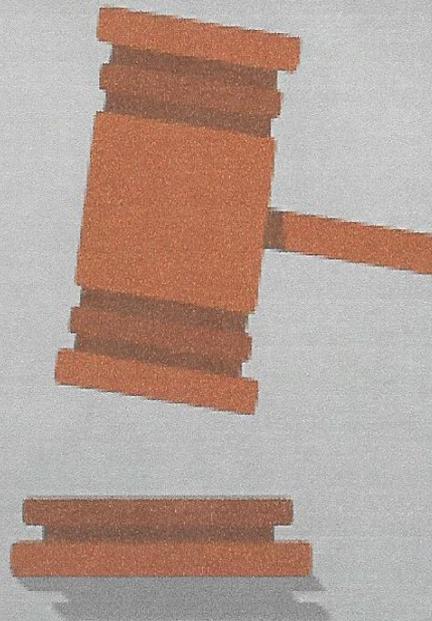
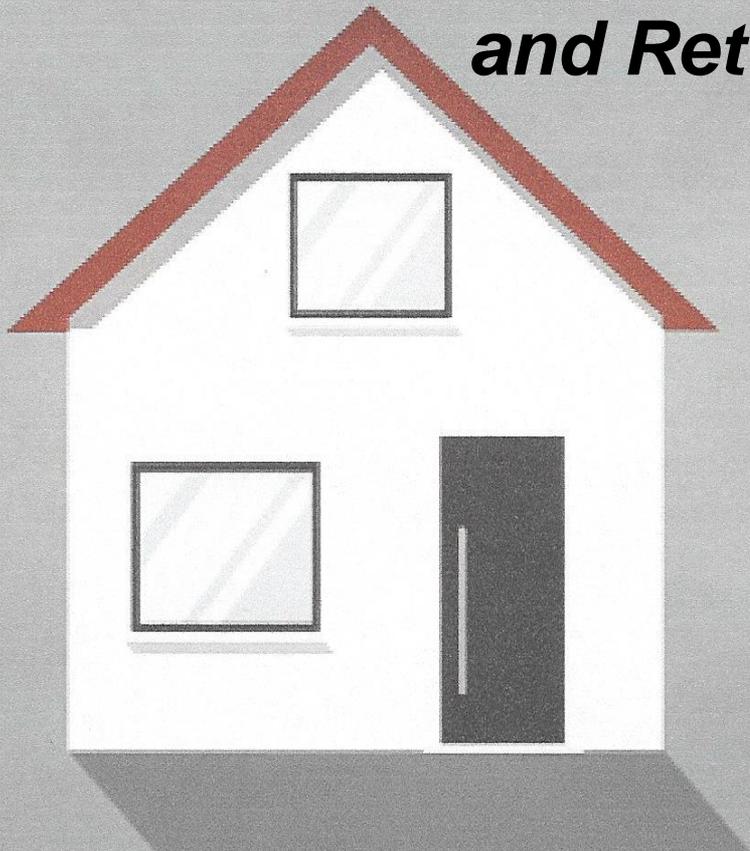


EVICTION PROCESS

*Cares Act Compliance, Timing
and Return Date*



TENANT RIGHTS TRAINING SERIES

**Jul 16,
2020
6:30 pm**

Event 01

Tenant Rights Training Series

EVICTION PROCESS *CARES ACT* COMPLIANCE, TIMING AND RETURN DATE.

Sponsored by
NH Legal Assistance, Granite State Organizing Project
& Manchester Housing Alliance



Step 1 The Written Eviction Notice

Step 2 The Landlord & Tenant Writ

Step 3 The Appearance Form

Step 4 The Notice of Hearing

Step 5 Raising Defenses at the Hearing

Step 6 The Writ of Possession

Step 7 Asking for a Discretionary Stay

Step 8 Filing a Notice of Intent to Appeal

Your landlord begins the lawful eviction process by serving you with a written notice that tells you to leave. A verbal order to leave from your landlord doesn't count. The notice must be in writing. Your landlord can have anyone serve the eviction notice and it can be handed to you or left on or near your door. Most tenants are entitled to a hearing where they get a chance to defend themselves before a judge. And a landlord must get the judge's permission before the tenant has to leave.

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The Demand for Rent/Eviction Notice has expired and the landlord's filed and received the Landlord/Tenant Writ. A Sheriff will then come to your home to deliver it to you in hand or leave it on or near your door. There is a lot of important information on the landlord & tenant writ. Most important is the return day. The return day is a date. You will see the return day about halfway down on the first page of the landlord & tenant writ. It is your deadline for telling the court you want a hearing scheduled.

