an Appearance anyway.*
- File an Answer form if you do not want to move or if you are willing to move but need time. (*See page 7.*)
- Keep paying your rent to the landlord or the receiver. (*See page 3.*)

### *Here are the steps you should take.*

#### 1. Talk to a lawyer.

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Talking to a lawyer is especially important if your building has 5 or more apartments or if you are on Section 8.

Call Statewide Legal Services at 1-800-453-3320 for help.

**If you are  
NOT named as  
a defendant,  
skip to page 11.**

## *If You Are Named As a Defendant*

### 2. Find the return date on the *Summons* form.

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#### •⇨ *Summons and Complaint Form*

When you are named as a defendant in a foreclosure, a marshal will serve you with a *Summons and Complaint* form.

The return date is in the **upper right corner** of the Summons. The return date is not a hearing date. It is the date when the court action officially begins. You must know the return date to figure out the deadlines for filing court papers.

### 3. File an *Appearance* form within 2 days after the return date. (If you miss this deadline, file it anyway.)

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#### •⇨ *Appearance Form*

The Appearance form is important because it tells the court you are not ignoring the foreclosure. Once you file the Appearance, you will get a notice of everything that happens in court.



*If you miss the 2-day deadline, file your Appearance anyway. It is better to file it late than not at all.*

#### **To file an Appearance:**

- **Get an Appearance form** (Form #JD-CL-12). Go to the court listed on the top of your Summons and ask the court clerk for an Appearance form. Or go to the State Judicial Branch website and download the form ([www.jud2.ct.gov/webforms/forms/cl012.pdf](http://www.jud2.ct.gov/webforms/forms/cl012.pdf)).
- **Fill out the form and file it at the court clerk's office.** If you need help, ask the court clerk to help you fill it out.  
*(The courthouse is usually open Monday through Friday from 9 am until 5 pm. It closes promptly at 5 pm.)*

## If You Are Named As a Defendant

### 4. File an *Answer* form within 15 days after the return date.

#### • Answer Form

It is very hard for a tenant to defend a foreclosure because the courts recognize only a few defenses. Nevertheless, if you do not want to move or if you are willing to move but need time, you should **always** fill out and file an *Answer* form and the “Special Defenses” section on it.



*If you miss the 15-day deadline, file your Answer anyway. It is better to file it late than not at all.*

#### To file an Answer:

- **Get an Answer form** (Form #JD-HM-18) from the court clerk’s office. Or go to the State Judicial Branch website and download it ([www.jud2.ct.gov/webforms/forms/hm018.pdf](http://www.jud2.ct.gov/webforms/forms/hm018.pdf)).
- **Fill out the form.** In the “Special Defenses” section of the form, write down the reasons you feel you should not be forced to move. The strongest tenant defenses are:
  - *I live in a building with 5 or more units (or in a mobile home park) and I am physically disabled, blind or at least 62 years old (or my spouse, brother, sister, parent or grandparent who permanently lives with me is at least 62 years old).* If this is true, the bank cannot force you to move out at all. **Contact a lawyer right away.**
  - *I have a Section 8 voucher or I live in subsidized housing.* **Contact a lawyer right away.**
  - *I have a lease that has not yet expired.*
  - *It will be a hardship for me to move.* Write the reason.
  - *I need a lot of time to move.* Write the reason you need a lot of time. Remember, you have a right to at least 90 days after the end of the foreclosure before you must move, so don’t ask for less time.

## If You Are Named As a Defendant

- **File the Answer form at the court clerk’s office.** You can file this form at the same time that you file your Appearance form, but you must file it **within 15 days after the return day.** **If you miss the deadline, file the form anyway.**

### 5. Go to the court hearing on the Motion for Judgment.

The court will hold a hearing to decide how much time it will give your landlord to save the building. You should go to that hearing. It is especially important to go if you live in a building with at least 5 apartments and are either at least 62 years old or physically disabled. If so, tell the judge that the law allows you to stay as a tenant, regardless of what the bank wants (Conn. General Statutes Section 47a-23c).

In any case, **tell the judge if you want to stay or if you will need more than 90 days after the end of the foreclosure to move.** You can explain to the judge your special circumstances.

