



# RENTERS HANDBOOK

## 2016 Edition

<b>Table of Contents</b> .....	1
<b>Introduction</b> .....	5
<b>Tips for Renters</b> .....	6
<b>Becoming a Renter</b> .....	8
Rent a Place You Can Afford .....	8
Finding the Right Apartment for You .....	10
Discrimination and Housing .....	11
<b>Basics of the Landlord-Tenant Relationship</b> .....	14
Get in in Writing.....	14
Making a Deposit on a Rental Unit .....	15
Know Your Landlord.....	16
<b>The Written Lease</b> .....	17
Read Your Lease and Talk to the Landlord about Making Changes.....	17
What to Look for in a Lease .....	17
<b>The Oral Lease</b> .....	18
An Oral Lease is a Lease .....	18
Rent Increases under the Oral Lease .....	18
<b>Issues that Can Come Up When You Share an Apartment</b> .....	19
Everyone Who Signs the Lease Owes the Rent.....	19
Other Roommate Considerations.....	19

<b>Moving In</b> .....	20
<b>What to Do When Your Home or Apartment Needs Repairs</b> .....	22
Your Options When Your House or Apartment Needs Repair .....	22
Getting Repairs Done -- Start by Notifying Your Landlord.....	23
What to do if the Landlord Does Not Make the Repairs .....	23
Agreements or Settlements with the Landlord to Reduce the Rent.....	24
Repair and Deduct -- Hiring a Repairperson and Deducting the Cost from Your Rent.....	24
Rent Withholding -- Refusing to Pay Rent.....	27
Warranty of Habitability Rights .....	27
Housing Code Violations.....	28
Housing Code/Apartment Search Checklist .....	30
<b>Damage and Security Deposit</b> .....	33
Payment .....	33
Problems with Deposits and How to Prevent Them.....	33
Refund of Your Deposit.....	34
Interest on Security Deposits.....	35
<b>Other Issues</b> .....	37
Security and Safety .....	37
Rights of Domestic Violence and Sexual Assault Victims .....	39
Pets.....	41
When a Landlord May Enter .....	42
Your Rights if You Rent a Mobile Home or Lot.....	43
Special Considerations if You are in Low-Income (Subsidized or Public) Housing .....	45
<b>Utilities – an Overview</b> .....	46
Applying for Services .....	46
Utility Deposits.....	46
Electricity and Gas.....	46
Water.....	47
Telephone .....	47

<b>Utility Problems, Solutions and Other Issues</b> .....	48
If Your Landlord Provides Utilities.....	48
Deferred Payment Agreements.....	49
Estimated Bills.....	50
Late Payment Charges.....	50
When a Utility Plans to Shut off Your Service.....	51
Dispute and Complaint Procedures.....	53
Energy Saving Tips.....	54
The Low Income Home Energy Assistance Program (LIHEAP).....	55
LIHEAP Appeals.....	55
<b>Moving Out</b> .....	56
<b>Ending the Landlord-Tenant Relationship</b> .....	57
How to Get Out of Your Lease.....	57
Consent of the Landlord.....	57
Sublet, Assign and Transfer.....	57
Ending an Oral Lease.....	58
Other Possibilities.....	59
<b>Eviction</b> .....	60
Notice and Court Proceedings.....	60
Lock-outs and Changing Locks.....	63
Liability for Rent.....	63
Seizure of Property.....	63
Retaliatory Eviction.....	63
<b>Small Claims</b> .....	64
<b>What Happens When Your Landlord is in Foreclosure</b> .....	66
Checking into Foreclosure before You Rent.....	66
The Foreclosure Process in Illinois: Figuring out Where the Landlord is in the Process.....	67
How Long the Tenant May Continue to Rent a Property after Foreclosure.....	67
Steps the New Owner May Take to Remove a Tenant.....	68

Paying Rent During and After a Foreclosure .....	69
Moving Assistance.....	70
Return of Security Deposit after Foreclosure .....	70
<b>Move-In/Move-Out Checklist</b> .....	71
<b>Where to Get Help</b> .....	76
Making a Discrimination Complaint .....	76
Making a Complaint with the Illinois Commerce Commission .....	76
Need a Lawyer and Can't Afford One? Overview of Services Provided by Prairie State .....	76
How to Reach Prairie State Legal Services .....	77
Local Prairie State Offices.....	78
Other Sources of Legal Help in Illinois.....	79
Legal Help on the Web .....	80

## **Introduction**

This handbook does not explain all there is to know about renting, but it does provide helpful information on your rights and responsibilities as a tenant in Illinois. The Table of Contents gives the titles of all the areas covered in this handbook. This will allow you to read the sections that interest you the most. Like any area of law, landlord-tenant law can be complex, and answers to different questions can overlap. Therefore, many of the sections of this handbook repeat information that is part of other sections or refer to other sections. This repetition was done on purpose, to make it as easy as possible for you to find answers to your questions.

This handbook is not intended to be a substitute for legal advice specific to your situation; it does not replace an attorney. Each individual situation is unique. The information in this handbook applies to general housing situations and should help you avoid many problems before they happen. There are times when it would be wise to talk with an attorney and there are other times when it is essential to do so. That decision is one that only you can make.

If you need to consult an attorney, but cannot afford one and you live in one of the 36 counties served by Prairie State Legal Services, please call the nearest Prairie State office. The offices and telephone numbers are listed at the back of this handbook.

If you live in a county not served by Prairie State and cannot afford an attorney, please contact one of the other federally-funded legal services programs that are also listed in the back of this handbook.

For individuals who are above legal services income guidelines, you may contact either the Illinois State Bar Association Lawyer Referral Program (217/525-5297), a county Lawyer Referral Program, or a private attorney. Also, there are free legal forms and information provided on the Illinois Legal Aid Online website, [www.illinoislegalaid.org](http://www.illinoislegalaid.org).

Some communities in Illinois have their own landlord-tenant ordinances. For example, if you live in Cook County, your rights may be very different from the rights in this handbook. The Chicago Residential Landlord and Tenant Ordinance gives tenants in Chicago rights in addition to the ones provided by Illinois law. A local ordinance cannot take away rights that state law provides. If your community has its own ordinances, those laws may provide you with additional or different rights and responsibilities. Please read the ordinances carefully. You can get a copy at your city or village hall, and possibly online.

**IMPORTANT NOTE:** This handbook was revised in 2016. Laws change often. The handbook is current as of May 2016. Be sure to check online at [www.illinoislegalaid.org](http://www.illinoislegalaid.org) where you may be able to learn about changes that have taken place since this handbook was written.

## **Tips for Renters**

- If you are not in an emergency situation, take the time to choose your house or apartment as carefully as you can. If the place is in bad shape when you rent it, it may be hard later to complain about the conditions. If the property needs repairs, talk about the conditions with the landlord and come to an agreement on the repairs.
- If you do not have a lot of money for rent or you have an unfavorable credit report, you may find that you do not have many good options for renting a house or apartment. Most places you can afford may need repairs. This is one reason that you should not wait until the last minute to look for a place to rent. The more time you allow yourself, the less likely you will be to have to take a unit that is in bad shape. If the house or apartment you choose does need repairs, making an agreement in writing as part of the lease that the landlord will make the repairs is the best course; once you sign the lease the landlord has less motive to agree to make the repairs because you already have committed.
- Do an inspection before you agree to rent and sign a lease. Use Prairie State's Move-in/Move-out Checklist. When you move in, take pictures so you will have proof of any problems which already existed, and can prove you did not cause them.
- Get it in writing! It is almost always better to have a written lease. If a landlord makes a promise to you, for example to make a repair, get that promise in writing.
- Read the lease as well as you can. You need to know what your responsibilities are under the lease. For example, you need to know if any utilities are included in the rent, and which utilities you need to pay. Some leases ban pets or limit people who can visit you. If you violate these types of lease requirements, you may face eviction, so be sure you know what the lease says before you agree to rent.
- Get a copy of your lease and keep it in a safe place! A legal size envelope is a good idea, so that you can keep copies of all the papers about your house or apartment in one place. Keep copies of all communications between you and your landlord.
- Paying your rent is your top priority. Many people think that a judge won't evict them if it's cold outside, if they have children, if they are sick, or if they have no

place to go. That is wrong! Under the law, if you violate your lease, you can be evicted no matter how bad the weather is, no matter whether you have children or how many children you have, no matter what your health is, and even if you have no place to go!

- Get receipts for your rent and security deposit! Pay by check or money order if you can, and get a receipt. If the landlord does not give you a receipt, make one yourself and ask the landlord to sign it. Keep the receipts and anything else you have to prove you paid rent in the envelope where you are keeping your lease.
- Try to keep a good working relationship with your landlord. For example, if the landlord does not make repairs promptly, keep in contact with the landlord to make progress on them. Always be pleasant but be direct about what you need.
- If there are problems with the house or apartment, don't just stop paying rent! There are other ways to try to get the landlord to make repairs.
- If you get a notice of termination of tenancy, a five-day notice to pay rent, or any other notice that your landlord is ending your lease or plans to evict you, contact an attorney. The sooner you get legal advice the better! Prairie State Legal Services has lawyers who have experience in landlord-tenant problems. If you qualify for free legal help, Prairie State can give you advice and possibly represent you in court.
- Your landlord cannot make you leave without a court order. If the landlord locks you out or tries to evict you without a court order, the police might be willing to help. Contact Prairie State to find out whether we can help.
- To help make sure you get your security deposit back, remove all of your things from the unit when you move out. Remove all trash and clean the home. Use the Prairie State Move-In/Move-Out Checklist again to note the condition of the home. Take photos. If possible, go through the home with the landlord, ask the landlord to sign off that he will return the deposit, and hand over all the keys. Otherwise be sure to return the keys to the landlord following the landlord's instructions.

## **Becoming a Renter**

### **Rent a Place You Can Afford**

Whether you are on a fixed income or have a steady job, you must consider the amount you will be required to pay for rent and other housing costs. To know whether or not you will be able to afford a certain home or apartment, you must look at your budget.

First, figure out the lease rent. The lease rent is the amount of money that your lease or your landlord states you will pay. Depending on what is included in the rent you pay your landlord, you may have other expenses for the house or apartment that are not covered in your lease rent. It is important to figure out the total amount of money that it will cost to live in your house or apartment – your total housing costs. Here are some of the expenses for which you might be responsible:

1. The cost of utilities like heat, electricity, natural gas, water, sewer service or garbage collection if your landlord is not paying them;
2. Phone, internet, cable bills;
3. Any additional costs for pets or parking; and,
4. Furniture you might need to buy if the unit is not furnished.

Add all these expenses to the amount of rent in the lease to get your total housing costs. Next, decide whether you can afford this amount. Budget counselors advise spending no more than about 30 % of your take home income on rent and other housing costs. But if you are on a limited income such as Social Security, SSI or TANF, or if you are working at minimum wage, it will be very difficult for you to spend only 30% of your income on rent. Usually one-third, one-half or more of your income will go to rent and other housing costs.

Either way, it is very important to use a budget. To see how much you can afford, take into account the following when budgeting:

Groceries, per month	\$ _____
Clothes, per month	\$ _____
Medicine, per month	\$ _____
Transportation, per month	\$ _____
Laundry, per month	\$ _____
Leisure Activities, per month	\$ _____
Other, per month	\$ _____
<b>TOTAL</b>	<b>\$ _____</b>

Now check to see what you have left from your income. If you work, be sure that you are looking at your income after taxes and other deductions. If you do not have enough to pay rent, you might want to cut back in other areas. If you are not able to cut back in the other areas, then you will need to find an apartment with lower rent.



Your rent is one of your most important expenses because you must pay your rent so you have a roof over your head, but be reasonable. If you do not have enough food for the month after paying your rent, you cannot afford the place. Renting an apartment or a house is a big responsibility and involves a lot of money, so make sure you can afford it.