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You get the appearance form from the court clerk or complete it electronically and print it out. The appearance form will take you 2 or 3 minutes to fill out. When you're finished, mail it or hand it to the clerk. The clerk will give 2 copies back to you. Keep one copy for your records. Mail the other to your landlord. You MUST file your appearance before the return day passes. If you don't, you'll be in DEFAULT. Being found in default by the court means you could be removed from your home within just a few days.

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The court will use the mailing address you wrote on your appearance form to mail you a notice of hearing. The notice of hearing typically arrives 2 to 3 days after the Appearance is filed. It tells you the day and time your hearing is scheduled. If for some reason you don't get your notice of hearing in the mail by the 3rd day, call the court. Ask the clerk for the hearing date. Don't take any chances! Eviction hearings are scheduled quickly....6 to 10 days from the day you file the appearance. You don't want to default by not showing up for your hearing.

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Need help figuring out your defenses? Contact LARC. Our toll-free phone# is: 1-800-639-5290. You may also [apply online](#) to receive a callback by one of our housing advocates.

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You will not be required to leave your home the day of the hearing if you lose. The writ of possession allows a landlord to have a tenant lawfully removed from the home. The writ of possession is never given to your landlord any sooner than 8 days from the day of the hearing. Your landlord must bring the writ of possession to a sheriff who carries out the court orders. Only a sheriff can serve you with the writ of possession and order you out. Also, the landlord isn't allowed to change your locks until after a sheriff has served and carried out the writ of possession.

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If you lose, you can ask the judge for extra time in the home before the writ of possession is carried out. A judge can grant you up to a maximum of 90 more days in the home, even though you lost the eviction hearing. You'll be responsible for paying rent to your landlord during any discretionary stay granted by the judge. The judge is allowed to use his or her discretion when deciding.

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If you feel the judge didn't apply the law correctly in your case, you have the right to appeal the judge's decision. The appeal process in eviction cases is a 2-step process. The first step requires you to file a Notice of Intent to Appeal at the court where you lost the eviction. It must be filed no later than 7 days from the day you lost the eviction. The writ of possession stays at the court, and you in your home, for 30 days. The 2nd step is the 30th day/your deadline for presenting your appeal to New Hampshire's State Supreme Court. Not all appeals are accepted. If the Supreme Court doesn't accept your appeal, the writ of possession becomes available right away to your landlord.

RESTRICTED

540:1-a Definitions. –

II. "Restricted property" means all real property rented for residential purposes, except those properties listed in paragraph 1.

<https://www.gencourt.state.nh.us/rsa/html/lv/540/540-mrg.htm>

NON-RESTRICTED

540:1-a Definitions. –

I. "Nonrestricted property" means all real property rented for nonresidential purposes and the following real property rented for residential purposes:

(a) Single-family houses, if the owner of such a house does not own more than 3 single-family houses at any one time.

(b) Rental units in an owner-occupied building containing a total of 4 dwelling units or fewer.

(c) [Repealed.]

(d) Single-family houses acquired by banks or other mortgagees through foreclosure.

GOV SUNUNU COVID 19 EMERGENCY ORDERS - UTILITIES

Emergency Order 3 - *March 17, 2020 to July 15, 2020 expired* - All providers of electric, gas, water, telephone, cable, VOIP, internet service, and deliverable fuel services will be prohibited from disconnecting or discontinuing service for non-payments for the duration of the State of Emergency

Emergency Order 58 - Pursuant to Executive Order 2020-**04** as Extended by Executive Orders 2020-**05**,**-08**,**-09**,**-10** and **-14**. An Order Terminating Emergency Order #3 Arrearages accrued between March 17, 2020 and July 15, 2020 shall be provided the opportunity to make a reasonable payment arrangement of no less than 6 months and no fees can be charged for late payment and arrearages accrued between March 17, 202 and July 15, 2020. Public Utilities can provide assistance if needed with this and Attorney General has the Authority to Enforce these rules.

GOV SUNUNU COVID 19 EMERGENCY ORDERS - HOUSING

[Emergency Order 4](#) - Landlords will not be allowed to start eviction proceedings for those unable to pay due to their financial situations. Terminated July 1, 2020.

