

## **Protecting Your Home From Creditors**

For most of us, a home is our most valuable investment and the possibility of losing it to a creditor after an unforeseen financial catastrophe is terrifying. But there are several ways you can protect your home.

First, let's look at which creditors can threaten your home:

The first type of creditor to consider is the government. If you don't pay your city or county property tax, the government can sell your property to raise the money to pay the tax. The State of Tennessee and the IRS can also seize your home if you don't pay your personal or business taxes. There could also be a tax obligation attached to a house that is inherited from someone who dies. The government also has the right to seize property that is used for illegal purposes (such as the sale of drugs).

The second type of creditor to consider is one who obtains a judgment against you. If someone sues you and gets a judgment, that person becomes a judgment creditor. The judgment could be, for example, an unpaid debt or for injuries sustained from an accident, a debt from an unpaid credit card balance, or an unpaid medical bill. If you do not pay the judgment, the judgment creditor can request the court to sell your property to satisfy it.

The third type of creditor includes those who have not sued you but who are nevertheless owed money. If you (or your creditors) file a petition to have the bankruptcy court administer your assets, your home is one of the assets that can be sold to pay those debts. Your creditors can also join together to request that a state court (rather than the bankruptcy court) initiate a similar procedure. Seizure of your home in this situation is subject to the protection of an "exemption." You can protect at least a portion of the value of your home against seizure by creditors under Tennessee's "exemption" law. A married couple can claim up to \$7,500 in their principal residence and an individual (married or single) may claim up to \$5,000 in the principal residence used by that person or that person's spouse or dependents. The exemption does not protect you against debts for taxes or most mortgages, but it would protect you against judgment creditors.

The fourth type of creditor is the lender who takes a mortgage on your house as collateral for a loan. This type of creditor is considered a secured creditor and can foreclose on and sell your home in the event you default on the loan. A secure creditor generally does not have to seek approval from a court to foreclose on your home.

In deciding how to protect your home, consider which creditors you want to

protect yourself against. Some creditors just cannot be avoided. For example, you have little recourse to prevent the state from selling your property for unpaid property taxes. You also probably cannot prevent your mortgage holder from selling your house through foreclosure if you have not made your mortgage payments. There are two ways that a mortgage holder is protected. First, the law gives special treatment to the lender who loans the money you use to buy your house or to make improvements to your house. Second, even if your mortgage was created after you bought your house, your lender probably required you to sign a form that said that you could not take any "exemptions" to avoid foreclosure.

In many cases, you can protect your home from loss to a judgment creditor simply by having insurance on your home, car and business. A good insurance policy will pay judgment creditors when the judgment arises from such things as a car accident or an injury occurring on your property.

Sometimes people try to shield their home from creditors by putting title to the property in someone else's name. If you transfer property for the purpose of hindering a creditor, however, the creditor may be able to void the transfer. This is what is known as a fraudulent conveyance. To prove fraud, the creditor will look at such things as whether the person who obtained title actually paid for it and whether you were insolvent when the transfer was made or had knowledge of the debt. It is also possible for a creditor to void transfers made shortly before you file for relief in bankruptcy. If you own property with your spouse, and a creditor has a judgment against only one of you, the creditor cannot seize the property outright. However, the creditor can seize the "survivorship" interest of the one who owes the money. What this really means is that you will have a problem selling or borrowing money on your house if either you or your spouse owes a creditor who has obtained a judgment in court.

If you are concerned about the possibility of someone suing you in your business, you might want to incorporate your business or create a "corporation", "limited liability company" or a "limited partnership." Very specialized rules govern how these businesses are created, and there are also tax consequences to each of them. You need to consult a lawyer (and perhaps an accountant) before taking this step. Operating your business properly through a corporation, an LLC or an LP can protect your personal assets, including your home from creditors and liabilities of your business entity.

## **Rights and Duties of Tenants**

Tennessee law governing landlords and tenants varies according to the county in which you live. This section applies specifically to metropolitan areas with a population of more than 75,000 and is covered under the Uniform Residential Landlord and Tenant Act ("URLTA"). If you live outside of a metropolitan area, a different law might apply. Information on laws in rural counties may be found in the brochure from Legal Aid of East Tennessee titled "Landlord & Tenant Guide Common Law: Your Rights and Duties in Rural East Tennessee Counties". Even if you live inside a metropolitan area, this law might not apply if you have a "lease-purchase" agreement for your house or if you are leasing commercial property.