## Finding the Right Apartment for You

Before you decide to rent, the following tips can be helpful:

1. Read the sections in this handbook on leases and security deposits very carefully.
2. Check how close the rental unit is to supermarkets, laundry facilities, transportation and your place of employment or school.
3. Check with the neighbors in the area for their opinions on the location, the landlord, the safety of the building and the neighborhood.
4. Bring the housing code violation checklist with you and check the unit thoroughly. See the “Housing Code/Apartment Search Checklist” section of this handbook on page 30.
5. Find out if you will be responsible for paying utilities and garbage collection bills. If you will be responsible, check with former tenants about the amount of the bills.
6. If you will be sharing the unit with other people, be sure to visit the unit together when possible. Take a look at the section of this handbook on *Issues that Can Come Up When You Share an Apartment*, at page 19.
7. Make a written list of all furnishings and anything else that the landlord has promised. Have the landlord sign this list and attach it to the lease. Check the condition of all furniture.
8. Check the security of the building. See the *Security and Safety* section of this handbook on page 37.
9. If parking is to be provided, make sure you know where it is and that it meets your needs. Make sure your lease states that you get a guaranteed parking space, especially if you have to pay an extra charge for it.
10. Find out who is expected to take care of the grounds, halls and sidewalks.
11. Check for fire exits.
12. Beware of basement apartments. These are more likely to have bugs, floods and burglars.
13. Turn on water taps, flush the toilet and check the working condition of all appliances.
14. Check under the baseboards and around radiators for holes that may indicate the presence of mice, bugs or air leaks. Check cupboards and dark corners of the kitchen and bathroom for any evidence of insects. Ask about extermination. Is it done on a regular basis? Is this guaranteed in the lease? Are you or is the landlord responsible for payment of extermination services during the lease period?
15. Check to see if the electrical wiring is safe. Are there enough outlets?
16. Find out if there are enough windows to provide adequate light and air. Do windows and locks operate properly? Does the landlord provide screens and storm windows, as may be required by your local housing code?
17. Whatever promises the landlord makes to you, you will want to get those promises in writing. For more information on this, look at *Get it in Writing* starting on page 14.
18. Find out whether the property is in foreclosure. See the information on the rights of tenants in foreclosed properties in this handbook at page 66 for information on how to do this.
19. If you have doubts about the landlord or the property, don't pay a deposit or sign a lease. It is easier to walk away and keep looking for a place that is right for you than it is to break a lease that you regret signing.

## Discrimination and Housing

When you are searching for a house or an apartment, or already living in one, it is important to remember that it is unlawful for a landlord to discriminate against you in housing.

Housing discrimination may occur when a landlord (or other housing provider) treats you less favorably than other tenants *because of* a personal trait that is protected under the laws. Housing discrimination could also occur when a landlord has a policy or practice that more negatively affects one group of people protected under the laws than another group of people. Although housing discrimination could be obvious (for example, a landlord states she does not rent to families with children), often it may be subtle and hidden (for example, a for-rent sign remains posted long after you were told the place was no longer available).

Federal law makes it unlawful for a landlord to discriminate because of certain personal traits. Those traits are race, color, religion, national origin, familial status, sex (gender), and disability. Familial status refers to households with minor children or seeking custody of minor children, or women who are pregnant. No landlord can refuse to rent to you, refuse to talk to you about an apartment, or force you to leave an apartment because of one of these personal traits. These traits are not related to your ability to be a good tenant.

In addition to those traits protected under federal law, Illinois law makes it unlawful for a landlord to discriminate because of age, ancestry, marital status, military status, unfavorable military discharge status, sexual orientation, or order of protection status. In some Illinois cities or counties, local law may protect additional personal traits, for example, source of income or student status.

Both federal and state laws offer special protections for people with disabilities. A person with a disability has the right to request a reasonable accommodation from his or her landlord, and the right to install reasonable modifications in his or her apartment or building. The purpose of a reasonable accommodation or modification is to give a person with a disability equal opportunity to fully use and enjoy his or her apartment. If a landlord refuses to grant an exception to a rule, policy, or service (reasonable accommodation) or refuses to allow a tenant to make a physical change to the property (reasonable modification), this could be housing discrimination.

When requesting a reasonable accommodation or asking for permission to install a reasonable modification that is not obviously related to a visible disability, a tenant may wish to give the landlord a note from his or her medical provider (a doctor, psychiatrist, caseworker, etc.) to support the request. The note should explain how the request helps the patient to fully use and enjoy the apartment despite the effects of a disability. If a landlord intends to deny a request, the landlord must meet with the tenant to discuss possible alternative solutions. This is called the “interactive process.”

Common examples of reasonable accommodations requests are:

- Permission to permanently park in a parking space close to the building because a tenant has a disability that impairs his or her ability to walk long distances
- Permission to have a service or support animal as an exception to a “no pets” policy because the animal assists the tenant as he or she copes with a disability
- Providing a sign language interpreter in order to help a tenant who is deaf or hard of hearing understand important meetings with a landlord
- Allowing a live-in aide to move into a unit in order to provide personal services to a tenant with a disability
- Providing additional snow-shoveling services for a tenant who uses a wheelchair

Other examples of potential housing discrimination include:

- Lying about housing availability  
For example: A leasing agent states, “I’m sorry, it’s just been rented” but the ad is still online for many weeks.
- Refusal to rent or sell  
For example: An agent states, “The owner does not want families with children on the upper floor.”
- Refusal to return phone calls or negotiate for housing  
For example: You do not receive a call back from a landlord after you mentioned in your voice message that you have children, but your friend (who is single without kids) calls the landlord and receives a return call to set up an appointment.
- Refusal to make or provide information about a lease  
For example: A landlord will not provide details about the housing to callers who have a foreign accent, but will release details to people who speak English without an accent.
- Changing terms and conditions of a lease  
For example: Families with children must pay an extra security deposit or people in wheelchairs must change the carpet upon move-out.
- Advertisements that state a preference or limitation based on personal traits protected under law  
For example: “Perfect for couples without children” or “English-speakers only, please.”
- Threats, intimidation, coercion or retaliation  
For example: A landlord refuses to renew a lease after a person with a disability requests a reasonable accommodation.
- Sexual harassment  
For example: The landlord’s agent makes repeated offensive comments based on gender, or the landlord offers to exchange a service, benefit, or discount at the property in return for sexual favors.
- Refusal to show an apartment or steering potential tenants to other locations  
For example: A real estate agent might say to a person of color, “Perhaps you would be more comfortable in another neighborhood” and the offered neighborhood has more people of color living in it.
- Enforcing discriminatory policies  
For example: The manager states: “We only allow one person per bedroom” or “We do not rent to unmarried couples.”
- Enforcing neutral policies that have a large negative impact on people with certain personal traits  
For example: In some areas of the country, a policy that screens out applicants from renting because of an arrest record could affect African-American and Latino men much more negatively than Caucasian men or women. However, there must be a less discriminatory way of screening applicants that would help landlords find tenants who are not likely to commit crime on the property.

If you are denied an apartment or house or experienced some other type of discrimination because of any of these reasons, you have several options.

- If you live in Boone, Lake, McHenry, Peoria, Tazewell, or Winnebago Counties, you can call Prairie State Legal Services' Fair Housing Project at 855/FHP-PSLS (855/347-7757). The Fair Housing Project may be able to negotiate with a landlord, investigate possible housing discrimination through a process called "testing," file a complaint for you, or represent you in court or in an agency proceeding after making a complaint. For more information, visit [www.pslegal.org](http://www.pslegal.org).
- You may contact government agencies at the federal, state, and local levels to make a complaint.
  - On the federal level, call the U.S. Department of Housing and Urban Development toll-free at 800/669-9777. HUD may investigate fair housing complaints or refer them to the Illinois Department of Human Rights for investigation.
  - At the state level, call the Illinois Department of Human Rights at 800/662-3942 or 312/814-6229.
  - To determine if there is a human rights or fair housing commission at the local level, contact city hall or the county government in your area.

## **Basics of Landlord Tenant Relationship**

A good relationship between you and your landlord is important. To help in this regard, BE SURE THAT YOU....

1. Get all agreements and promises in writing.
2. Do not pay any money unless you know exactly what it is for.
3. Are able to afford the rent and want to live there. If you are not sure that you want the place, do not put down a deposit unless you are guaranteed IN WRITING that it is refundable.
4. Get a receipt for all money paid.
5. Know and trust the people you will be living with.
6. Know the landlord's business and home phone numbers and business address.
7. Know the manager of your building and the manager's business and home phone numbers and business address.

### **Get it in Writing**

When you make an agreement with your landlord, roommate, or any individual, a general rule is to always get it in writing. This may seem like advice that is only going to make your life more difficult, but oral agreements are often confused or forgotten entirely and have little weight in court because neither person can prove exactly what was said.

You may want to add things to your lease before you sign it. If your landlord makes oral promises about repairs, utilities, etc., you will want to get these promises in writing. Simply because a lease is on a printed form does not mean you cannot add any provisions or terms that you or your landlord agree upon. Write any additional agreements on both your copy and the landlord's copy. Both of you should initial the additions on both copies. If there is not room on the lease form, write the additional agreement on two pieces of paper, date them, and both of you should initial each copy. Keep your copy of these additional pages with your lease.

You do not need to use legal terms or big words. All that is necessary is that an average person could understand the agreement without explanation. If your landlord refuses to initial or sign provisions added to your lease, you have good reason to doubt that he or she will honor the agreement later. Landlords are business people and understand that initialing or signing an agreement will make it binding. If they intend to honor the agreement, they should not hesitate to sign it.

Once you move in, if you develop problems requiring the need for changes or repairs, make a request to your landlord in writing. A polite note, dated and signed, requesting the repairs needed is all that is required. Keep track of the dates of letters sent and the repairs requested so that you can refer to them later if needed. It is a good idea to make a copy for yourself of every letter you send. If there is any delay in getting work done, do not accept oral promises, but ask that the landlord provide you with a letter stating what work will be done and when. The letter should be signed by the landlord and dated. If your landlord does not want to send a letter, write a note from the landlord to yourself stating, for example: "I will repair (e.g., the broken door) in the apartment located at (address) as requested by (tenant) on (date)." Ask the landlord to sign and date this note. If he or she will not sign it, then you have reason to doubt that he or she will honor the promise. See the section of this handbook, *What to Do If the Landlord Does Not Make the Repairs*, on page 23. If you have communicated with your

landlord about repairs to your residence through text messages, be sure to screen shot the messages, and save them by emailing yourself or printing all your messages. These messages to and from the landlord can be used later in court to show knowledge of the issues and an agreement or refusal to make repairs.

This same procedure is often necessary between two unrelated tenants living together (roommates, significant others, etc.). Tenants should write out their agreements about how they will share rent, food, utility and any other costs; they should date and sign the agreements.

**IT IS ESPECIALLY IMPORTANT THAT YOU GET AND KEEP YOUR OWN COPIES OF THE LEASE AND ALL CORRESPONDENCE BETWEEN YOU AND YOUR LANDLORD. ALSO, IF YOU PAY CASH FOR RENT, FOR A DEPOSIT OR FOR ANYTHING ELSE, GET A RECEIPT AND KEEP IT. WITHOUT A RECEIPT, YOU CANNOT PROVE THAT YOU ACTUALLY MADE THE PAYMENT. WRITE YOUR OWN RECEIPT (INCLUDING NAME, ADDRESS, REASON FOR PAYMENT AND AMOUNT) IF THE LANDLORD DOES NOT PROVIDE ONE, AND ASK HIM OR HER TO SIGN IT.**

### **Making a Deposit on a Rental Unit**

Some people pay a deposit before signing a lease or moving in, so that the landlord will hold the apartment for them. If you decide to rent somewhere else, you may have problems getting your money back. As long as the landlord is still willing to rent to you, he or she may not be obligated to return your deposit to you. If you are not sure that you want a particular housing unit, do not make any payment unless you are willing to give up that money if you change your mind. If you give the landlord any money, get a receipt. If you have an agreement that the money will be returned if you decide not to rent, be sure the agreement is in writing. An agreement to return a deposit to you can be written on the receipt and initialed and dated by both you and the landlord. For example: “(Landlord) agrees to return to (tenant) the amount of (\$) given as deposit on (address) if (tenant) decides not to rent.” Signed and dated.

## Know Your Landlord

When you are renting an apartment, both you and your landlord have certain responsibilities. Therefore, it is important to know the name, address and phone number of your landlord. If the person you are dealing with is a manager, make sure you know his/her name, address and phone number and find out who owns the property. Make sure you know where to pay your rent and where to contact your landlord for repairs or problems.

You may also want to check to be sure the property you are planning to rent is not in foreclosure. The section of this handbook called *What Happens When Your Landlord is in Foreclosure*, on page 66 has more information about this.

If you wish to find additional information about your landlord, here are some suggestions:

1. Phone books and directory assistance have phone numbers and/or addresses; you might also be able to find the information online.
2. If your landlord has ever sued anyone, his or her name and address will be recorded in the plaintiff's index at the Circuit Court Clerk's Office. You can also check [www.judici.com](http://www.judici.com) or your circuit clerk's website to see if court records are available online for your county of residence.
3. The County Recorder's Office holds information about deeds and mortgages.
4. The Tax Assessor's Office holds the records that give the value of properties. It also records the amount of property taxes and who pays those taxes. If the landlord is behind in property taxes, this could be a sign that he or she will also not have the money to take good care of the property.