*For example, tell the judge*

- if you have children and you want them to complete the school year in the school they attend, or
- if you or someone in your family is very ill.

It is up to the judge to decide how much time to give you to move.

**Note: If you are on state welfare, you may be eligible for emergency housing benefits.** Tell your DSS worker as soon as you know about the foreclosure. You can apply for emergency housing benefits as soon as a *judgment* has been entered in the foreclosure. *If you filed your Appearance, you will get a notice of the date of judgment and the law day or sale date in the mail.* Take this notice to your worker as soon as you get it.

## **AFTER THE FORECLOSURE** *(If you are a defendant)*

### **How much time will I get to move?**

Under a new federal law, you are guaranteed at least 90 days to move after the foreclosure is over and the new owner gets title to the property. If the new owner wants you to move, he will send you a 90-day “Notice to Vacate.”

### **Who can stay longer than 90 days?**

Talk to the new owner’s lawyer right away if ...

- You live in a building with 5 or more apartments and you are at least 62 years old or physically disabled. Tell the lawyer that you do not have to move at all. The new owner may ask you to show proof of your age or disability.
- You have a lease that will not end until after the 90 days are up. Tell the lawyer about the lease. The new owner may ask to see a copy of the lease.
- You are on Section 8 or RAP. Tell the lawyer the name of the housing authority that handles your Section 8 or RAP. **Also** call your worker at the housing authority and tell him that your building has a new owner. The federal law says that the new owner must take over the Section 8 voucher as long as the lease is in effect.

## **AFTER THE FORECLOSURE** *(If you are a defendant, continued)*

### **What if I don’t qualify for extra time to move but I still need it?**

If you realize you will not be able to move out within the 90 days:

- **Call the lawyer for the new owner** and explain your situation. Try to work out getting more time to move.
- **If the lawyer will not give you extra time**, go to the court clerk’s office and file a Motion for Extension of Time to Move. This is not an official court form, so you will have to ask the court clerk for help.
  - A judge will look at your Motion. The judge can decide to give you more time, even if the new owner doesn’t want to give you more time.

### **What happens if I do not move by the deadline?**

If you have not moved out by the deadline date, the new owner can have a marshal “eject” you from the property.

1. A marshal will give you a copy of the court order, called an *Execution for Ejectment*. **You may get as little as 24 hours before you have to move.** The Execution for Ejectment will tell you the date and time the marshal will move you out.
2. On the day and time in the notice, the marshal will come with movers. The movers will take your things and the town will place them in storage. The movers might not be gentle with your belongings and things may be lost or broken. You will have 15 days to claim your things. If you do not claim them within 15 days, the town has the right to auction off whatever is left in storage.

## If You Are Not Named a Defendant

*If you have not been named in the foreclosure action **with your own name**, a marshal will not be able to eject you. If the marshal tells you he plans to put you out even though you have not been named as a defendant, **talk to a lawyer right away.***

### I am not named as a defendant...can I be evicted?

Yes, but not right away. If you have **not** been named as a defendant in the foreclosure, **the bank must wait 90 days after the foreclosure is finished and it owns the property before it can start an eviction against you.** To evict you, the bank must bring an eviction (summary process) action against you. The amount of time you have before being evicted depends on the *reason* you are being evicted.

#### ***Eviction because your landlord lost the property in foreclosure***

If the only reason you are going to be evicted is that your landlord has lost the property due to foreclosure, the **bank must wait 90 days** before it can start an eviction.

- **You are entitled to a 90-day “Notice to Vacate.”** This notice telling you to leave cannot be given until the foreclosure is completed and the title to the property passes to the new owner.
- **If you have a lease that has more than 90 days left, then you can stay until the lease is over *unless* the new owner wants to use your home as his main residence. Even then, you still must get a 90-day Notice to Vacate.**
- **If your building has 5 or more apartments and you are at least 62 years old or physically disabled, you cannot be forced to move at all.**

## If You Are Not Named a Defendant *(continued)*

### ***Eviction for any other reason (not landlord foreclosure)***

If you are being evicted for any *other* reason, the bank does not have to wait to start an eviction -- **it can start right away.** If so, you may get a paper (“*Notice to Quit*”) telling you to vacate (leave). A Notice to Quit is the first step in an eviction.