### Uniform Residential Landlord and Tenant Act

The URLTA applies only in Tennessee counties having a population of more than seventy-five thousand (75,000), according to the 2010 federal census or any subsequent federal census. It further applies to rental agreements entered into or extended or renewed after July 1, 1975. Transactions entered into before July 1, 1975, and not extended or renewed after that date, and the rights, duties and interests flowing from them remain valid and may be terminated, completed, consummated, or enforced as required or permitted by any statute or other law amended or repealed by this chapter as though the amendment or repeal has not occurred. The URLTA does **not** apply to the following arrangements: (1) Residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar service; (2) Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to the purchaser's interest; (3) Transient occupancy in a hotel, or motel or lodgings subject to city, state, transient lodgings or room occupancy under the Excise Tax Act, compiled in T.C.A. section 67, chapter 4, part 20; (4) Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative; or (5) Occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes. The URLTA shall not apply to any occupancy in a public housing unit or other housing unit that is subject to regulation by the department of housing and urban development and owned by a governmental entity or non-profit corporation to the extent such regulation conflicts with state law, but shall apply to the extent that any such regulations defer to the application of state law.

### Lease Agreements and Rent

**TENANTS BEWARE:** Always check your lease for the following provision,

which can be placed by landlords into a lease agreement:

**LESSEE EXPRESSLY WAIVES ANY AND ALL REQUIREMENTS FOR WRITTEN NOTICE OR DEMAND FOR NON-PAYMENT OF RENT.**

This provision waives all of the written requirements that a landlord must provide to a tenant during the eviction process in the event you fail to pay rent on time. It is highly recommended one not sign a lease with this provision until after you have consulted with an attorney. The requirements for written notice can only be legally waived in regard to nonpayment of rent. For all other matters URLTA has written notice requirements that cannot be waived in a lease agreement.

If you do not have a written lease, you have the right to occupy the property from month to month. This means that you cannot be evicted without at least one month's notice. If you have a written lease, the lease might give you the right to stay longer.

If your landlord asks you to sign a written lease and you refuse, you will be considered a "trespasser," and can be immediately evicted. However, if your landlord accepts payment of rent and you have an oral agreement to occupy the property, you are not a trespasser. In that case, you could not be evicted until you receive notice to leave.

Your agreement with the landlord determines the amount of your rent. If you do not have a written lease agreement, and you discover that you and your landlord have a different understanding about how much rent you owe, you will have to pay the "reasonable" rental value of the property.

Rent is not charged by the day, unless you and your landlord agree to that system.

You cannot be charged a late fee until you are more than five days late in paying your rent; and the late fee cannot be more than 10% of your rent.

If you give your landlord a security deposit, the landlord must identify the bank in which it will be held. If the landlord does not do this, the landlord may not keep your deposit (although the landlord could sue you for damage to the property).

After you move out, the landlord must return your security deposit unless the landlord gives you a written list of damages that will be charged against your deposit. If you sign the list, the landlord may assume that you consented to these charges. If you do not sign the list, you must give the landlord a written objection to the list. Unless you and your landlord can work out the problem, you might have to sue to get your deposit back.

If you leave owing rent and do not demand that your deposit be returned, the landlord may apply the deposit to your unpaid rent after 30 days.

If you are entitled to a refund of your security deposit, you should make a written demand for it after you move.

### Termination of Lease

Unless you have a written lease that says otherwise, your landlord cannot evict you for non-payment of rent unless the landlord gives you written notice that you failed to pay the rent.

If you cancel your lease before it is over, you will owe the landlord the balance due under the lease. However, the landlord must try to rent the property to someone else to offset the landlord's damages.

If you are renting on a month-to-month basis, the landlord may cancel the lease by giving you 30 days' notice. The 30 days begins to run after the rent is due for the next month after you get the notice. For instance, suppose that your rent is due on the first of the month, and the landlord gives you notice to leave on March 10. Your next rent payment is due on April 1, so the 30 days' notice begins to run on April 1; and you do not have to leave until May 1.

