

# Landlords' Responsibilities for Abandoned Property

By: Jessica Schaeffer-Helmecki, Legislative Analyst II  
November 13, 2019 | 2019-R-0234

## Issue

Summarize (1) state laws regarding a landlord's responsibilities for property abandoned by residential tenants and (2) the rationale for such laws.

## Summary

Under the law, a landlord's responsibilities for property abandoned by a residential tenant depends on the nature of the tenant's departure. If the tenant abandoned the property after an eviction order, the requirements of [CGS § 47a-42](#) apply; if the tenant did so because he or she vacated the premises and does not intend to return, the requirements of [CGS § 47a-11b](#) apply. (State law imposes different requirements when the tenant is a commercial tenant or deceased.)

By law, when a tenant abandons property after an eviction order, the landlord must hire a marshal to remove the property and transport it to a municipally-designated storage facility. It is then the municipality's responsibility to dispose of the property in accordance with state law. We are unable to determine what prompted the law's original enactment in 1895 because no records of the legislative debates exist. In 2010, however, the legislature amended the law to shift certain responsibilities from municipalities to landlords ([PA 10-171](#)). The legislative history of the act suggests that the legislature did so to lessen the burden on municipalities and protect evicted tenants' possessions.

When a tenant vacates a rental property and does not intend to return, but leaves personal property behind, the landlord must send notice to each former occupant at their last-known

address. If, after storing the property for a statutorily-specified period, the occupants do not claim the property, the landlord may dispose of the property as he or she sees fit. According to the legislative record, the law was intended to codify and clarify the procedure established under common law for addressing abandoned units.

## **Property of an Evicted Tenant**

### ***CGS § 47a-42***

Whenever a court enters a judgment of eviction against a residential tenant, the tenant and any other occupants of the rental unit affected by the judgment must immediately remove their belongings unless the court grants a stay of execution. (A “stay of execution” is a court order giving a tenant a specified amount of time past the date a judgment of eviction is entered to vacate leased premises.)

If the tenant fails to remove his or her possessions from the unit after a judgment for eviction is entered or a stay of execution expires, the landlord may hire a state marshal to execute (i.e., carry out) the eviction by physically removing the tenant’s possessions and transporting them to a municipally-designated storage facility ([CGS § 47a-42](#)). In practice, the marshal generally coordinates a moving company to remove the possessions and bills the landlord for those costs plus his or her hourly rate (statutorily capped at \$100 per hour)([CGS § 52-261\(b\)\(2\)](#)). Although the landlord generally pays these costs upfront, the law states that the evicted tenant is responsible for them. The landlord can file a civil suit to try to recover these costs from the tenant.

If the former tenant does not claim the property and reimburse the municipality for storage expenses within 15 days after the eviction, the municipality may sell the items at a public auction after complying with notice requirements. By law, the former tenant is entitled to any auction proceeds, minus any municipal storage fees. If the tenant does not claim the proceeds within 30 days, the municipality deposits them in its treasury.

### ***Legislative History of CGS § 47a-42’s Landlord Provisions***

The legislature enacted the provisions of what is now [CGS § 47a-42](#) in 1895. However, the State Library does not have records available from 1895 to assist in determining the legislative intent at that time. At least 11 subsequent public acts have modified the statute, but [PA 10-171](#) most notably changed a landlord’s responsibilities for an evicted tenant’s property.

[PA 10-171](#) made landlords responsible for hiring a state marshal to not only remove the tenant’s property from the unit, but to transport it to the municipal storage facility as well. Under prior law,

the marshal notified the municipality that he or she would be leaving the property street side and if the tenant did not claim it, the municipality was responsible for picking it up and delivering it to its designated storage facility. The act eliminated the (1) requirement that the municipality deliver the possessions to the storage facility and (2) municipality's responsibility and reimbursement for delivery expenses.

In doing so, the act shifted the delivery expenses from municipalities to landlords. The act made the evicted tenant responsible for delivery expenses (in addition to removal and storage expenses), but it eliminated the requirement that he or she pay those expenses before reclaiming the property from the municipal storage facility. Prior law required an evicted tenant to reimburse the municipality for its removal and storage expenses and authorized the municipality to deduct them from any auction proceeds if the tenant failed to do so.

In bringing out the bill, the Planning and Development Committee chairperson Representative Sharkey explained that the proposal was one of several designed to provide municipal mandate relief during the economic downturn. Representative Sharkey noted that the proposal originated from the Municipal Opportunities and Regional Efficiencies (M.O.R.E.) Commission (a working group formed by the House Democratic caucus in 2010) and represented a compromise reached between various stakeholder groups, including landlords, tenant advocates, state marshals, and municipalities.

According to Representative Sharkey, the change was intended to (1) relieve municipalities of the expense of having trucks and staff dedicated to picking up tenant property, (2) protect evicted tenants' possessions, and (3) only moderately increase costs to landlords because they were already paying a state marshal to remove the property from the unit ([House Transcript](#), Substitute House Bill 5255, April 29, 2010).

## **Property Left in Units Abandoned by a Tenant**

### ***CGS § 47a-11b***

The law prescribes a process by which landlords may dispose of property left in an abandoned unit and be shielded from lawsuits for forcible entry and detainer so long as he or she or she complied with (1) notice, (2) inventory, and (3) storage requirements. An occupant abandons a property when he or she vacates the premises without notifying the landlord and does not intend to return. An occupant's intent to abandon the unit may be evidenced by the removal by the occupants or their agent of substantially all of their possessions and personal effects from the premises and either (1) nonpayment of rent for more than two months or (2) an express statement by the occupants that they do not intend to occupy the premises after a specified date ([CGS § 47a-11b](#)).

### *Notice to Tenants*

If all the occupants abandon the dwelling unit, the landlord may send notice to each occupant at the last-known address both by regular mail, postage prepaid, and by certified mail, return receipt requested, stating that the landlord:

1. has reason to believe that the occupant has abandoned the dwelling unit;
2. intends to reenter and take possession of the dwelling unit unless the occupant contacts him or her within 10 days of receipt of the notice;
3. intends to remove any possessions and personal effects remaining in the premises and rent the premises to someone else unless contacted by the occupant; and
4. will dispose of the possessions and personal effects if the occupant does not reclaim them within 30 days after the notice.

If the notices are returned undelivered, or the occupant fails to contact the landlord within 10 days after receiving the notice, the landlord may reenter and take possession of the dwelling unit, at which time any rental agreement or lease still in effect is deemed to be terminated ([CGS § 47a-11b](#)).

### *Inventory, Storage, and Disposal of Property*

The landlord must inventory the occupant's possessions and personal effects and remove and store them for at least 30 days. The occupant may reclaim them from the landlord within the 30-day period. If the occupant does not reclaim them by the end of that period, the landlord may dispose of them as he or she deems appropriate ([CGS § 47a-11b](#)).

OLR Report [2016-R-0333](#) provides additional information regarding a tenant's abandoned property.

### ***Legislative History of CGS § 47a-11b's Landlord Provisions***

The legislature enacted [CGS § 47a-11b](#) during the 1992 legislative session. In introducing the legislation, Representative Tulisano described it as "a system where [landlords] don't have to go through a full foreclosure action in order to indicate that the property was abandoned to regain possession." Prior to the law's enactment, common (case) law primarily dictated a landlord's responsibilities regarding abandoned units. Supporters of the bill noted that it clarified when a landlord may legally reenter a unit he or she believed to be abandoned (House Testimony, House Bill 5008, May 4, 1992).

JSH:kl