Making sure you can reach your landlord can make your life much easier. If problems do arise, knowing where to reach your landlord may be essential.



## **The Written Lease**

A rental agreement is often in the form of a written lease between the lessor (the landlord) and the lessee (the tenant). As a general rule, it is best to get a written agreement when you rent because you are guaranteed you can rent the place for a set period of time. You do not have to worry about rent increases during the lease, and the tenant's and landlord's responsibilities are stated more specifically than in an oral agreement. Again, if the landlord made promises to you when he or she rented the apartment, for example that he or she would make certain repairs before you moved in, it will be very difficult to enforce those promises if they are not written in as part of the lease.

### **Read Your Lease and Talk with your Landlord about Making Changes if Needed**

Make sure you read your lease carefully so you understand what you are agreeing to. If the landlord is rushing you or if there are things that you do not understand, do not sign the lease. Take the lease to someone who can help you, and go through it slowly. Make sure you understand everything in the lease. Then, if you are satisfied, sign the lease and return it to the landlord for his or her signature. Remember – if you are signing a 12-month lease, you are agreeing to pay the monthly rent for 12 months. Make sure that you know what you are getting for this large amount of money. If you find some things in the lease that you do not like or that are different from what your landlord said, try to have them changed. You and the landlord can remove items from the lease by drawing a dark line through them and then both you and your landlord initialing the changes. The lease will replace any oral agreements if they were different from what the lease says. Do not change the lease on your own because changes made by just one person are not part of the contract. If the landlord does not agree to changes that you believe are very important, you should think twice about signing the lease.

### **What to Look for in a Lease**

As mentioned earlier, be sure to read your lease before you sign it. If there is something which you do not understand, take the lease to someone who can explain it to you before you sign it. The following essential information should be included in your lease.

1. The amount of rent, who is responsible for payment of the rent, and when and where the rent is due.
2. The address of the rental property and any storage, parking or other property related items.
3. Information on who is responsible to provide and pay for utilities.
4. The lease should state a specific term (length of time) for the agreement, for example one year.
5. The lease should not contain any blanks.
6. Make sure the lease agrees with any oral promises the landlord has made to you, such as pet agreements or agreements to make repairs. If any oral promises are not in the written lease, they will not be binding.
7. Make sure you understand any additional costs or fees you may have to pay in the event of a breach, or violation, of the terms of the lease. For example, the lease may state you have to pay an additional fee if you do not pay your rent on time or that you have to pay for the landlord's attorney's fees and court costs if an eviction action is filed against you.
8. Make sure you understand what each clause of the lease means before you sign it.

## **The Oral Lease**

### **An Oral Lease is a Lease**

If you pay rent, but have not signed a written lease, then you and your landlord have an oral lease agreement. This is a binding contract. Generally, these agreements are from month-to-month, although they may be from week-to-week or for any period of time as long as it is less than a year. The rental period begins on the day your rent is due and renews itself automatically. This oral lease will run until it is properly terminated.

There is one advantage with an oral lease agreement – you are not bound for more than one rental period. However, the disadvantages of not having a written agreement should cause you to be uneasy about having an oral lease. Your rent may be increased to any amount at any time with very little warning. Also, you can be evicted at any time with very little warning. Problems may also arise between you and your landlord over unwritten “rules and regulations” that you know nothing about, or because you disagree about the specifics of the lease, such as who is responsible for paying for utilities.

The advantage of an oral lease is that you are not bound to pay rent for the property for a full year as you are with a typical written lease. You have the right to end the lease on one rental period’s notice. Your landlord has the same right. There is more information on ending an oral lease in the section of this handbook titled *Ending an Oral Lease*, on page 58.

### **Rent Increases under an Oral Lease**

Rent increases on an oral lease are much the same as a notice to move; just as the landlord can end the lease on one rental period’s notice, he or she can raise the rent on the same short notice. See *Ending an Oral Lease*, on page 58. Your landlord should not raise the rent without first giving you a full rental period’s notice of the increase in writing. With an oral lease, if the landlord gives you proper notice that the rent is increasing, the landlord does not need your agreement. If you do not want to pay the higher rent, you can move instead of paying the increase in rent; however you still must give your landlord proper notice of your intent to move. If you have a written lease, your rent cannot be increased until the end of the lease. This is another reason that you may want to avoid an oral lease.

## **Issues that Can Come Up When You Share an Apartment**

### **Everyone Who Signs the Lease Owes the Rent**

Your lease is a contract between you and your landlord. The person who signs the lease as a tenant is required to pay the rent. Problems may arise where two or more people have rented an apartment together and have agreed among themselves to pay their fair share of the monthly rent. Later, one of the tenants moves out and stops paying rent. The tenant(s) who remains in the apartment is legally required to pay the full amount of the rent to the landlord even though that was not the deal that was made between the roommates. Under Illinois law, each tenant who signed the lease is responsible for the full amount of the rent due. This means that, in the event of a dispute, the landlord could sue you, your roommate or both of you, no matter who failed to pay his or her share of the rent. The tenant who remains would be the person called to court, possibly evicted, and left owing all the rent by court order.

There are two ways to avoid this problem. One way is to ask your landlord to include a clause in your lease which requires each tenant to pay only her/his part of the total rent (pro-rated) and releases each tenant from the liability for the other tenants' payment. For example, the following clause could serve this purpose: "Landlord and tenants hereby agree that each of the undersigned tenants is not jointly and severally liable for the failure of any of the other undersigned tenants to perform any of their obligations under the lease. Further, in the event of legal action by the landlord to recover rent due under this lease, the liability of any individual tenant will be limited to (the percentage you agree to pay) of the total amount of rent due under the lease. The preceding sentence shall not be construed to impose liability upon any individual tenant where such liability has been relieved under the first sentence of this clause." The landlord may not be willing to agree to this type of clause; from the landlord's point of view, this clause could make it harder for the landlord to collect the rent for the property, and there is no real advantage to the landlord to agreeing unless you agree to offer something in return, such as a higher security deposit.

The other way is to be very careful in choosing a roommate. If there is a chance he or she may move out and leave you paying all the rent, you should think twice.

### **Other Roommate Considerations**

Be careful about the person with whom you decide to live. Generally, if two or more people move in together or sign a lease together, all of them are liable for the terms in the rental agreement. This means that if your roommate does not pay her/his half of the rent one month, the landlord can sue either you, your roommate or both of you for the total rent. It is the landlord's choice. If your roommate disappears without paying the rent and you are the only one the landlord can find, then you are the one he or she will sue for the total rent.

The same is true with other parts of the rental agreement. If you and your roommate agreed with the landlord there would be no pets and your roommate gets a dog, the landlord may evict both of you for breaking the lease, even though it is not your dog.

Once again, it is good to get it in writing, even between roommates. Write down who is to pay what and have all the roommates sign and date the agreement. This may not guarantee good roommates, but it will guarantee some evidence of an agreement if you have to sue a roommate for his or her share of the rent or bills.

## **Moving In**

Once you know where you are going to be living, there are a few things you should do immediately to make your apartment your home.

1. Get your landlord's name, address and telephone number. Also, get the name, address and telephone number of the manager of the property if it is a different person than the landlord. More sure you get the name and telephone number of a person to contact in case of emergencies if it is a different person than the landlord or manager.
2. If you have not already done so, ask your landlord which utility bills you are responsible to pay. This could include electricity, gas, water, sewer, garbage collection and telephone. Usually if you must pay for them, then you are responsible for having them turned on. Make arrangements before you move in to have these turned on and have the meters read. By planning ahead, service can be scheduled the day you move in.
3. Put the names of everyone living in the apartment on the mailbox as soon as possible. The post office may not deliver mail to you until this is done, even if the mail is properly addressed. As a safety measure, you should list only the first initial and last name of each resident.
4. Before you unpack anything, it is a good idea to check for roaches, bedbugs, ants, or signs of rodents. If the lease says your landlord is responsible for spraying for bugs and rodents, make sure your apartment has been sprayed recently. If it has not been sprayed, ask the landlord to do it. If he or she agrees to do it, get the agreement in writing. If your landlord refused to spray, find out if the law in your area says he or she is responsible for doing it. See the section of this handbook titled *Housing Code/Apartment Search Checklist*, on page 30. If the landlord is refusing to spray even though the lease or housing code says the landlord is responsible, this is a sign that there may be other problems ahead.
5. Make a list of the conditions in your apartment. At the end of this handbook, on page 71, is a form for listing the conditions: Moving In/Moving Out Checklist. It is a good idea to take pictures of the unit when you move in and date the pictures. Keep the list and the pictures in a safe place; this place might be with a close friend or family member. An additional way to make sure you have access to the photos if you need them is to email them to yourself in case your phone is lost or destroyed. This list and the photos are particularly important if you are concerned about the landlord keeping your security deposit or accusing you of causing damage to the apartment. Also, the building may be sold to a new landlord who would not know about pre-existing damage and may blame you.
6. Find out if your landlord has insurance to cover loss or damage to your personal belongings due to theft, fire, vandalism, smoke, natural disaster, etc. If not (which is generally the case) you may want to check into the possibility of renter's insurance. In fact, some leases require the tenant to get renters' insurance, so be sure to read your lease carefully. Usually, these policies cover loss or damage to all of your personal belongings for a reasonable sum. Renter's insurance does not include insurance for the apartment itself. Various policies cover different things, so ask an insurance agent about the different types of coverage. Check around because rates do vary.
7. Check the security of the apartment. This is explained in the section titled *Security and Safety* on page 37.

8. You may want to have your apartment inspected by the housing code enforcement department before you move in. See the section titled *Housing Code/Apartment Search Checklist* on page 30.

## **What to Do When Your House or Apartment Needs Repair**

### **Your Options When Your House or Apartment Needs Repair:**

There are a number of steps you can take if your rented house or apartment needs repair. This is a summary of the steps you can take; there is more specific information about these steps on the next pages of this handbook.

1. Continue to pay your rent even if the problems with the condition in the house or apartment are serious. If you do not pay your rent, you could be evicted, even if the landlord fails to make the repairs.
2. Start by telling the landlord in writing about the problem and asking the landlord to make the repairs. Keep a copy of the note or letter you give to the landlord.
3. If the problems are serious and the landlord does not act quickly to make the repairs, you can try to talk to the landlord about lowering your rent. Get any agreement to lower rent in writing.
4. Make the repairs yourself (but only if you are qualified to do the repairs) or hire a licensed contractor to make the repairs. Ask the landlord in writing to repay you for the costs of the repair.
5. If you cover the cost of the repairs, you still need to pay your rent while you try to get the landlord to reimburse you. In most situations, Illinois law does not allow a tenant to deduct the cost of repairs from rent. If you are considering deducting repair costs from your rent, be sure your situation is one of those in which Illinois law or a local ordinance lets you do this, and follow the rules exactly.
6. Call the local government office which is responsible for health or building code violations. An inspector will come to the property and may order the landlord to make repairs. Your landlord is not allowed to evict you in retaliation for calling a government office about a legitimate code violation, but you need to pay your rent to be protected by this rule.
7. If the landlord still does not make the repairs and the conditions are very bad, you can talk with your landlord about ending the lease early. If you do make an agreement to end the lease, be sure to read the information on page 57 of this handbook about ending a lease early.
8. Take photos of the problem conditions so that you will have a record.
9. You may be able to file a lawsuit to ask the judge to order the landlord to make the repairs. This kind of lawsuit is usually complicated; talk to a lawyer if you are considering this option.
10. You can be evicted for not paying your rent, no matter how bad the conditions are in the house or apartment. In some cases a judge might say you do not owe the full rent and not evict you, but you should never count on this. You are in a better position to get the repairs made if you pay your rent and take the steps here to get your landlord to make the repairs.

## **Getting Repairs Done -- Start by Notifying Your Landlord**

Whenever you have a problem with your apartment or house, you should report it to your landlord. This is why it is so important that you have his or her phone number and address. Your landlord cannot be expected to know all the problems that arise once you move in, so it is your responsibility to inform him or her of any problems. Hopefully, once the landlord is made aware of the problem, he or she will take care of the problem quickly. If you make any oral requests for repair, be sure to keep a record of the date and time you made the request.