If you are renting on a week-to-week basis, the landlord may cancel the lease by giving you ten days' notice.

If you do not leave at the time required, the landlord may sue you for possession of the property. You could have to pay the landlord damages plus attorney fees.

The landlord only has to give you three days' notice to leave if you (or your guests) commit an act that is violent or dangerous to others; but even in this situation, the landlord may not evict you by force without a court order and may not cut off essential services to force you to leave.

If your landlord sues to evict you, it will probably be in General Sessions Court. If you do not have a lawyer, the court clerk can give you information about the procedure. You have ten days to appeal the eviction after the judge issues the order.

The bond on a detainer warrant appeal is one year of rent payments -- so if rent is \$500 per month your bond when you file an appeal would be \$6,000. However, this only has to be paid if you are being evicted for past due rents. If you are being evicted for something else (i.e. cleanliness, pets, etc.) then you may not be required to post this bond at all. But always double check with an attorney.

In general, the law requires both landlords and tenants to behave reasonably with each other and in good faith. Your landlord cannot force you to give up your rights under the law, even if you have a written lease that claims to waive your rights.

If either you or your landlord behaves unreasonably, a court can enforce the other party's rights and could even require the offending party to pay the innocent party's lawyer if so stated in the lease agreement.

### Tenant duties

As a tenant, you are obligated to obey all building and housing codes that materially affect health and safety.

You also have a duty to keep the property as clean and safe as it was when you moved in.

You must not act in any manner that would disturb your neighbors, and you cannot permit your guests to disturb the neighbors.

You must let your landlord come inside the property at reasonable times to inspect it, or to make repairs, or to show it to future tenants or purchasers. But the landlord must give you notice before coming, unless it is an emergency.

If you have created a condition that materially affects health and safety and you do not correct it, the landlord may enter the property and repair the problem after 14 days' notice to you or without notice, in the case of an emergency. In either case, the landlord may bill you for repairs that you were supposed to make.

In addition, if you have a written lease, it could require you to tell your landlord if you are going to be gone more than seven days. If you are gone for 30 days without paying rent and without notifying your landlord, the landlord may consider the property abandoned and remove your personal property. Your landlord does not have a right to take your personal property just because you owe the landlord money, unless you have signed a document under the Uniform Commercial Code or unless you gave the landlord the property to hold as collateral.

You should assume that your landlord has not provided insurance for your personal property. You should buy renter's insurance to protect your property against theft or fire or other losses.

If your landlord fails to provide "essential services," you have several options. "Essential services" means utility service (such as heat and electricity) and anything else that the landlord promised to provide--if it materially affects your

health and safety. If your landlord fails to provide essential services, you must tell the landlord about the problem in writing. Then, if your landlord does not solve the problem, you may obtain the service at your own expense and deduct the cost from your rent; or you may sue the landlord for the difference between the rent you paid and the fair rent due under the circumstances; or you may obtain substitute housing until the landlord complies, in which case you do not owe rent until the landlord corrects the problem; and you may recover the cost of the substitute housing. Of course, you cannot rely on these remedies if you or your guests caused the problem, and you must act reasonably in such matters as hiring someone else to fix the problem. Your landlord may not evict you or interrupt essential services just because you are having a dispute with the landlord. As long as you are defined as a "tenant" under the law, your landlord has to get a court order before you can be forcibly evicted. If your landlord evicts you or cuts off services without a court order, you can sue the landlord for damages--and the landlord might have to pay your lawyer's fees if stated in the lease agreement.

If you violate your lease, the landlord must send you notice of the problem and give you 30 days to correct the problem. If you do not correct the problem, you will have to leave at the time set in the notice. However, if the landlord knows about the problem and accepts rent from you without complaining, the landlord cannot later evict you for violating the lease for that reason--at least until the landlord tells you that you must start following the rules again. If you correct the problem, but it happens again within six months, the landlord may cancel your lease after 14 days' notice.

## **Rights and Duties of Landlords**

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Even if the property is inside a metropolitan area, this law might not apply if the tenant has a "lease-purchase" agreement or if you are leasing commercial property.