[Emergency Order 51](#) - Pursuant to Emergency Order 2020-04 as Extended by Emergency Order 2020-05, 2020-08, 2020-09 and 2020-10. Emergency Orders 4 and 24 shall terminate on July 1, 2020. ***For every eviction notice issued by the owner of restricted or non-restricted property that is based in whole or in part on nonpayment of rent that became due and payable between March 17, 2020 and the date of this Order, the minimum 7 day notice period required in RSA 540:3 is hereby extended to 30 days.*** Therefore, every such eviction notice shall provide that the tenant must vacate the premises no less than 30 days from the date of service of the eviction notice. For purposes of this Order, the terms "restricted property" and "non-restricted property" shall have the meanings assigned to those terms in RSA 540: 1-a. This Paragraph shall not apply to eviction notices issued before March 17, 2020.

As of July 1, 2020, per NH Emergency Order #51

For every eviction notice issued by the owner of restricted or non-restricted property that is based in whole or in part on nonpayment of rent that became due and payable between **March 17, 2020** and the **date of this Order**, ***the minimum 7 day notice period required in RSA 540:3 is hereby extended to 30 days.*** Therefore, every such eviction notice shall provide that the tenant must vacate the premises no less than 30 days from the date of service of the eviction notice. For purposes of this Order, the terms "restricted property" and "non-restricted property" shall have the meanings assigned to those terms in RSA 540: 1-a.

This Paragraph shall not apply to eviction notices issued before March 17, 2020.

CARES ACT COMPLIANCE

Applies to all properties with a federally backed mortgage. The landlord must complete an Affidavit of Compliance with CARES Act and have provided 30 days' notice prior to filing an eviction action on all covered properties.

Enacted March 27, 2020, landlords are required to submit a CARES Act Affidavit approved by the Circuit Court prior to requesting a Landlord Tenant Writ if a basis for the eviction is non-payment of rent.

"Covered Properties" Pursuant to Section 4024 of the CARES Act

A property which participates in, receives subsidies or benefit from, or has any tenant participating in or receiving subsidies or benefits from, any of the following programs:

Housing and Urban Development (HUD)

- Public Housing (42 U.S.C. § 1437d)
- Section 8 Housing Choice Voucher Program or Project-Based Housing (42 U.S.C. § 1437f)
- Section 202 Housing for the Elderly (12 U.S.C. § 1701q)
- Section 811 Housing for Persons with Disabilities (42 U.S.C. § 8013)
- Section 236 Multifamily Housing (12 U.S.C. § 1715z-1)
- Below Market Interest Rate (BMIR) Housing (12 U.S.C. § 17151(d))
- HOME (42 U.S.C. § 12741 et seq.)
- Housing Opportunities for Persons with AIDS (HOPWA) (42 U.S.C. § 12901, et seq.)
- Continuum of Care or Other McKinney-Vento Act Homelessness Programs (42 U.S.C. § 11360, et seq.)

Department of Agriculture

- Section 515 Rural Rental Housing (42 U.S.C. § 1485)
- Sections 514 and 516 Farm Labor Housing (42 U.S.C. §§ 1484, 1486)
- Section 533 Housing Preservation Grants (42 U.S.C. § 1490m)
- Section 538 Multifamily Rental housing (42 U.S.C. § 1490p-2)

Department of Treasury

- Low-Income Housing Tax Credit (LIHTC) (26 U.S.C. § 42)

Rural Housing Voucher Program

- Section 542 of the Housing Act of 1949 (42 USC § 1490r)

The CARES Act moratorium also applies to all properties with a federally backed mortgage or federally backed multi-family mortgage, meaning all mortgages owned, issued, or guaranteed by: Department of Housing and Urban Development (HUD)

- Department of Veteran Affairs
- Department of Agriculture
- Fannie Mae or Freddie Mac

ADDITIONAL RESOURCES FOR HOUSING ASSISTANCE

The Front Door Agency , *Nashua* **603-886-2866**

The Way Home, *Manchester* **603-627-3491**

New Hampshire Catholic Charities **603-624-4717**

Rental support for immigrants regardless of status **603-682-1921**

To locate your Community Action Agency **211** or **866-444-4211**

To locate your local Town/City Welfare office **211** or **866-444-4211**

Information on avoiding mortgage foreclosure call **866-444-4211**

IF YOU WOULD PREFER TO HAVE AN ATTORNEY REPRESENT YOU BUT YOU ARE UNABLE TO RETAIN ONE, YOU SHOULD CONSIDER CONTACTING THE FOLLOWING SERVICES FOR FREE OR LOW-COST LEGAL ASSISTANCE:

NH Modest Means Legal Program (603) 715-3290

Legal Advice and Referral Center (800) 639-5290 • (603) 224-3333

New Hampshire Legal Assistance (603) 224-4107

Pro Bono Referral Program (603) 224-6942

Disabilities Rights Center Inc. (603) 228-0432 • (800) 834-1721