Generally, it is a good idea to report all problems in writing and keep a copy of the letter. That way, your landlord is less likely to forget your request and hopefully will take you more seriously. Also, in some instances, you may have to prove later when you reported a problem. (For example, a broken furnace which causes a lack of heat and makes pipes freeze and burst could be considered your fault if you did not report the broken furnace to the landlord within a reasonable time.)

If you want immediate action, it is best to call your landlord or talk to him or her in person and tell him or her exactly what is wrong. Then, follow up the call with a polite letter that is signed and dated. Keep a copy of the letter for your records.

Your landlord should make repairs in a reasonable amount of time. In deciding what a reasonable amount of time is, try to be fair. A broken furnace in the middle of winter or a toilet that does not flush should receive immediate attention. A broken garbage disposal or loose floor tiles are not as important, especially if other tenants are having more serious problems.

If the landlord is just taking too long to make needed repairs, be persistent so that your landlord would rather make the repair than listen to you. In some cases, neither politeness nor persistence will get the repairs done. You will then have to contact an attorney or the government agency in your area that deals with building conditions, or you may be able to take one of the other steps discussed below. See the sections titled *What to Do If the Landlord Does Not Make the Repairs* on page 23 and *Housing Code Violations* on page 28.

Make sure that you have been firm with your landlord and asked for the repairs in writing more than once before contacting an attorney or agency. Be sure to take photographs of the damage for your records.

Remember that you have an obligation to keep the property in good condition. If you caused the problem needing repair, the landlord is probably not going to be responsible for paying for the repair. On the other hand, the landlord probably *does* have the right to have the repair made and then send you the bill.

### **What to Do If the Landlord Does Not Make the Repairs**

If you have made requests for repairs and have been persistent and your landlord still refuses or fails to make repairs, there are several things that you can do. They are discussed in more detail below and include:

1. Entering into a rent settlement agreement with the landlord to reduce the rent.
2. Making the repairs and deducting the cost of repair from your rent.
3. Reporting housing code violations to local housing officials.
4. Withholding rent (not recommended).

## **Agreements or Settlements with the Landlord to Reduce the Rent**

It may be possible to make an agreement with your landlord to return some of the rent you have paid, or to reduce the rent you owe in the future if there are problems that make the premises or any part of it inconvenient or otherwise not useful. Remember you are paying rent for a livable unit with certain services. If you are not getting a livable unit, you are not getting what the landlord promised and some sort of adjustment or payment may only be fair.

For example, if the roof leaks consistently, and in several places, and the landlord cannot or will not fix it, you are not getting the livable unit you are paying for. In cases such as this, you are entitled to a reduction in your rent or some payment for the inconvenience. Suggest some type of arrangement to your landlord. If your landlord refuses, it may be possible to sue him to get a reduction or refund. See an attorney.

If your landlord does agree to a reduction or refund, make sure you get it in writing. Have the landlord sign and date a written statement clearly explaining that you may deduct a certain stated amount of dollars from your next rent payments. If you do not get such a written statement, you may find yourself facing an eviction for non-payment of rent because your landlord has changed his or her mind about the refund or rent reduction.

## **Repair and Deduct -- Hiring a Repairperson and Deducting the Cost from Your Rent**

Many people think that if their landlord refuses to make repairs, they can make the repairs themselves and deduct the cost of those repairs from the rent. This is a tricky area of the law, and you will want to be very careful if you decide to take this route. In Illinois, there is a law allowing tenants to repair and deduct under some circumstances. If you decide to repair and deduct in a situation not covered by the law, you risk being faced with an eviction for non-payment of rent.

### ***The Residential Tenants' Right to Repair Act***

The Illinois Residential Tenants' Right to Repair Act allows you to hire a licensed tradesman or supplier to make the repair and pay the bill yourself, and then deduct the cost of repair from your rent. However, this law only applies under certain circumstances and provides a right only for certain repairs. Also, you must take special steps (described below) to comply with the Act. Read the rest of this section to find out if and how you can take advantage of this law. Again, if you decide to repair and deduct in a situation not covered by the law, you risk being faced with an eviction for non-payment of rent.

### ***What types of repairs are covered under the Right to Repair Act?***

The Act only applies to repairs that are required by the lease, or by law, administrative rule or local ordinance or regulation. You cannot deduct the cost of repair from your rent if you caused the damages by a deliberate or negligent act or by a failure to do something you were supposed to do. Also, you cannot deduct the cost of repair from rent where your family members or other persons you allowed to be in your apartment caused the damages.

### ***Are all types of rental housing covered under the Right to Repair Act?***

No. The Act does NOT apply to:



1. Public housing;
2. Condominiums;
3. Residential cooperative housing;
4. Commercial tenants;
5. Residences with six units or less, if the owner lives on the property; or
6. Mobile homes located in a mobile home park.

If your housing falls into one of the categories listed above, then you cannot deduct the cost of repairs from your rent under the Right to Repair Act. If your situation is not covered by the Act, then you may still be able to repair and deduct in some situations. See the section titled *What if the Right to Repair Act does not apply to me?* on page 26.

***Is there a limit to the amount that can be spent on any particular repair under the Act?***

Yes. The amount you can deduct depends on your monthly rent:

1. If your rent is \$1,000 or more – you can take up to \$500 out of your rent for a covered repair.
2. If your rent is \$999 or less – you can take up to half of your rent for a covered repair.
3. Also, the amount you deduct cannot be more than the reasonable price that is usually charged for the repair.

***Do I have to notify my landlord before I hire someone to make the repair?***

Yes. You must tell the landlord in writing that you are planning to have the repair made at the landlord's expense. You must send the letter through registered or certified mail to the landlord's address shown on the lease, but if there is no address listed, you must send it to the most recent address you have for the landlord.

***After I notify my landlord, can I then have a tradesman or supplier make the repair?***

After notifying the landlord in writing, you must wait 14 days to allow the landlord to make the repair. If the landlord fails to make the repair within 14 days, then you may have your tradesman or supplier make the repair. If there are emergency conditions that require the repair to be made sooner, the repair can be made immediately. Emergencies include any conditions that will cause irreparable harm to the apartment if not immediately repaired or any condition that poses an immediate threat to you or to your household members' health or safety. Remember: you may not make the repair yourself.

***Do I have to follow any special rules for making the repair?***

- The repair must be made in a workmanlike manner;
- It must be made according to the appropriate law, administrative rule, or local ordinance or regulation;
- It must be completed by a tradesman or supplier who holds a valid license or certificate as required by State or municipal law;
- The tradesman or supplier must be insured to cover any bodily harm or property damage they cause;
- The tradesman or supplier cannot be related to you.

***Do I have to give my landlord anything after the repair has been made?***

You must give your landlord a paid bill from the tradesman or supplier and the tradesman or supplier's name, address, and telephone number before you may deduct the amount from your rent. This means that if you do not have the money to pay for the repair, you will not be able to use this repair and deduct option.

***Can my landlord evict me for not paying rent if I repair and deduct?***

No, your landlord should not be able to evict you. **But:** you need to make sure you follow all of the rules explained here. If you fail to do any part of the repairs and deductions properly, then your landlord may have the right to evict you. If you receive an eviction notice, contact a lawyer immediately.

***What if the Right to Repair Act doesn't apply to me?***

If the Act doesn't apply to you, then you may still have the right to make repairs and deduct the cost from your rent if there is a local ordinance permitting you to do so. You should check your local ordinance to find out your rights as a tenant. If you are not protected by the Right to Repair Act or by a local ordinance, then to assure that you will not be evicted for non-payment of rent, you should pay your full rent even if your landlord hasn't made repairs.

However, under certain circumstances, even where there is no applicable law or ordinance, some judges will not evict a tenant who makes repairs and deducts the cost from rent. It depends on the seriousness of the problem or whether a lease requires the landlord to repair and the landlord does not make repairs. Every judge is different, so if you decide to make a repair and deduct the cost from your rent, you are taking a big risk. Problems are usually considered serious when they involve essentials, such as heat, electricity, plumbing, water or security. You should have the premises inspected in order to help determine if the violations are serious. If they are serious and violate the local housing code, the inspector will request that the landlord make the repairs, so you may not need to use the repair and deduct option. If the problem does not violate the housing code or other laws, you probably should not repair and deduct, unless your lease permits it.

If you do decide to do a repair and deduct that is not allowed under the Right to Repair Act, you should be sure to notify the landlord in writing and give him or her a chance to make the repair first. Keep a copy of your letter. Make copies of all receipts to show what you actually spent on the repairs; give the landlord copies of the receipts and keep the originals in a safe place.

## **Rent Withholding -- Refusing to Pay Rent (Not Recommended)**

Many times people feel that if their landlord refuses to make repairs or if the place they live in is “bad enough,” they do not have to pay rent. Oftentimes, tenants are misinformed by other people who tell them that this is true. *No matter who tells you that you do not have to pay rent, that person may be wrong. Under Illinois law, you have no right to withhold or refuse to pay rent no matter how “bad” the place is.* There may be a local ordinance that allows you to withhold rent. Check with an attorney in your area to see if such an ordinance applies to you. If there is no applicable ordinance and serious repairs are needed in your home but the landlord has refused your requests to make repairs, then you must decide whether withholding your rent is worth taking a chance that the landlord will attempt to evict you for not paying the rent.

### ***Can I be evicted for withholding rent?***

Yes! If you decide to withhold rent, the landlord may try to evict you, but a judge would have to make that decision. A judge might not evict you for withholding rent if you can prove that the housing code violations are bad, but you have no legal guarantee that the judge will rule in your favor. If the landlord wants to evict you for withholding rent, before taking you to court the landlord is required to send you a notice demanding that you pay rent within the five days; if you do pay within the five days, your landlord cannot evict you.

### ***What should I do if I decide to withhold rent?***

1. Write the landlord a letter requesting that the landlord make repairs and inform him or her that you will withhold rent if he or she does not make repairs.
2. Send this letter certified mail with return receipt or hand deliver it to the landlord in front of a witness.
3. Keep a copy for your records.
4. Hold onto the rent money and do not spend it.

## **Warranty of Habitability Rights**

In all agreements to rent real property, whether oral or written, the Illinois courts will imply a promise from the landlord to the tenant that the premises will be kept in a livable condition. This promise is called the “warranty of habitability”; it is part of oral leases, and it is part of written leases even if it is not spelled out. Generally, “livable condition” means that the unit you are renting should be free from housing code violations. If you are living in an area that does not have a housing or building code, the unit you are renting should at least have heat, hot and cold water, no leaks in the roof, and a solid structure; be free from bugs, rats and mice; and be safe.

If there are conditions or housing code violations that negatively affect living in the premises, you may be able to break your lease, sue your landlord for damages, or sue your landlord to make repairs. If you feel your landlord has violated his or her promise to provide you with a livable dwelling and you are unable to correct the problems, see an attorney before you break your lease.

## Housing Code Violations

### *What are housing codes?*

Housing codes set minimum housing standards that all residential property in a village, city, or county must meet. These standards are adopted by villages, cities, and counties to ensure safe and sanitary housing for their residents. Generally, major things such as heat, water and sewer facilities, electricity, structural defects, bugs, mice, rats, etc. are covered by housing codes. You can use the “Housing Code Checklist” at the end of this section to determine if you might have code violations.

If you live in a village or rural area, there may not be a housing code unless the county has adopted one. To find out whether your city, village or county has adopted a housing code, you will need to contact city, village, or county staff members. Some cities, villages and counties have put their housing code information onto their websites; visiting the website is another way for you to check. Housing codes vary from area to area. It may be possible for you to determine whether there are any existing housing code violations in a dwelling you are considering renting by contacting your city or village hall or the city’s housing code enforcement department. Note that these departments have different official names in different cities and counties. In this handbook, we will call them housing code enforcement departments.

### *Acting on possible housing code violations*

If you are fairly sure that there are violations, follow these steps to address the problems. If the problems are of a serious nature and threaten your health, safety or welfare, follow the directions in the next section of the handbook, *Acting on Serious Housing Code Problems*, below.

1. Keep paying your rent. As was explained in an earlier section, under Illinois law you have no right to withhold or refuse to pay rent no matter how “bad” the place is, unless your situation falls within the Illinois Right to Repair Act or a local ordinance that allows you to withhold rent. Check with an attorney in your area to see if such an ordinance applies to you.
2. Check your lease to see if you are responsible for fixing some of the problems you identified. Usually, the tenant is responsible for a minimum of good housekeeping. In most cases, your landlord is responsible for correcting housing code violations. If you have any doubts, seek help.
3. Explain the problem to the landlord. The landlord may not even know of the problem if you do not notify him or her. If the problem is likely to cause further damage to the property, it is important that you notify the landlord immediately. For example, a serious leak in the roof or plumbing can create damage to walls or ceilings. As always, put in writing what you told the landlord. Give the landlord a copy and keep a copy for yourself.
4. If the problem is not fixed within a reasonable time, remind the landlord again. If he or she still does not respond, contact the housing code enforcement department, explain the problem, and request an inspection. Be sure to call them before you have missed a rent payment or damaged the premises.