### Uniform Residential Landlord and Tenant Act

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## Lease Agreements and Rent

For many reasons, landlords should have a written lease agreement. However, even without a written lease, you and your tenants have certain rights. Landlords should provide in the lease that the TENANT EXPRESSLY WAIVES ANY AND ALL REQUIREMENTS FOR WRITTEN NOTICE OR DEMAND OR NON-PAYMENT OF RENT. This is helpful to expedite an eviction.

Without a written lease, the tenant may occupy the property from month to month. This means that you cannot evict the tenant without at least one month's notice. If you have a written lease, it might provide for a weekly tenancy, or it could give the tenant the right to stay longer than a month.

If you ask your tenant to sign a written lease and the tenant refuses, the tenant can be considered a "trespasser," and can be immediately evicted. However, if you accept payment of rent and you have an oral agreement for the tenant to occupy the property, the tenant is not a trespasser. In that case, you could not evict the tenant until you gave the tenant notice to leave.

Your agreement with the tenant determines the amount of rent that is due. If you do not have a written lease agreement, and you discover that you and your tenant have a difference understanding about how much rent is due, the tenant will owe the "reasonable" rental value of the property.

Rent is not charged by the day, unless you and your tenant agree to that system.

You cannot charge a late fee until the tenant is more than five days late in paying rent; and the late fee cannot be more than 10% of the rent.

If you receive a security deposit, you must tell the tenant in writing the bank in which it will be held. If you do not do this, you may not keep the deposit (although you could sue the tenant for damage to the property).

After the tenant moves out, you must return the security deposit unless you give the tenant a written list of damages that will be charged against the deposit. If you do not give the list to the tenant in person, you should mail it to the tenant's last known address.

If the tenant signs the list, you may assume that the tenant consented to these charges. If the tenant does not sign the list, the tenant must give you a written objection to the list. If you and your tenant cannot work out the problem, the tenant might sue to get the deposit back, in which case the judge would decide whether

your list of damages was legitimate.

If the tenant leaves owing rent and does not demand that the deposit be returned, you may apply the deposit to the unpaid rent after 30 days.

If the tenant is entitled to a refund of the security deposit, you must send written notice of the refund to the tenant's last known address. If you do not receive a response from the tenant within 60 days, you may keep the deposit.

### Landlord duties

You must maintain the property according to any building and housing codes that materially affect health and safety. You must also make any repairs necessary to keep the property in a fit and habitable condition. However, if you have a written lease, the lease might make the tenant responsible for certain repairs. However, the lease could not require the tenant to bring the property "up to code" if you rented it in an unsafe condition.

A landlord may sometimes be liable to a tenant and to the tenant's guests for injuries sustained on the property. In general, a landlord is liable for injuries caused by dangerous conditions that existed before the property was turned over to the tenant, if the landlord knew about the condition or should have known about it and if the tenant did not know about it.

In addition, a landlord has a duty to maintain common areas (such as stairways) in multi-unit buildings.

If the landlord tries to repair a condition (even if the lease required the tenant to make the repair) the landlord could be liable for injuries caused by negligently made repairs.

You cannot have a clause in a lease that shields a landlord from liability for injuries a tenant sustains as a result of the landlord's failure to do what the law requires. Landlords should buy insurance to protect their property and to cover liability for personal injuries.

You may impose rules governing the tenant's use of the property, but the rules cannot be unreasonable; and they must apply to all tenants equally.

You may enter the property at reasonable times to inspect it, or to make repairs, or to show it to future tenants or purchasers. But you must give the tenant notice before coming, unless it is an emergency.

If the tenant creates a condition that materially affects health and safety and does

not correct it after 14 days' notice from you, you may enter the property and repair the problem. You may also enter to repair a problem without notice, in the case of an emergency. In either case, you may bill the tenant for repairs that the tenant was supposed to make.

If the tenant is gone for 30 days without paying rent and without notifying you, you may consider the property abandoned. In addition, if you have a written lease, it could require the tenant to tell you if the tenant is going to be gone more than seven days.