- **Do not ignore this paper. Contact a lawyer right away.**
- If you have a Section 8 or RAP voucher, give a copy of the Notice to Quit to your worker.
- Also see the Legal Aid pamphlet *Tenants' Rights: Eviction*. If you are locked out, call the police and see our pamphlet *Tenants' Rights: Lockouts*. No one is allowed to change your locks.

## AFTER the FORECLOSURE

## Things ALL TENANTS Need to Know

### Should I take an offer of money to move out quickly?

Sometimes the bank will offer you money to move out earlier than you would legally have to move. You should think very carefully before you take this type of offer. Many of these “cash for keys” offers do not comply with the law and may **not** be a good deal. They are not official programs, and you never have to accept any offer. If the bank makes you a “cash for keys” offer, then the law says that the offer must be at least:

- the higher of two months’ rent or \$2,000,
- or
- two times your security deposit (including interest), if there is evidence of the amount of your security deposit.

If the bank offers you “cash for keys,” the offer should therefore almost always be for **at least \$2,000** and *may* have to be for more.

If you are offered less than **\$2,000** or less than the minimum amount that applies to you, contact the Attorney General's office. (Phone: 860-808-5318 Email: attorney.general@po.ct.state.us.) If your complaint includes a failure to return your security deposit, you can also call the State Banking Department. (See page 14, *How do I get my security deposit back?*)

Don't take a "cash for keys" offer unless the money is enough to allow you to move and you have a place to move to. You will be giving up your legal rights and you may do better in court because you will usually get more time before you have to move than you are being offered in the "cash for keys" deal. Weigh these options and make the choice that works best for you and your family.

Even if there is no "cash for keys" offer, the new owner (**not** your old landlord) is responsible for returning your security deposit. (See page 14, *How do I get my security deposit back?*)

### **Who is responsible for repairs and utilities?**

After a foreclosure, the new owner is responsible for repairs, maintenance and utility payments that your previous landlord supplied. The new owner **must** give you the name and address of the person in charge of the property. If you don't know who it is, call the person from the bank who contacted you about the foreclosure. (It might be a broker, realtor, or the new owner's lawyer.)

If repairs need to be made, you should demand that the new owner make them. If he does not, call the town housing or building code agency and make a complaint. It is always a good idea to put your complaints to the new owner in writing. Keep a copy of the letter for your records. (See our pamphlet, *Tenants' Rights: Repairs.*)

If the landlord used to pay for the heat or utilities and the bank or new owner stops paying or providing services, call the police right away. (See our pamphlet *Energy/Utility Problems with Landlords.*)

### **Should I pay rent after the foreclosure is complete?**

YES - but be careful. Pay with a check or money order from the bank or post office. Write on the memo line "*Rent in full for [name of month].*" You should pay the rent to the *new* owner, not your old landlord.

If the new owner doesn't accept your rent, save the money and try not to spend it. Write a letter to the new owner or the new owner's agent with an offer to pay your rent. Keep a copy of the letter for your records.

If you don't know who the new owner is, try to find out. Ask the court clerk for help. You can also call Statewide Legal Services.

### **How do I get my security deposit back?**

Whoever owns the property at the time you move out (even if it is the bank) is responsible for returning your security deposit. It doesn't matter if the old landlord never gave the security deposit to the new owner.

When you move out, **write a letter** to the bank's representative (*the attorney, realtor, or anyone else who has contacted you*) with a forwarding address so they can mail you the security deposit plus interest. Include a copy of the receipt for the security deposit if you can. (If you have a Section 8 or RAP voucher, your worker may have records that show the amount of the security deposit you paid). Mail your letter both by regular mail and by certified mail with return receipt requested. Keep a copy of the letter. The owner has 30 days after you move to return your deposit to you.

If you have any problems getting your deposit back, call Statewide Legal Services. You can also call the State Banking Department at 860-246-8154 or 1-800-831-7225 ext. 8154 (Also see the Legal Aid pamphlet *Tenants' Rights: Security Deposits.*)