The landlord cannot evict you for requesting a housing inspection as long as violations exist. State laws prohibit a landlord from evicting a tenant because the tenant called the housing code enforcement department. The landlord may still evict the tenant for not paying rent or for breaking the lease, but he or she may not evict the tenant solely for calling in the authorities.

### ***Acting on serious housing code problems***

If the violation is a major one and presents serious danger to your health, safety and welfare, you should contact the housing officials of your municipality or county immediately. A phone call is enough to start the process. Avoid general statements such as “the place is a mess.” Be exact. If the roof leaks, say it. If the toilet does not flush, say it. Be specific about which rooms need to be fixed.

Usually within a day or two after receiving your complaint, the housing code enforcement department will make an inspection. If a genuine emergency exists, call and explain the situation. The code enforcement officer may do an inspection the same day you make your complaint. Once your rental unit has been inspected, it is not likely the problem will be solved immediately. Be sure to ask for a copy of the inspection report for your records.

### ***What happens after I report a housing code violation?***

Housing code enforcement departments answer tenants’ complaints and inspect all residential property within the city or county to make sure it is safe and healthy. Call them when you have problems with your apartment or house and the landlord has refused your request for repairs. The following are the typical steps that will be taken after you contact the housing code enforcement department.

1. An inspector from the housing code enforcement department will usually respond to your complaint within a few days.
2. If the inspector finds a violation of the housing code, they will notify the landlord by letter listing all the violations they have found. The letter will set a time limit for the landlord to make repairs. The length of the time limit will vary according to the problem.
3. The department will usually follow up and check to make sure everything is fixed. If the repairs do not occur, you may want to contact the inspector to ask about the status of your complaint.
4. If the landlord fails to make repairs after this follow-up, the city or county may sue the landlord, fine him or her, or prohibit the re-renting of the premises, depending on the seriousness of the repairs needed.

Note: If the violations of the housing code are serious, the building inspector may condemn the apartment for occupancy and you may have to move; however generally the inspector will give the residents time to vacate (for example, 30 days).

## **Housing Code/Apartment Search Checklist:**

The following checklist is a general overview of many of the most common issues that are addressed by housing codes. You should use this list when looking at an apartment or house you are about to rent; if there are serious problems, you should think about looking for a different place to rent. You also can use the list to think about problems in the apartment you are living in to figure out whether there might be housing code violations. Read through the list and check each statement that is true. Ideally you will be able to check off each item. If there are items that you cannot check off, they may represent a housing code violation. If you have any questions, contact your city or county's housing code enforcement department.

### *Exterior and Common Areas:*

- The hallways and/or stairways have natural or electric light at all times.
- The roof does not leak.
- The outside areas are free of standing water and kept clean.
- There are hand railings where there are three steps or more.
- The porches are safe.
- There are no holes, cracks, or loose or rotting boards in the exterior walls or foundation.
- There are sufficient garbage cans with lids for the outside.

### *Windows and Doors:*

- Every room has at least one window or skylight that can be opened, except for the bathroom, laundry, furnace, pantry, kitchenette, or utility room.
- The locks on all exterior doors work properly and will insure your safety.
- There are two or more safe ways to get out of the house or apartment.
- Wind or rain does not enter the house or apartment through the doors or windows.
- There are no broken windows.
- All the windows operate properly.
- There are screens on all the windows.

### *Bathroom and Kitchen:*

- The kitchen has cabinets and shelves.
- The drains, toilets, sinks and other plumbing fixtures work well.
- If the bathroom has no window or skylight, there is a fan which vents to the outside that works properly.
- The bathroom and kitchen floors resist water and are easy to keep clean and sanitary.
- The stove and refrigerator are safe and in good repair.

\_\_\_ All of the sinks, bathtubs and showers are supplied with hot and cold running water (hot water should be at least 120 degrees F. at any time needed).

*Bedrooms:*

\_\_\_ You can get to the bathroom or other bedrooms without going through someone else's bedroom.

*Electric, Gas and Water:*

\_\_\_ If the water heater is gas burning, it is vented to the outside. (It is not in your bathroom or bedroom.)

\_\_\_ All electrical outlets, switches and light fixtures operate properly.

\_\_\_ There are no pipes that leak.

\_\_\_ The water is safe to drink and does not contain lead. See the note below on how to find out about the quality of the water.

*General:*

\_\_\_ The dwelling is always maintained at a minimum temperature to ensure health and safety.

\_\_\_ The heating system works when the outside temperature is below 60 degrees F.

\_\_\_ There are no signs of infestation of insects or rodents in the dwelling. See the note below on how to tell if there might be insects or rodents.

\_\_\_ There are no poisonous or toxic paint or materials used on the walls and ceilings.

\_\_\_ The premises are free from debris and garbage that might breed pests.

\_\_\_ The basement does not flood.

\_\_\_ None of the walls or ceilings leak.

*Tenant-Related or Housekeeping Problems:*

\_\_\_ The property is sanitary and free from garbage and rubbish. (Some people feel that cleanliness is just a matter of lifestyle. That is true within limits. You may have the right to live in a mess, but if it causes rodents and pests that hurt other people in the building, then you are infringing on others' rights.)

*Signs of infestation of insects or rodents:* How do you know if a house or apartment that you are thinking about renting may have insects, mice or rats? Signs of mice or rats can include droppings (feces), tooth or gnaw marks at baseboards or cabinets, and burrow holes. There is good information about the signs of mice or rats at this website from Cornell University:

<http://www.nysipm.cornell.edu/publications/evictmice/inspect.asp>

Bed bugs have become a serious problem. If you move into a house or apartment that has bed bugs, they will spread to your mattresses and furniture. If you already have bed bugs in your furniture, you should not move that furniture in to a new apartment. There is good information about finding bed bugs at these websites:

<https://www.epa.gov/bedbugs/how-find-bed-bugs>

<https://entomology.ca.uky.edu/ef636>

You also want to look for signs of cockroaches. Roaches generally are awake at night, so they might be hard to spot. If you see roach activity during the day, it means that the nests are so large that some roaches are being thrust out. German cockroaches also tend to emit a certain odor that, when concentrated due a large population, may give the area near the infestation an oily, musty, smell. Another sign is the presence of cockroach feces, which are best described as resembling coffee grounds. These droppings will typically be left behind on counter tops, under sinks or anywhere else the roaches are scavenging. Typically, you will also find dead roaches around the house if there is an infestation.

*Finding out about the quality of the water:* Water quality has been in the news in 2016 because of the lead which was found in the water in Flint, Michigan. You cannot see, smell or taste lead in water. The only way to know if it is there is to have it tested. Water tests can also show if there are bacteria or other problems with the water. It is a good idea to ask the landlord the source of the water, for example, is it well water or city water? Ask the landlord if the water has been tested recently and ask him or her to show you the results of the test. Some cities or counties offer free or inexpensive water testing. If you are concerned, you can ask the landlord to have the water tested or arrange for a test yourself. Here is information from the U.S. Centers for Disease Control and Prevention about lead in drinking water:

<http://www.cdc.gov/nceh/lead/tips/water.htm>



## **Damage and Security Deposit**

### **Payment**

When you rent, you will probably be required to pay a security deposit with the first month's rent. THE DEPOSIT IS NOT RENT. If you have a written lease, it will generally state what your deposit will cover. Some leases state that the deposit is only for damages done to the unit if it is not left in a clean condition. Other leases may state that the deposit will be used for payments of rent or late payments of your utility bills.

If you do not have a written lease and there is no specific agreement regarding the damage deposit, it is likely that the deposit will be used for cleaning and repairs that exceed normal wear and tear. Any portion of the deposit not used for this should be returned to you after you move out, as long as you are paid up on rent. No matter whether you have a written lease or an oral lease, be sure to get a receipt for any deposit you pay, and keep the receipt in a safe place so that you will have it when you move out.

### **Problems with Deposits and How to Prevent Them**

Most problems with security deposits arise over damages to the apartment or house, or the cleanliness of the unit. Generally, when the tenant is moving out of the apartment, he or she should leave it in the same condition as it was when he or she moved in, with NORMAL WEAR AND TEAR EXCEPTED. Check your lease to see just what things you should do when you move out. For example, your lease may say you have to shampoo the rug, dry clean the drapes, clean the stove and refrigerator, or wash all floors.

If a problem does arise, there is often very little an attorney can do for you if you do not have proof of the condition of your apartment or house when you moved in and when you moved out. To ensure the return of your deposit, follow these tips:

1. Within 72 hours of when you first move in, make a written list of the damages in your house or apartment and note the general condition and cleanliness of the unit. Have both you and your landlord sign and date the list. If your landlord will not sign or cannot inspect the premises with you, have a reliable friend (third party) join you in the inspection and sign in place of the landlord. (The third party can be any adult other than someone you are living with and should not be a member of your immediate family.) If you are able, take pictures of the rooms, appliances, carpet, etc., before you move your property into the residence.
2. Use the *Move-In/Move-Out Checklist* at the back of this handbook on page 71. Check the condition of everything in your apartment or house -- walls, floors, ceilings, appliances, furniture, plumbing, electrical fixtures, the basic structure, etc. Also, look for scratches, bumps, nail holes, and the number of items in each room, such as the number of shelves in the refrigerator, broiler pan in the oven, etc. Once this is done, give one copy to your landlord and keep the other copy yourself. If your landlord does not sign the checklist, you may want to get your signature notarized to indicate the date the list was filled out. Make certain that you keep a copy for yourself.
3. As mentioned before, if there are any damages to any part of your apartment or house when you move in, take a picture and put the date on the back along with your signature. Also, have your landlord sign the picture. If you cannot take a picture, make sure that you follow the steps in numbers one and two above very carefully.

4. When you move out, leave your apartment or house on time, in a clean condition and in good repair. Try to check out with your landlord so you can make a final inspection together. If your landlord makes any final written notes about the condition of your apartment or house, have him or her make a copy of the notes, with his or her signature and date, for you. If this is not a standard procedure with your landlord, make your own inspection report using the checklist and take any photographs you may need. Keep the photos on your phone for at least three months, or longer if there is an issue over your deposit or alleged damage to the property. Email the photos to yourself so that you will have them if your phone is lost or stolen. Again, you and your landlord should sign and date copies of the move-out checklist or, if your landlord refuses, have a third party accompany you and have him or her sign and date the report.
5. Do not sign any move-out sheet that your landlord prepares unless you agree to all remarks and receive a dated copy of the paperwork at that time (so the landlord cannot make changes after you sign). If the landlord has noted repairs that need to be done, do not sign his paperwork unless you are willing to pay for possibly expensive cleaning and repairs. You are under no obligation to sign anything the landlord has prepared, but you could still be charged even if you don't sign.
6. Be sure to leave a forwarding address so that your landlord can refund your deposit. If you are uncomfortable giving the landlord your new address, provide the landlord with an address where you generally can receive mail.

## **Refund of Your Deposit**

The first step in getting your deposit back is to ask for it or, better yet, send your landlord a letter. Keep a copy of the letter for yourself. If the check is written for the wrong amount, do not cash the check. Doing this may be taken by the landlord (and a court) as accepting that amount. If you must cash the check, sign the back with “partial payment” and beware that this may not ensure you getting any more money back.

The law on security deposits in Illinois varies depending on the size of the building or complex where you rent. If you live in a building or complex with five or more units, the landlord is required to provide you with an itemized statement of the damage you allegedly caused to the premises within 30 days from the date you move out. This statement must include the estimated or actual cost for repairing or replacing each item on that statement, attaching paid receipts. If your landlord does not do this within 30 days of your moving out, he or she must return the entire deposit within 45 days of the move-out date. If your landlord does not send your deposit within 45 days of your move-out, has refused to supply the itemized statement, or has supplied such statement in bad faith, you can sue for double the security deposit, as well as for court costs and attorney's fees.

If you are unable to get your deposit back or if you received an amount less than you are entitled to, and you have been unsuccessful getting the rest – SUE. You can file a suit in small claims court without an attorney. See the section titled *Small Claims* on page 64 or, if you are eligible, seek help from Prairie State Legal Services, Inc. Some counties also have a small claims help desk at the courthouse; there is more information about small claims court at [www.illinoislegalaid.org](http://www.illinoislegalaid.org).

