

Constituent Questions on Housing

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My landlord wants to evict me and says I have to get out in two weeks. I can't find a place that fast. What can I do?

Don't panic. In order for your landlord to evict you, they must bring you to court, prove their case and get a judge's approval. You can raise defenses to the eviction. Also, your landlord has to give you a proper written notice to vacate before bringing you to court. For example if non-payment of rent is the reason, your landlord must give you a 14-day notice. You may have a right to "cure" by paying the money owed within a set time. In most other cases, a full month's written notice is needed. This process takes time, and even if you lose in court a 10-day appeal period must pass before a constable can post a 48-hour notice of actual eviction. Call legal aid for advice and information on how to try to prevent your eviction or on how to ask for more time before you have to move out.

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My landlord wants me to pay **more rent**. I can't afford what he is asking. What should I do?

Your landlord has to give you written notice to raise your rent, and even then you may not have to pay the new rent. Sometimes landlords and tenants can negotiate a rent increase that they can both live with. Call legal aid for advice or find out more at www.masslegalhelp.org.

I can't afford my rent. Are there any programs that can help me?

Most cities and towns have housing authorities that run programs that can help, such as public housing or Section 8 vouchers where tenants pay a portion of their income. You should apply to as many housing authorities as you can, because their waiting lists are very long. There are also non-profit housing agencies throughout the state that administer Section 8 vouchers as well as private subsidized developments to which you can apply directly. For a list of affordable housing programs, housing authorities and regional non-profit housing agencies in Massachusetts, go to bit.ly/HowtoObtainPublicHousingAssistance.

Many landlords won't rent to me, either because I have young children or because I have a housing voucher. Is there anything I can do?

It is illegal discrimination in Massachusetts for a landlord to refuse to rent to you just because you have a housing voucher. It also is illegal for most landlords to refuse to rent to you because you have children under six years of age. If the apartment has lead paint, the landlord is obligated to de-lead the unit. There are many programs to help landlords afford the cost of de-leading. Call legal aid for information. You can also file a complaint at the Mass. Commission Against Discrimination: www.mass.gov/mcad.

I was turned down for **public housing** because I have a very old criminal record from when I used to use drugs. I've been clean for years. What can I do?

You have the right to ask the housing authority for a hearing about your criminal record. You should show them proof that you are clean and sober and a good tenant. Collect letters from your current landlord or a minister, therapist, counselor, employer or probation officer. Call legal aid for advice on this type of public housing denial hearing.

My landlord won't **make repairs** in my home, and my kids are getting sick because there's not enough heat. What can I do?

You should call the local Board of Health or Inspectional Services Department and ask for an inspection. The inspector will write to your landlord telling her what needs to be fixed. If it is an emergency, you should go to Housing Court and tell the clerks at the counter that you need an emergency hearing with the judge, or, if there is no Housing Court in your area, go to District Court. Get advice first before using your rent for repairs or withholding your rent. Call legal aid for advice on your rights and obligations as a tenant when your landlord does not make repairs.

Q

I can't afford my mortgage payments and have started receiving default and foreclosure notices. Is there anything I can do to save my home?

I am a tenant in an apartment building that has been foreclosed on. Do I have to move out?

The house that I owned was eventually **foreclosed** on when I couldn't pay the mortgage. Do I have to move out?

I went to court for an eviction case and now I have to move. I have nowhere to go. What should I do?

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Before a bank forecloses, it must send certain notices to the borrower. These give borrowers time to apply for a modification of the mortgage to make it affordable. If you haven't received one, contact your bank to ask for one. There may be housing counselors available in your area to help with a loan modification application, and the Division of Banks may help you postpone a foreclosure sale. Call 617-956-1501.

You may also be able to stop the foreclosure by going to court if the bank cannot show good title or there are certain defects in the notices that you received. For help, call the Attorney General's HomeCorps Hotline at 617-573-5333 or your local legal aid office.

Foreclosing owners are prohibited from evicting *bona fide* tenants unless there is just cause or a binding purchase and sale agreement. All tenants in foreclosed buildings must get at least 30 days notice from the bank (or whoever bought the building at the foreclosure sale) saying that the owner wants to evict them. After that notice expires tenants without leases can be brought to court for an eviction hearing and can present defenses. Tenants with leases can stay in their home for the rest of the lease term unless they are evicted for good cause OR unless the new owner is going to move into the home. Answer forms and foreclosure-related discovery forms (which must be filed and received by the bank's attorney by the Monday before the court date) are available at www.masslegalhelp.org. *Remember:* Tenants do not have to move out after a foreclosure unless and until they are taken to court and either they agree to move out or are ordered to move out by the judge.

You do not have to move out just because of the foreclosure. Whoever buys the house at the foreclosure must still file an eviction case against you, prove good title and obtain an order from a judge. Before getting taken to court you must receive a notice to vacate. Even though the notice usually says you have three days to move, you do not have to move out when you get it. After the notice expires, the bank's only option is to bring you to court. You have the right to file an answer to the eviction and raise defenses concerning defects in the foreclosure process or the bank's title. Legal services lawyers have succeeded in challenging many eviction cases when lenders have not followed the law. If you want to move and need some housing search or financial help with the move, contact the HomeCorp program at 617-573-5333. If you have questions about your foreclosure, you should contact your local legal aid program to find out if you are eligible for assistance.

Even if you have been evicted in a court proceeding, or you settled your eviction case by agreeing to move out, you may still be able to get more time to move. In certain circumstances, the court will grant a "stay", which delays the eviction and allows you more time to find a place to live. If the court does not grant you a stay and you must move, there are a number of shelters for homeless individuals and families. Some of these are privately run and some are managed by the Department of Housing and Community Development through its Emergency Assistance (EA) program. If you have children, you can apply for the EA program at your local welfare office. Call legal aid for advice.

*This information is general in nature and not intended as legal advice. The income eligibility limit for legal aid is 125% of the federal poverty line (or \$591 per week for a family of four in 2017), although there are exceptions (e.g. elders). Federal poverty guidelines are revised each year. **Because their funding is limited, legal aid programs cannot serve all eligible callers.***