When the tenant abandons the dwelling and leaves personal property behind, you have certain rights to dispose of the property. However, you also have certain duties; so it would be a good idea to consult a lawyer before destroying or selling the property.

You may not take a tenant's personal property just because the tenant owes you money, unless the tenant signs a document under the Uniform Commercial Code and you record that document, or unless the tenant gave you the property to hold as collateral.

You must tell tenants in writing that you do not provide insurance for their personal property.

You cannot discontinue "essential services" to your tenant. "Essential services" means utility service (such as heat and electricity) and anything else that you promised to provide--if it materially affects the tenant's health and safety. If you fail to provide essential services and the tenant notifies you about the problem in writing. Then, if you do not solve the problem, the tenant may obtain the service at the tenant's expense and deduct the cost from the rent; or the tenant may sue you for the difference between the rent due and the fair rent due under the circumstances; or the tenant may obtain substitute housing until the you correct the problem, in which case the tenant does not owe rent until you do correct the problem; and the tenant may recover the cost of the substitute housing. Of course, the tenant cannot rely on these remedies if the tenant or the tenant's guests caused the problem; and the tenant must behave reasonably in such matters as hiring someone else to fix the problem. You may not evict a tenant or interrupt essential services just because you are having a dispute with the tenant. You must get a court order before you can forcibly evict a tenant. If you evict a tenant or cut off services without a court order, the tenant may sue you for damages--and you might have to pay the tenant's lawyer fees.

If the tenant violates the lease, you may send the tenant notice of the problem and

give the tenant 30 days to correct the problem. If the tenant does not correct the problem, you may sue for possession at the time set in the notice. However, if you know about the problem and accept rent from the tenant without complaining, you cannot later evict the tenant for violating the lease for that reason--at least until you tell the tenant that the tenant must start following the rules again. You should give the tenant this notice in writing.

If the tenant corrects the problem, but it happens again within six months, you may cancel the lease after 14 days' notice.

### Eviction/Termination of Lease

Unless you have a written lease that says otherwise, you cannot evict a tenant for non-payment of rent unless you give the tenant written notice that the tenant failed to pay the rent.

If the tenant cancels the lease before it is over, the tenant will owe the balance due under the lease. However, you must try to rent the property to someone else to offset your damages.

If you are renting on a month-to-month basis, you may cancel the lease by giving the tenant 30 days' notice. The 30 days begins to run after the rent is due for the next month after the tenant receives the notice. For instance, suppose that rent is due on the first of the month, and you give the tenant notice to leave on March 10. The next rent payment is due on April 1, so the 30 days' notice begins to run on April 1; and the tenant does not have to leave until May 1. If you are renting on a week-to-week basis, you may cancel the lease by giving the tenant ten days' notice.

If the tenant does not leave at the time required, you may sue for possession of the property and for damages and your attorney fees.

You only have to give a tenant three days' notice to leave if the tenant (or the tenant's guests) commit an act that is violent or dangerous to others; but even in this situation, you may not evict the tenant by force without a court order and may not cut off essential services to force the tenant to leave.

You may sue to evict a tenant in General Sessions Court. If you do not have a lawyer, the court clerk can give you information about the procedure. If you lose, you have ten days to appeal; likewise, if the tenant loses, the tenant has ten days to appeal the eviction after the judge issues the order.

In general, the law requires both landlords and tenants to behave reasonably with each other and in good faith. If either you or your tenant behaves unreasonably, a

court can enforce the other party's rights and could even require the offending party to pay the innocent party's lawyer.

## What Is Trespassing?

"Trespassing" is a legal term that can refer to a wide variety of offenses against a person or against property. In this section, we are going to talk only about "trespassing" as it relates to going onto someone's land without consent.

Technically, a person violates the law against trespassing by knowingly going onto someone else's land without consent. "Knowledge" may be inferred when the owner (or the owner's representative) tells the trespasser not to go on the land or when the land is fenced in a manner that suggests that intruders should stay out or there is a "no trespassing" sign in an obvious place.

A trespasser will probably not be prosecuted if the land was open to the public when the trespasser originally entered the land and the trespasser's conduct did not substantially interfere with the owner's use of the property and the trespasser left on request.

