OFFICE OF LEGISLATIVE RESEARCH
Objective Research for Connecticut's Legislature

ResearchReport

Foreclosure Notification Requirements Applicable to Connecticut Landlords

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Issue

Explain foreclosure notification requirements applicable to Connecticut landlords and provide examples of the same from other states' laws. Briefly describe other Connecticut law foreclosure protections for tenants.

Summary

Under Connecticut law, tenants of foreclosed residential properties must receive notice if:

1. a successor in interest chooses to evict them (90 days' notice to vacate) or
2. the property management changes due to succession (notice at time of succession).

However, state law does not require landlords to disclose to prospective tenants that their property is in foreclosure proceedings. Table 1 below provides examples of landlord foreclosure notification requirements in other states. While most of these states require notice to current tenants, some (e.g., Arizona, Louisiana, Minnesota, Nevada, Oregon, and Virginia) also require notice to prospective tenants.

Connecticut law also provides other foreclosure protections for tenants. These include protection from eviction in certain circumstances, among other requirements, as described below.

Federal & State Law: Protecting Tenants at Foreclosure

The federal Protecting Tenants at Foreclosure Act of 2009 (PTFA) (P.L. 111-22, Title VII) provides protection for renters living in foreclosed properties. In anticipation of the impending expiration of the PTFA in December 2014, the Connecticut legislature enacted PA 11-201 (§§ 7 & 8) codifying the same protections into state law with a sunset date of December 31, 2017. Subsequently, PA 16-65 (§§ 43 & 44) made these tenant protections permanent. (The federal Economic Growth, Regulatory Relief, and Consumer Protection Act (P.L. 115-174, Title III), signed into law in May 2018, permanently restored the federal PTFA.)

Under Connecticut law, an immediate successor in interest of a residential foreclosure must (1) provide tenants with 90 days' notice to vacate before bringing a post-foreclosure eviction in court and (2) allow tenants with existing leases to continue occupancy until the end of the lease term (CGS § 49-31p). Despite these provisions, a tenant can be evicted on 90 days' notice if (1) the successor in interest sells the unit to a buyer who will occupy it as his or her primary residence or (2) the lease was either terminable at will under state law or the tenant had no lease.

A lease or tenancy is only eligible for these protections if:

1. the tenant is not the mortgagor or the child, spouse, or parent of the mortgagor;
2. the lease or tenancy is the result of an arms-length transaction; and
3. the lease or tenancy requires rent that is not substantially less than fair market rent or is reduced or subsidized due to a federal, state, or local subsidy.

The above provisions do not affect the termination requirements for any federal- or state-subsidized tenancy. They also do not affect any state or local laws that provide tenants with longer time periods or additional protections.

2020 Connecticut Legislation

During the 2020 regular legislative session, the Housing Committee favorably reported HB 5124, *An Act Requiring Landlords to Notify Tenants of Foreclosure Proceedings*. The bill would have required property owners and landlords renting out residential dwelling units in buildings subject to a foreclosure proceeding to provide notice to prospective and current tenants, the Department of Housing commissioner, and the chief executive of the municipality in which the property is located. The bill did not become law.

Other Foreclosure Protections for Renters in Connecticut

Protection of Tenant in Foreclosed Property

State law stays a tenant's ejectment after a foreclosure judgment is entered and prohibits commencement of an eviction action against the tenant on the grounds that he or she no longer has the right or privilege to occupy the dwelling because of the foreclosure judgment (CGS § 47a-20e). The length of the stay and eviction prohibition depends on when the tenant entered the lease and whether it was written, as follows:

1. if the tenant entered a written agreement more than 60 days before the start of the foreclosure action, the stay is in effect and evictions are prohibited until the lease expires or 60 days after the foreclosing party or successor in interest obtains absolute title, whichever occurs first, or

2. for other tenants, the stay is in effect and evictions are prohibited for 30 days after the foreclosing party or successor in interest obtains absolute title.

For these protections to apply, tenants cannot be the mortgagor or property owner and must have entered into the rental agreement in an arms-length transaction.

Tenants living in foreclosed properties may still be evicted for other reasons, such as nonpayment of rent or breach of the rental agreement (see CGS §§ 47a-23 & 47a-31).

Identification of Landlord

State law requires landlords and successor landlords (or authorized agents) to notify tenants in writing on or before the start of tenancy (or at the time of succession) of the name and address of (1) the authorized property manager and (2) the person authorized to receive all notices, demands, and service of process (CGS § 47a-6).

Cash for Keys Law

Following a foreclosure or lien of a residential property, mortgagees, lienholders, or other successors in interest may offer tenants a financial incentive to vacate. However, the state's "cash for keys" law establishes a minimum dollar amount that successors in interest must offer to tenants (CGS §47a-20f). Under this law, an offer must be the greatest of:

1. two times the total of the security deposit and interest due,

2. two months' rent, or

3. $2,000.00.

Security Deposits

Under state law, a security deposit is exempt from attachment and execution by the landlord's creditors and is not part of the landlord's estate; the landlord's security interest is assigned to any successor landlord (CGS § 47a-21(c)). Additionally, in the case of a foreclosure, state law dictates that the successor who owns the property at the time a tenant moves out (often a bank) is liable for the return of the security deposit to the tenant (CGS § 47a-21(e)).