You should be aware that your landlord may counter sue for more damages or for other money you owe. If you wait 45 days after you vacate the building, the building had five or more units, and the landlord did not give you the itemized statement of damages, you may be able to argue in court that it is beyond the time allowed by law to charge you anything against your deposit. Note that some local landlord-tenant ordinances, such as the ordinance in Evanston, require the landlord to return a security deposit more quickly than the deadlines set under state law. Be sure to check your local landlord-tenant ordinance in case it gives you more rights than state law gives you.

### Interest on Security Deposits

Under Illinois Law, your landlord must pay you interest on your security deposit if you rented in a building or complex that has 25 or more units and the landlord has held your deposit for six months or more. The landlord must pay this interest to you annually in cash or in the form of credit towards rent within 30 days after the end of each 12-month rental period, if the interest is at least \$5.00. The interest is determined by the rate paid by the largest commercial bank in the state, as measured by total assets, on minimum deposit passbook savings rates as of December 31st of the year before the lease began. Because interest rates have been very low for the past few years, the interest may not add up to a large amount of money. In fact, an interest rate of .005% on a deposit of \$750.00 is less than 4 cents per year. However, if interest rates go back up, the interest on security deposits could be more meaningful. The rates (by year) are as follows:

December 31	Interest Rate
2015	0.01%
2014	0.005%
2013	0.005%
2012	0.005%
2011	0.005%
2010	0.195%
2009	0.095%
2008	0.25%
2007	0.35%

Make sure that your landlord knows of the interest on security deposit law, if it applies to you, before you leave your apartment. Note: **THE REQUIREMENT THAT THE LANDLORD PAY INTEREST DOES NOT APPLY TO PUBLIC HOUSING OR TO A RENTER WHO IS BEHIND IN RENT.**

You have the right to sue a landlord who willfully fails or refuses to pay the required interest for an amount equal to the security deposit, together with court costs and reasonable attorney's fees.

Landlord requirements for paying interest may be different and the above rates may be higher if you live in a city that has an ordinance imposing higher rates, such as Chicago or Evanston.

## **Other Issues**

### **Security and Safety**

When looking at an apartment or house to rent, you should inspect it carefully to see if there is adequate security. Check the locks on the doors and the lighting in the hallways and stairways as well as the parking areas. Check the windows to see if they have locks that work and which prevent them from being lifted from the frame.

#### ***Locks***

You have a basic right to safety within your home. You can expect your landlord to take some necessary steps to protect the security of your apartment or house. The types of security devices or locks which landlords provide differ, but in some areas, certain security devices or locks are required by minimum housing standards. Call the housing code enforcement department in your city or county to find out what, if anything, is required in your location.

The best type of lock is a deadbolt lock, but it may not be required for your apartment or house. To determine whether a lock is a deadbolt, open the door and then turn the lock. Try to push the bolt (the part which projects into the frame of the door) with your hand. If it does not move, the lock is a deadbolt. If it does move, it is probably some kind of spring latch. Spring latches are the types of locks that can often be opened with a credit card. Dead bolt locks cannot be opened this way. If you feel you need a deadbolt lock to be secure, contact your landlord and ask for a deadbolt lock. Try to get your landlord to agree in writing that he or she will provide you with a new lock. If your landlord refuses, explain why you don't feel your current lock is safe. If he or she still refuses, you may consider renting elsewhere (if you have not signed a lease yet) or paying for the lock yourself (if you already live there). However, you should ask for the landlord's permission (in writing) to install the lock before you buy it. He or she does not have to agree, and you probably have no right to add a lock without the landlord's permission. If you do add a lock, you will have to provide your landlord with a copy of the key so that he or she can enter in case of emergency.

Once the lock is in place it becomes a fixture of the house or apartment and belongs to the landlord. You cannot remove it when you leave. Even though you will be spending your own money and the landlord will not have to pay you back, installing a deadbolt lock may still be a good idea for you to feel safe and secure. If you are a victim of domestic violence or sexual assault, you have some additional rights in terms of changing the locks. There is more information about this in the next section, *Rights of Domestic Violence and Sexual Assault Victims*.

#### ***Other safety steps***

Once you are in an apartment, there are some things you can do to protect yourself and your property. You should engrave all your valuables with your name. The police department in your city may do this without charge. If not, scratch it in yourself with a sharp object. This may help insure a return of your valuables if they are stolen. If you go out of town for any length of time, have your mail and/or newspaper held or have a neighbor pick them up. Go to the post office and fill out a card to hold your mail. You can pick up your mail at the end of the trip. Ask your neighbor to park her/his car in your driveway or in front of your house so it looks as if someone is home. You may also want to put your lights on a timer to give the place the appearance of activity.

If you are a woman, you should take added precautions to reduce the chances of being a victim of violence. Put only your first initial on your mailbox and in the phone book. Men may also want to put their initials on their mailboxes out of respect for the women. Do not set yourself up for a violent encounter. You don't have to speak to, open the door for, or have any contact with anyone that you do not trust – even if you are married to that person. If you are a victim of physical abuse or violence, whether rape or domestic abuse, you should call the police immediately. There are various social service agencies that can help.

The Illinois Safe Homes Act gives victims of domestic violence or sexual violence additional rights and protections. There is more information about these important rights in the next section, *Rights of Domestic Violence and Sexual Assault Victims*.

## **Rights of Domestic Violence and Sexual Assault Victims**

The Illinois Safe Homes Act provides victims three important rights so that they can be safe in their rented houses or apartments:

1. The right to change the locks.
2. The right to end a lease early under certain conditions.
3. The right to have information about these things kept confidential.

These rights are available to victims of domestic violence and sexual assault, but they do not apply in public housing or certain subsidized housing. The rights *do* apply to housing rented with a Section 8 Housing Choice Voucher.

### ***Who is protected by the Safe Homes Act?***

The Safe Homes Act refers to the Illinois Domestic Violence Act's definitions of who is a victim of domestic violence. The definition is very broad, and it includes victims of elder abuse. A person is a victim of domestic violence if he or she has been "abused" by a "family or household member." "Abuse" means physical abuse, harassment, threats, and interference with personal liberty (such as locking someone in a room or preventing him or her from calling the police). "Abuse" also includes putting an elderly, sick or disabled person in danger by purposely denying medication, medical care, shelter, accessible shelter or services, food, therapeutic devices, or other physical assistance, or physically abusing someone else in front of them. "Family or household members" include spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly have a child in common, persons who share or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, persons with disabilities and their personal assistants, and certain caregivers.

Victims of sexual violence also are protected by the Safe Homes Act. "Sexual violence" is much broader than what one might think of as rape. "Sexual violence" means any act of sexual assault, sexual abuse, or stalking of an adult or minor child.

### ***Does the Safe Homes Act allow a victim of domestic violence or sexual assault to change the locks?***

Under the law, if a tenant believes that a tenant or a member of h household is "under a credible imminent threat of domestic or sexual violence at the premises" (in other words, if there is a real threat of violence in the reasonably near future), the tenant has the right to ask the landlord to change the locks. The request to the landlord must be in writing. If more than one tenant signed the lease, all of those who signed the lease must also sign the request to change the locks, except the abuser or person who committed the assault does not need to sign the request even if he or she signed the lease. If there is an oral lease, the same rules apply, except that the people who entered into the oral lease are the people who must sign the request to change the locks.

The tenant must provide documentation or evidence of the abuse or assault that took place. For a written lease where the abuser is not on the lease, the documentation can be medical, court or police evidence of domestic or sexual violence; the document. The tenant also can provide a statement from an employee of a victim services, domestic violence, or rape crisis organization from which the tenant or a member of the tenant's household sought services. However if the lease is an oral lease, or there is

a written lease and the abuser signed the lease as a tenant, then the evidence that is needed is a plenary order of protection or civil no contact order that gives exclusive possession to the tenant who is asking that the locks be changed -- in other words, a court order that bars the abuser from the home.

Once the tenant gives the written notice and the documentation or evidence of the abuse to the landlord, the landlord is required to change the locks within 48 hours, or let the tenant know that the tenant has permission to change the locks. If the landlord does not change the locks within the 48 hours and does not give the tenant permission to do it, the tenant may change the locks without permission. If the landlord changes the locks, he or she may charge the cost to the tenant. Whoever changes the locks must give the new keys to the other (the landlord or tenant) within 48 hours.

***When and how can a victim of domestic violence or sexual assault end a lease early?***

A victim of domestic violence or sexual assault can end a lease early if the tenant or a member of tenant's household is under a credible imminent threat of domestic or sexual violence at the premises (in other words, if there is a real threat of violence in the reasonably near future). If the tenant or a member of the tenant's household was a victim of sexual violence at the premises, the tenant may end the lease early even if there is not a threat of more violence, as long as the tenant gives the landlord notice within 60 days of the violence. If the tenant is not able to give notice, for example because of being in the hospital, then the 60 days can be extended but the tenant must give notice as soon as practical.

Ending the lease early means that the tenant can leave the property even though the lease term is not up (for example, the lease was for one year and the year has not ended). The tenant does not need the landlord's permission to end the lease early, and the tenant does not owe rent for the time after the tenant leaves. However, the tenant must give the landlord written notice of the reason that he or she is leaving the premises, and must give the notice before leaving or within three days after leaving.

If the landlord sues the tenant for rent for a time after the tenant leaves the property, the tenant will have a defense to owing rent as long as the tenant followed the notice procedures.

***What are the victim's privacy rights under the Safe Homes Act?***

The landlord is not permitted to tell any prospective landlord that the tenant used the Safe Homes Act to end the lease early or to change the locks. The landlord also cannot share any of the information from the documentation or evidence that the tenant supplied. This is designed so that the victim can find a new home without worrying that this situation will come up in the landlord's reference.

***What can you do if your landlord tries to remove you because the police have been called to your home.***

Some cities or towns have ordinances that appear to allow an eviction outside the court process where there have been many police calls to the residence. If your landlord threatens or tries to remove you under one of these ordinances, it is particularly important to talk with a lawyer right away.



## **Pets**

More than likely, you will find that landlords are not happy about having pets in their rented units. Some leases allow pets, and most require written consent from the landlord before you bring the pet into your house or apartment. If you want to keep a pet in your home, you should make sure your lease states that you can do this. If not, handwrite a sentence in your lease that says pets are allowed and be sure that both you and your landlord sign or initial next to it. Do not rely on the landlord's verbal statement about allowing pets, because that could change. You may think a rule about a pet is a minor part of your lease; however, the landlord has the right to end your lease and evict you if you a rule about pets, so make sure the lease is clear that about pets. Also, be of allowing someone else's pet in your home, even for a short time.

Some landlords may require an extra damage deposit or may charge a higher rent if you have a pet. If you cannot pay this, look for another place or find another home for your pet.

If a tenant needs a service, support, or therapy animal because of a disability, a landlord is not allowed to refuse the animal or charge an extra damage deposit. An example of a service animal is a seeing eye dog for a person who is blind or has other vision impairments. An example of a support animal is a dog or cat who serves as an emotional support for a tenant with a mental disability such as post-traumatic stress disorder. For more information on this topic, see the section titled *Discrimination and Housing* on page 11.

If you are the one who does not want pets in the building because you are sensitive to noise or have allergies, make sure the landlord guarantees in writing that the premises will be quiet or that no tenant will be allowed to have pets. Then if the landlord does not take action to stop loud noises from neighboring apartments or if your neighbors have pets, you may be able to get out of your lease. See the section titled *How To Get Out of Your Lease* on page 57.

## When a Landlord May Enter

Most leases have clauses that allow the landlord to enter your house or apartment to examine its condition, to make repairs, or to show the house or apartment to possible new tenants. Try to find a lease that provides for a specific amount of notice (for example at least 24 hours ahead of time if there is no emergency) and other limits on entry (for example, only at certain times of the day). If your lease is silent on this topic or you have an oral lease, then the general rule is that the landlord may enter with reasonable notice during reasonable times of the day except in case of an emergency when he or she can enter at any time without notice. A local ordinance may limit the times or circumstances under which the landlord can enter, but there is no such state law. There also is no law defining the terms “reasonable notice” or “reasonable time” under the general rule, so you do not have much protection and disputes with the landlord can easily arise.