The more serious crime of "aggravated criminal trespass" combines trespassing with conduct that would cause fear for someone's safety. This is a Class B misdemeanor. If the "aggravated criminal trespass" is committed in a house or a hospital or a school, it is a Class A misdemeanor.

If a trespasser drives or parks a motor vehicle (including a motorcycle or ATV) on private property reserved for customers or employees of a business and refuses to leave when asked, the trespasser has committed a Class C misdemeanor. This rule applies regardless of whether the business posted a sign warning against trespassing.

Regardless of whether a crime has been committed, a property owner can resort to the law to prevent trespassing. If someone makes a habit of trespassing, the property owner may ask the court to order the trespasser to get off the property and to stay off. If the trespasser causes damage to the owner's property, the owner may also sue for damages.

Sometimes a trespasser continues trespassing for such a long time the law permits the trespasser to have the right to stay on the land. This right ranges from the right to live on the land to the right to pass across it to get somewhere else. There are a number of complex rules governing the acquisition of these rights, which are often lumped under the broad title of "adverse possession". If you are concerned about acquiring these rights or preventing someone from acquiring rights in your land, you should contact a lawyer.

One common form of trespassing is when a neighbor's driveway or fence encroaches onto someone else's land. Sometimes the owner will not want to make an issue of the encroachment--either because it seems to be a minor problem or because the neighbor is a friend. To avoid problems later, however, the owner should give the "trespasser" written permission to keep the encroachment for as long as the owner continues to authorize it. If properly handled, this document will prevent the trespasser from acquiring a right to continue the encroachment and from passing along this right to future owners of the trespasser's land. One word of caution: sometimes posting a "no trespassing" sign can backfire. Because the "adverse possession" rules are so complicated, posting a "no trespassing" sign can actually help a trespasser support a claim to the owner's property.

## Noisy Neighbors

Noisy neighbors fall into two categories: inconsiderate individuals and institutions.

In general, institutions have a little more leeway than individuals. For example, if you live near a construction site, the law will tolerate a certain amount of disturbance to your peace and quiet, but it cannot be excessive. Even intrusions caused by the government (such as a municipal airport) are subject to limits. It is difficult to challenge institutions, and the advice of a lawyer is essential if you are to confront an institutional neighbor successfully.

Individual complaints, however, may be addressed more easily. If you suffer from the problem of living in an apartment with thin walls, talk to your landlord about adjustments to the building, or talk to your neighbor about more considerate behavior. If your problem is a barking dog or a bar down the street, most cities have ordinances that define acceptable noise levels. If you believe that your noisy neighbor has exceeded these limits, perhaps the most obvious solution is to request that the police intervene. Of course, when officers are investigating mayhem, your neighbor's barking dog might not be given high priority. If the police are unable to resolve the problem, your next step may be to request assistance from the district attorney, who can act to enforce violations of specific nuisance ordinances. Even if this strategy fails, the law may still provide help.

If the noise level creates a nuisance, you may bring suit as a private citizen. However, the courts are not eager to intervene in minor disputes between neighbors. To obtain relief in court, you must show that the noise seriously impairs your enjoyment of life or property; it must be more than merely annoying. Legal standards such as "reasonableness" come into play, and the offending party can raise a variety of defenses to your suit. While you may always request assistance from the courts without hiring a lawyer, this type of lawsuit can become complicated, and expert legal advice will probably prove invaluable.

## **Rights of Tenants in Public Housing**

This section only applies to tenants who live in Community Development Complexes (“CDC”). If you are renting an apartment in a housing project run by a CDC, there are specific Federal Regulations which govern your rights as a tenant. You have greater rights and protections than most tenants who rent from private landlords, especially when it comes to being evicted. These rights are in addition to the eviction procedures that landlords are required to follow.

These rights of tenants residing in housing complexes subsidized by the Federal Government are part of the written rental agreement. Although the terms of the written rental agreement may be changed, including the raising of your rent, all changes must first be approved by the Department of Housing and Urban Development, commonly referred to as HUD. You may also call the office of your Congressman.

If you are renting an apartment from a CDC, you are a tenant and have special rights which are in addition to the rights all tenants have under Tennessee Law.