Just Cause Eviction

State law provides additional eviction protections for tenants living in buildings with five or more dwelling units or a mobile manufactured home park and who (1) are age 62 or older or who live with a spouse, sibling, parent, or grandparent who is age 62 or older or (2) have a physical or mental disability or who live with a spouse, sibling, child, parent, or grandparent with a physical or mental disability (CGS 47a-23c). (In common interest communities, these additional protections only apply in certain circumstances.) By law, landlords can only evict tenants meeting the above criteria for specified reasons, known as good cause (e.g., nonpayment of rent). Change of ownership, including a change resulting from foreclosure, does not constitute good cause.

Foreclosure Notification Requirements in Other States

Numerous states require landlords to notify current or prospective tenants of foreclosure proceedings or sale. Some states entitle tenants to damages or other remedies if a landlord violates notification requirements. The table below provides examples of landlord foreclosure notification requirements in other states.

Table 1: Examples of Landlord Foreclosure Notification Requirements

State	*Statute*	*Brief Description*
Arizona	Ariz. Rev. Stat. § 33-1331	• requires certain landlords (excluding dwellings of four or more units) to include written notice of possible foreclosure with a rental agreement if the rental agreement is entered after foreclosure action was initiated • if foreclosure occurs after a tenant has entered into a rental agreement, the landlord must provide written notice within five business days • if the landlord fails to provide notice, tenants may recover damages and obtain injunctive relief

Table 1 (continued)

State	Statute	Brief Description
Louisiana	La. Stat. § 9:3260.1	• requires landlords to provide written disclosure of a pending foreclosure action to a tenant or prospective tenant and additional notice within seven days of the landlord receiving a notice of seizure in foreclosure action • tenants are entitled to recover damages and other remedies through a civil proceeding in the case of a violation of these requirements
Maine	Me. Rev. Stat. tit. 14, § 6322-A	• requires mortgagees to provide a copy of the foreclosure judgment and written notice of subsequent proceedings through and including the sale of property to tenants • tenants may not be evicted if the mortgagee has not provided such notice
Massachusetts	Mass. Gen. Laws Ann. ch. 186A, § 3	• requires the foreclosing owner to provide written notice within 30 days of foreclosure, including contact information of foreclosing owner and building manager and address to which rent and other charges should be sent by tenants • tenants may not be evicted for just cause if foreclosing owner has not informed tenant of their right to a court hearing
Minnesota	Minn. Stat. § 504B.151	• places limitations on the terms of a lease a landlord may enter into after receiving notice of a contract for deed cancellation or mortgage foreclosure sale and requires the landlord to notify prospective tenants before accepting rent or a security deposit • allows tenants to recover civil penalties and other remedies in the case of a violation
Nevada	Nev. Rev. Stat. § 118A.275	• requires landlords to disclose foreclosure proceedings to prospective tenants in writing • makes a willful violation of the requirement a deceptive trade practice

Table 1 (continued)

State	Statute	Brief Description
New York	N.Y. Real Prop. Acts. Law § 1303	• requires the foreclosing party in a foreclosure action involving residential property to provide a specific written notice to tenants within 10 days of serving a foreclosure summons and complaint • the notice must outline a tenants' rights under state law, including the right to continue occupancy until the end of the lease term or, if no lease, 90 days
Oregon	Or. Rev. Stat. § 90.310	• requires landlords (excluding dwellings exceeding four units) to disclose certain legal proceedings (including a pending foreclosure) in writing to a tenant before executing a rental agreement • tenant may recover damages and other remedies in the case of a violation that results in them moving
Rhode Island	34 R.I. Gen. Laws §§ 34-18-20, 34-27-7	• requires a landlord who is delinquent on a mortgage for 120 days on property where a residential dwelling is located to notify tenants that the property may be subject to foreclosure • requires mortgagees to provide certain written notice to tenants, including the (1) date, time, and location of the scheduled foreclosure sale; (2) availability of counseling and information services; and (3) contact information for the United Way 2-1-1 center
Utah	Utah Code § 78B-6-901.5	• requires a plaintiff filing a foreclosure action on residential rental property to post and mail notice to tenants within 20 days that outlines tenants' rights and obligations under state law, including the right to continue occupancy until the lease expires or 45 days after a sale, whichever is later
Virginia	Va. Code § 55.1-1237	• requires certain landlords (single-family rental units) to provide written notice to tenants and prospective tenants of a mortgage default, mortgage acceleration, or foreclosure sale within five business days after notice from the lender is received by the landlord • tenants may terminate their rental agreement in the case of a violation

Table 1 (continued)

State	Statute	Brief Description
Washington	Wash. Rev. Code §§ 61.24.060, 61.24.143, 61.24.146	• requires a purchaser of tenant-occupied property through foreclosure proceedings to provide written notice to tenants outlining tenants' rights and obligations under state law • requires a trustee of tenant-occupied property to provide notice to tenants that the foreclosure process has begun, and the property may be sold 90 days or more after the date of such notice • requires a trustee of tenant-occupied property in foreclosure proceedings to provide notice to tenants that, subsequent to sale, a new property owner may provide tenants with a new rental agreement or 60 days' notice to vacate the property

Additional Resources

- Connecticut Department of Banking. "Rights and Responsibilities of Landlords and Tenants in Foreclosed Properties."
- Loftsgordon, Amy. "Protections for Tenants After a Landlord's Foreclosure." *Nolo.*
- National Housing Law Project (nhlp). "Tenants and Foreclosure."

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