Nonetheless, you do have some rights to privacy in your apartment or house. Even if your lease does not specifically require reasonable notice or entry at a reasonable hour, you still have an implied right to privacy. If your landlord frequently comes into your apartment without notice and at unreasonable hours, you should seek legal help. As a tenant, you are entitled to possession of the premises and your landlord cannot interfere unreasonably with your use and enjoyment of the premises. Therefore, if your landlord is unnecessarily invading your right to possession and privacy, you may take legal action against him or her. If you feel that the landlord or his or her employees are harassing you sexually, you may have a claim for housing discrimination. For more information on this topic, see the section titled *Discrimination and Housing* on page 11.

As an alternative to seeking legal advice, or under the advice of an attorney, you may want to send a letter like the following one to encourage your landlord to respect your privacy.

Dear Landlord:

As a tenant of the premises located at (address), I have certain privacy rights. I request that in the future you follow these reasonable rules before entering my home:

1. Call at least 24 hours before you plan on coming over to let me know when you or a repair person will be here. Then, please be on time.
2. If you cannot call 24 hours ahead of time, call as soon as you can before you come over. If at all possible, I will make arrangements to let you in, but do not be upset if it is inconvenient for me to have you in on such short notice.
3. Do not enter my home unless I am home, I have given you permission on that occasion to enter without my presence, or there is some real emergency that you must inspect.
4. No matter what the circumstances, always knock before you enter and wait for someone to open the door. If you follow these rules, I will welcome you as a guest whenever possible. If you do not follow these rules, I will refuse to allow you to enter.

Sincerely,

[Your Name]

Although the landlord may not have to follow these rules, stating them clearly may prevent problems in the future. As with all correspondence with your landlord, keep a copy.

## Your Rights if You Rent a Mobile Home or Lot

People who rent mobile homes or lots in Illinois mobile home parks with five or more mobile homes have special rights under the Mobile Home Landlord and Tenant Rights Act. The law recognizes that even though you rent a lot, moving to another park with your mobile home is no easy thing. If you rent a mobile home or lot, you have the right to:

- A written lease for at least two years (unless you agree in writing to a shorter term or a month-to-month lease); oral lease agreements are not allowed under the statute;
- Cancel the first lease within 3 days of signing it if you have not yet moved into the park;
- Receive certain information before you sign the first lease and each time you renew your lease, such as the amount of rent charged for that home or lot in the past five years, and the amount of rent the park owner expects to charge over the next three years (that is, a year beyond your two-year lease);
- Have all park fees itemized specifically in your lease;
- A five-day grace period each month to pay rent without incurring a late charge;
- 90 days' notice of an increase in rent, which can only occur at the end of your lease (except that the two-year lease may include a rent increase at the end of the first year);
- Automatic renewal of your lease unless you give your landlord 30 days' notice, or your landlord gives you 30 days' notice stating that you have violated your lease or park rules;
- In certain circumstances, stay in your home for up to a year at the old rental rate while attempting to sell the mobile home;
- Sell your home without interference by the park and without being required to pay a fee to the park unless the park performs a service in connection with the sale;
- Arrange for a relative to live in your home for up to 90 days as a temporary tenant if you are required to leave the home due to disability or illness;
- Make a complaint to a government agency about the conditions of the park;
- Terminate the lease on written notice if the park owner fails to substantially comply with the lease or laws, if certain requirements are met;
- Organize and participate in meetings of residents and a homeowner's association;
- Receive 12 months' notice if the park owner plans to close the park;
- File a lawsuit to enforce all of your rights under the law (the court may award damages or grant an injunction or other relief);
- Pay no more than one month's rent as a security deposit;
- Receive an itemized list of damages within 15 days after the termination or expiration of the lease;
- Yearly interest on your security deposit if your mobile home park contains 25 or more mobile homes.

**NOTE:** Some of these rights depend on your action, such as providing certain notice to the park. If you have questions about the specific requirements or if you think your rights have been violated, speak with an attorney.

### *Park Rules*

You must obey all reasonable rules made by the owner or manager of the park regarding the park and your mobile home or lot. The park owner or manager must give you a copy of all rules and regulations before you sign your lease, and must give you 30 days' notice before implementing a new rule.

If you do not follow the rules, the park can evict you from your mobile home or lot. Before the park can file an eviction suit against you, it must give you a written notice of the violation and 24 hours to correct the problem. If the problem is not corrected, the park owner may then serve you with a 10 day eviction notice for the violation(s). However, all notices must be properly served to be valid. See the section titled *Notice and Court Proceedings* on page 60. The park owner or manager must take you to court to evict you, and you have the right to defend your eviction before a judge or a jury.

## **Special Considerations if You are in Low-Income (Subsidized or Public) Housing**

There are many kinds of low-income housing, including the Section 8 Housing Choice Voucher Program, project-based housing which is managed by a private developer, and public housing which is managed by a public housing authority. Each of these programs has its own set of rules and regulations, established by the government and by the housing provider. This means that if you live in low-income housing or have a Section 8 Housing Choice Voucher, you have special rights and responsibilities in your housing. For example, some types of housing include longer notice periods before an eviction than the notice periods set by Illinois law and some of the types of housing include the right to a lease renewal. But as a tenant in low-income housing you also have additional responsibilities that tenants in private housing do not have. The most important of these is to report all of your household members' income and any changes in your income or who is living with you.

Explaining all of the types of housing and the rights and responsibilities of tenants in each type would take many pages. We are not attempting to include that information in this handbook. If you have questions about your rights in low-income housing, read the materials you received from your housing provider including your lease, visit [www.illinoislegalaid.org](http://www.illinoislegalaid.org), or speak with a lawyer.

## **Utilities – an Overview**

### **Applying for Service**

When you apply for utility service, the utility company will first decide if you owe that company any money. They can look only at your payment record for the same service for which you are applying. This means that if you are applying for electric service, the electric company can only look to see if you have a past due bill to that company for electricity at your current or past addresses. If you did not pay your water bill or some other bill, the electric company cannot refuse to give you service for that reason.

If the utility company determines that you failed to pay a bill for the same service at your present or former address, the company can refuse to give you service unless you pay your past due bills, provide a deposit, and/or enter into a deferred payment agreement. For more information see *Deferred Payment Agreements* on page 49.

### **Utility Deposits**

The utility company can ask for a deposit if you are applying for service and have failed to pay your past due bills to that utility for the same class and type of service or if your credit score fails to meet a minimum standard. As an applicant, you might be required to pay a deposit if the utility identifies you as a person who has used various types of deception to avoid payment for utility service. If you are already a customer, the utility company can ask for a deposit if you have paid late four times in the past 12 months AND your account has an undisputed past due balance that has remained unpaid for over 30 days beyond the due date. However, if you are a present customer, you can avoid the requirement to pay a deposit if you enter into and keep current with a deferred payment arrangement (DPA) for the unpaid balance, assuming you enter into the DPA before the company assesses the deposit. Whether you are an applicant or a current customer, the utility can require a deposit if the company has proof that you tampered with the wiring, pipes, meter or any other service equipment.

If the company wants to ask for a deposit, they must do it within 45 days after the utility has approved your application or after the event that caused them to ask for a deposit.

If you have a question about the amount of your deposit, ask the utility company about it.

Generally, you should get your deposit back with interest after one year so long as there has been no tampering with service equipment, no disconnection for nonpayment, and fewer than four late payments. The utility will issue a separate payment to you for the refund of your deposit unless you ask the utility to credit your refund on the next regular bill. Even if you are not entitled to a refund, after 12 consecutive months of accumulated interest, the utility must automatically credit your account with the interest only; it will be itemized on your next regular bill statement as “deposit interest.” You should also get your deposit back when you stop service or after disconnection from service, minus any money owed to the company. If you do not receive your deposit back, find out why. If you are still not satisfied, make a complaint. See the section titled *Dispute and Complaint Procedures* on page 53.

### **Electricity and Gas**

Utilities are an added expense that you must consider with the rent amount in deciding whether you can afford to rent an apartment or house. When making that decision, you should ask how much these

bills usually cost. For example, a building may not have good insulation, so the heating bill could be higher than expected.

Refer to your lease if you have any questions about who pays for electricity and/or gas. If the lease requires that the landlord provide and pay for any utilities, then the landlord must do so. If the lease requires that the tenant pay for specific utilities, then you must do so. If the lease does not say who provides or pays for utilities, then it is the landlord's responsibility. Make sure that these responsibilities are addressed clearly in your lease or in writing elsewhere. This will save a lot of trouble once the bills start arriving.

Contact the utility company before you move in so that you can have your service connected the day you arrive. You must allow at least one business day for turning on your electricity and gas. You can probably do this by phone rather than by going to the utility company's office. Remember to stop the utilities at your old address as soon as you move out, so that you do not build up a bill for that service.

If you smell gas at any time, call the gas company. They will send someone out as soon as possible to identify the problem. If you cannot reach the gas company, call the fire department for emergency shut off.

## **Water**

In larger apartment complexes, the landlord usually supplies water at no extra charge to the tenant, but be sure to get that in writing to avoid problems. If the water is not mentioned, be sure to contact your landlord before calling the water company. There are both private and municipal water companies. You will need to find out which company provides water to your home.

If your water bill is high, check the faucets and the valve inside the tank of your toilet for leaks. Contact your landlord for repairs. Even though you may not be responsible for the water bill, you want to notify the landlord of any problems so that you can avoid any liability for the cost of the water.

## **Telephone**

If you had a landline at the address you are leaving, contact your telephone service provider to either stop service or have it changed to a new address. There will be a minimum installation charge if the telephone jacks are already in place and you supply the phone for your new home. If the equipment is not already in place, the fee will vary depending on the number of phone lines and services you request. The company will usually require an advance payment of one average monthly bill for new customers. If you have had phone service in the past and have paid your bills on time, there is no reason why you should have to pay a deposit. Complain to a supervisor if you feel you are being treated unfairly. If you are required to pay a deposit, you will receive interest on your deposit after one year. The amount of the deposit will depend on your service and credit rating.

A lot of companies offer bundled residential phone, television and internet services at a discounted price. Make sure you review any of these costs in relation to your monthly budget. Carefully read through all contracts before you sign them, and pay attention to the length of the contract and any other hidden charge. It is best to make sure that you only obtain the actual services you need, to avoid unwanted costs.

## **Utility Problems, Solutions and Other Issues**

### **If Your Landlord Provides Utilities**

If your lease or other agreement with the landlord requires the landlord to pay the water, gas or electric utilities but he or she does not, there are things you can do to prevent a shutoff. In this situation, the tenant, or a group of tenants served by a common meter, may pay for the utility service if non-payment threatens continued service. Any amounts that a tenant pays for utilities that the landlord was required to pay may be deducted from the rent due by the tenant or tenants. The landlord cannot evict you for this nor can he or she raise the rent. In buildings with three or more apartments, the utility company cannot terminate service for the landlord's non-payment until they deliver a special notice to all the tenants. If the utility company receives payment in full of all past due amounts from the tenants, the utility company must restore service to the tenants.

The utility company must also restore and continue service to any tenant who requests that the utility put the bill in his or her name and establishes satisfactory credit references or pays a deposit. The utility should not require the tenant to pay the past due bills, only the bills going forward. Once the bill is changed into the tenant's name, if the tenant is billed an amount for service to parts of the premises not occupied by the tenant, the landlord is liable to the tenant for those bills.

It is unlawful for a landlord to cause utility service to tenants to be interrupted or terminated by failing to pay bills for which he or she is responsible. The landlord also cannot cause service to be interrupted by tampering with the utility's equipment or lines. If either happens, the tenant may not be required to pay rent as long as the utility service is interrupted; however the best approach in this situation is to continue paying rent and talk with an attorney. A court could also order the landlord to pay other damages to a tenant in this situation.

For multi-unit buildings, tenants also may wish to consider filing a lawsuit to ask the court to appoint a receiver to collect the rent for the building and use it pay the utility bill the landlord owes but has failed to pay. If the court finds that the utility service has been or may be shut off due to the landlord's non-payment of a utility bill the landlord owes, the court should appoint a receiver to collect the rent and pay the bill. Because this option involves a filing a lawsuit, and other options may be easier for tenants to try, tenants should seek legal advice to evaluate the best option for their specific circumstances as well as advice on how to petition the court to appoint a receiver.

It is against the law for a landlord to make you pay for utilities for common areas of the building or for other tenants, unless the landlord gives you certain information in writing before you sign the lease or agree to rent. Check with an attorney to see if you got the proper information. Also, it is against the law for a landlord in a multi-unit building with a master meter to demand that the tenants pay a share of the utilities, unless the landlord tells the tenants in writing how she or he splits utility payments among the tenants. If you find yourself in either of these situations, talk with an attorney. Your landlord may be required to pay you back for your utility bills, plus possible additional damages.