First, a written lease must be entered into between you and your Housing Authority landlord. This lease must include the following items:

1. Description of the apartment, and all members of the household.
2. The length of the lease.
3. The monthly rent.
4. Any additional charges for upkeep and repair of the apartment.
5. The landlord's responsibilities, which include making necessary repairs reasonably, promptly, keeping the electricity, heating and plumbing in good working condition, and providing hot and cold running water.
6. Your responsibilities as a tenant, which include letting only those members of the household described in the lease reside in your apartment, keeping the apartment clean and safe, not damaging any part of the apartment, and not disturbing the peace of your neighbors.
7. A statement that you and the landlord shall inspect the apartment before you move in, and both you and landlord shall sign a written statement describing the condition of the apartment at that time.

A Community Development Corporation cannot evict you unless:

1. You have seriously or repeatedly violated a material term of the written lease rental agreement; or
2. The landlord had other good cause for evicting you. At the present time, the meaning of "good cause" for eviction has to be determined on a case-by-case basis.

If one of the two grounds for eviction exists, the landlord must first notify you in writing that he intends to terminate your lease. This written notice must include:

1. The reasons why you have to move out;
2. A statement that you may make a reply if you wish; and
3. A statement that you may request a grievance hearing under the grievance procedures for your particular Community Development Corporation. Under certain circumstances, for example, illegal or drug-related activity, you may not have a right to a grievance hearing.

The time for written notice varies with the reason the lease is being terminated. First, the time of the notice for non-payment of rent is 30 days, if the rent is not paid within 14 days of the date due. If the resident pays within the 14-day period, and within six months fails to pay the rent again, the CDC only has to give 14 days' notice, not 30. Second, the time of notice for a threat to the health or safety of residents or CDC employees is a "reasonable time", depending upon the seriousness of the situation. This notice will not be more than 30 days. Under the Tennessee Uniform Residential Landlord and Tenant act, a landlord may give a tenant only three days' notice if there is immediate danger to life or property. Third, the time is 30 days' notice for all other cases.

The landlord must serve you with this written notice by either sending it by First-Class Mail addressed to you or personally serving it to you or another adult living in your apartment. After receiving notice to move out, you should move from the premises within the time period provided, unless you feel the reasons given for the eviction are not true or not good cause for eviction. If you feel the reasons are not true or are not good cause for eviction, you may request a grievance hearing in writing within 10 days of receiving the notice to vacate. You are first entitled to an Informal Grievance Hearing which is usually held in the office of manager and in the presence of a CDC Hearing Officer. If you are not satisfied with the outcome of the Informal Grievance Hearing, you may request a Formal Hearing. This request must also be within ten days from the date you receive written notice on the Informal Hearing. At the Formal Hearing, the Hearing Officer will be an

impartial person who is not an employee of the CDC.

You will receive a written notice of the time, place and procedures for the Formal Hearing. At the Formal Hearing, you have a right to see and copy relevant CDC documents, a right to be represented by an attorney, and a right to present evidence and examine witnesses. After the hearing the Hearing Officer will send a written decision to you and to the CDC. Even if the Hearing Officer agrees with the CDC's decision requiring you to move out, you still have the right to a trial in General Sessions Court regarding the eviction.

If you do not move from the premises, the landlord must file a Detainer Warrant in General Sessions Court to evict you. The time of the trial will be stated on the Detainer Warrant which will be served on you. At the time of the trial, you can appear with or without a lawyer and dispute the landlord's reasons stated in the written notice for eviction. Remember, the landlord must prove you have either seriously or repeatedly violated a material provision of the rental agreement or that you have given the landlord good cause for your eviction. The landlord may not present additional reasons for the eviction at the time of the trial which were not stated in the written notice to move out.

You may obtain additional advice regarding your rights as a tenant in public housing from an attorney.

**PLEASE NOTE:**

*The materials contained in LAWLINE ONLINE are intended to, and do, provide only a broad overview of various legal topics. The general information contained in this material is not designed nor intended to be a substitute for legal advice on a specific legal issue or question. In addition, the information provided in this material is only general advice and may not be applicable to apparent similar individual problems, since only slight changes in facts change the applicable advice. If you have a legal problem or question, please consult an attorney.*

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