## Deferred Payment Agreements

The information in this section applies only to utilities which are governed by the Illinois Commerce Commission, which is usually the large utility companies. Some local utilities may not be covered by these rules.

If you owe money to a utility company and you are already a customer, the utility company may give you a chance to pay off the debt in installments. That is known as a “deferred payment agreement.” A utility company does not have to give a customer a deferred payment agreement when the customer has failed to make a payment under such a plan during the past 12 months.

If you are applying for new service from the utility company, but owe a past due bill, it is up to the utility company to decide whether to give you a deferred payment agreement. If you are a former customer who has been cut off and you are applying for a winter reconnection, the utility company must offer you a deferred payment agreement, but only if you are otherwise eligible under special rules. See *Winter Re-connection Rules* on page 52.

Any deferred payment agreement must be in writing and will require that you pay a certain amount of money for a certain number of months. This will be **in addition** to the regular bill, as it comes due. You will be required to pay up to ¼ of the past due amount at the time of entering into the agreement. For information on situations when your down-payment can be smaller, see the sections titled *When a Utility Plans to Shut Off Your Services* and *Winter Re-connection Rules* on pages 51 and 52. The size and duration of your payments must be determined after taking into account the size of the debt, your ability to pay, your payment history, the reason for the debt, and other relevant factors. The maximum duration of the agreement is 12 months; the minimum length of the plan is four months for electricity and gas, and two months for other utilities.

If your financial circumstances change during the period of the agreement, you are allowed to renegotiate the terms and conditions of the agreement, taking into account your new circumstances. You cannot renegotiate if more than 14 days have passed since you missed a payment under the agreement.

If you break a deferred payment agreement by missing a scheduled payment, but your gas or electric services have not been disconnected, you can get your agreement reinstated by paying all past due amounts. You have this right only once during the course of a deferred payment agreement. If any deferred payment agreement is broken and not reinstated, the utility company has the right to terminate your service.

A deferred payment plan is often a last chance; make sure you will be able to make the payments before you agree to a plan, and then do everything you can to follow the agreement.

## **Estimated Bills**

Your bill is determined by reading the meter that measures how much energy you have used. All utility companies are required to take an actual meter reading at least every second billing period, unless they have been prevented from doing so. If the utility company is unable to read your meter, the company may have you call your reading in, or it may leave a card and request that you mark it and mail it in with the reading. If you do not respond to the utility's request, the company will estimate how much you have used by looking at the past service history of your residence.

When the utility company does actually read your meter, the estimate is corrected and you could be in for a surprise of a very large bill or a very small bill. But usually the estimate is not far off. At any rate, you end up paying only for what you use. If you do receive a card, it is to your benefit to read the meter and send the card to the company or to call in the information to protect yourself from surprises. If you have any questions about how to read the meter, the utility company will explain it to you or send you a pamphlet.

## **Late Payment Charges**

Your due date is printed on the bill. If you don't pay by the due date, you may be billed a late payment charge. You get a grace period of two business days after the due date if you have mailed your payment in. A utility may consider a mailed payment to be late if it is postmarked after the due date printed on the bill.

The due date that is printed on the bill may not be less than 21 days after the date of postmark on the bill. The amount of the late charge cannot exceed 1.5% per month of the amount past due. Certain customers who receive a monthly benefit or support check which comes after the due date can ask the utility for a later payment date.

## **When a Utility Plans to Shut Off Your Service**

A utility company can shut off your service for a variety of reasons. If you fail to pay a proper deposit or a past due bill, fail to make a regular payment, deny access to a meter or violate utility rules, then the utility company can shut off your service. However, the company first must give you a proper written notice separate from any bill. This notice must be in a certain form and must be on red paper.

This notice must be delivered to you at least five days before shutting off the service or sent to you at least eight days ahead if the notice is mailed. A utility cannot act on a notice over 45 days after it was issued. They must send a new notice to terminate service.

### ***When a shutoff is not allowed***

1. After 2:00 p.m. on any weekday, or at any time on a holiday or weekend unless the utility can reconnect the same day.
2. If you have entered into a deferred payment agreement and are following the agreement; if the service already has been shut off, the utility must restore it when you enter into the agreement.
3. If the reason for the shutoff is being disputed with the utility company or the Illinois Commerce Commission. See *Dispute and Complaint Procedures* on page 53.
4. If gas or electric service is necessary to heat your residence, and the National Weather Service forecasts that the temperature will be 32° F. or less at any time during the following 24 hours. This rule also applies on any day before a weekend or holiday if a temperature of 32° F. or less is forecast for the weekend or holiday.
5. For gas or electric service at the primary residential premises of military personnel on active duty.
6. For up to 60 days if the shutoff will aggravate an existing serious illness of any person living in the residence who has submitted a valid illness certificate to the utility. If there has already been a shut-off, the utility must restore service if it gets the certificate within 14 days of the shut-off.
  - a. An illness certificate prohibits shutoff only for 30 days, but the certificate can be renewed for another 30 days. You will still have to enter into a deferred payment agreement to retire the unpaid balance. Also, you must pay all current bills as they come due.
  - b. An illness certificate must be in writing and contain the name of the ill person, a statement that he or she is a resident of the premises, the name, business address and telephone number of the doctor, the nature of the illness, and the period of time during which termination will aggravate the illness. The doctor must sign and date the illness certificate.
  - c. You still will have to enter into a deferred payment agreement for the unpaid balance and pay all current bills as they come due.

### ***Winter shutoff rules***

During the winter months, (December 1 through March 31) the electric and gas companies are prohibited from shutting off service necessary to heat a residence unless the utility has first offered the customer a deferred payment agreement and a levelized payment plan. The maximum down payment that the utility can demand for a deferred payment agreement in this situation is 10% of the amount due. In a levelized payment plan, the customer pays for current service in approximately the same

dollar amount every month. In addition, the utility must provide the customer threatened with shutoff with names and numbers of agencies that help people pay their utility bills.

If you receive a winter shut off notice, you have six business days from date of the notice before the utility company can act, so you must move quickly. Talk to the company about it. If you get no results, contact an attorney immediately. Do not wait until the utility is shut off because you have more rights before the shutoff. If your utility already has been shut off, you may have to pay the entire balance to be reconnected, unless you qualify for the winter re-connection rules.

### ***Winter reconnection rules***

If your utility service has been disconnected for nonpayment of a bill or deposit at any time since December 1 of the prior winter, you can get service turned back on between November 1 and April 1 of the current heating season, if you satisfy special winter reconnection rules. Note: you can get service turned on as early as October 1, if you have an application pending for the Low Income Home Energy Assistance Program (LIHEAP). (See page 55 for more information.) To qualify, you must not have used the special winter reconnection rules the previous year. Also, you must pay or have paid at least 1/3 of all utility services charged since December 1 of the prior winter. You cannot qualify if the utility can prove that you benefitted from any tampering with its equipment.

If you qualify for winter reconnection, then the utility company must reconnect your service as soon as possible, provided you enter into a deferred payment agreement with the utility company, pay 1/3 of the amount past due, and pay 1/3 of any required deposit. If you can show the utility company that you cannot afford to pay those amounts, you can get re-connected upon paying 20% of the amount past due and 20% of any required deposit. In these cases, the utility must give you at least four months to pay off the past-due balance and three months to pay the remainder of the deposit.

## **Dispute and Complaint Procedures**

If you question a bill or have a problem with your utility service that is not being resolved, you can call the utility company and ask for a staff person who handles disputes. The utility has 14 days to respond to the complaint. If the dispute still cannot be resolved, you have the right to have the problem considered and acted on by a utility supervisor. At any time during your attempts to resolve the dispute with the utility company, you have the right to have the problem reviewed by the Illinois Commerce Commission (ICC), the state agency that regulates public utilities. Note that municipal utilities are not subject to the ICC rules or their complaint procedures.

The ICC has both an informal and a formal complaint procedure. The first step is an informal complaint to the ICC Consumer Assistance Section. You can file an informal complaint online at <http://www.icc.illinois.gov/consumer/complaint/wizard.aspx> or you can file a complaint by phone, 1-800/524-0795 or TTY at 800/858-9277. That office will investigate the complaint and try to resolve it to the satisfaction of all the parties, but it cannot force an agreement.

If the dispute still has not been resolved, then you can file a formal complaint with the ICC. If you do so, you must follow the ICC Rules of Practice and it is best to have an attorney assist you. There will be a hearing before a hearing examiner who has the power to resolve the dispute by order and whose orders can be reviewed in the courts.

When you do question a bill, a utility company cannot shut off your services for non-payment during the complaint process so as long as you:

1. Pay the undisputed portion of the bill (the part you agree you owe);
2. Pay all future monthly bills by the due date; and
3. Follow in good faith the dispute procedures of the utility company and the ICC.

## Energy Saving Tips

With today's prices, it is important that you take a good look at the expense of your utility bills. Heating and cooling your home is a large portion of energy costs. There are several ways you can reduce the load on your heating or cooling equipment and save money:

1. Test for drafts and then draft-proof windows and doors. One method to test for drafts is to take a lighted candle and move it around the frames and sashes of the window. If the flame flickers, you need weather stripping. Another way to test is to slide a quarter under the door. If it fits and goes through, you need weather stripping to fill the gap. Try caulking or taping with heavy plastic tape or use foam rubber. You also might try putting plastic tightly over the windows with tacks to seal out drafts. You also can fill a gap at the bottom of a door tube filled with bags, or a rolled up rug.
2. Do not turn the heat on until you have to. Use an extra blanket on cool nights and dress warmly during the day.
3. Lower your thermostat to 65 or 67 ° F. during the day and lower it to 60 or 62° F. at night.
4. Shut the vents in rooms you do not occupy regularly.

Overcooling is also a problem in the summer with overuse of air conditioning. Try not to use more than you need. The following are some cooling energy savers:

1. Shut off room air conditioners or close vents of rooms you are not occupying.
2. When you use the air conditioning, set your thermostat at 78°, an energy efficient indoor temperature.
3. Do not set your air conditioner at a colder temperature when you first turn it on. This will not cool the room any faster.
4. Set the fan on high except in hot, humid weather. When it's humid, set the fan on a lower speed; you get less cooling, but this is will draw more moisture from the air.

## **The Low Income Home Energy Assistance Program (LIHEAP)**

LIHEAP is a federally funded program that helps eligible low-income households pay for winter energy costs. The program is administered by the Illinois Department of Commerce and Community Affairs (DCCA) and a network of community organizations known as Local Administering Agencies (LLAs). You apply for the benefits at your local LAA.

LIHEAP is not an entitlement program, meaning that not everyone who is eligible will be able to get assistance. The funds are limited, and are given on a first-come first-served basis until they run out. In Illinois, LIHEAP starts on November 1<sup>st</sup> of each year. There is a two-month priority period for seniors and people with disabilities, who can take advantage of the program starting September 1<sup>st</sup>. The emergency assistance component, for people whose utility is off, starts on September 1<sup>st</sup>.

Eligibility guidelines and standards can vary each year. Recently, eligibility has been based on 150% of the federal property level. Some of the highlights of the program include:

1. **Cash Assistance:** For households where the electric service is included in the rent and household's rental costs are greater than 30% of the household income.
2. **Direct Vendor Payment:** For households who pay their own utilities. One time direct payment to the household's utility account
3. **Emergency Services:** Cash grants for households to reconnect service on a primary or secondary energy source. Requires a good faith effort by the household to make payments to the utility company to reconnect.
4. **Weatherization** provides energy-related home repair work designed to lower the amount of energy used by low-income households. The work may involve insulating walls and attics, sealing doors and windows, or replacing broken glass. The LAA will give this assistance if the household income is eligible for LIHEAP, contains a member who receives SSI, or has a total income at or below 125% of the poverty level.

### **LIHEAP Appeals**

If your application for LIHEAP assistance is denied or not acted on promptly, you can appeal. The appeal process includes the following levels:

1. **The Informal Conference.** The LAA designates a hearing officer to conduct the informal conference, which is designed to make sure that you understand the actions taken or any reason for delay. At the end of the conference, the hearing officer must give you a written decision.
2. **The State Review.** If you are not satisfied with that decision, you can request a state review, which is conducted by a DCCA staff person. That person will review your file and must send you a decision in writing within 15 days of your request for review.
3. **The Formal Hearing.** If you are not satisfied with the state review, you have 30 days to submit a letter to DCCA requesting a formal hearing, which is conducted by a state hearing officer. The hearing must take place within 30 days of the date of your letter, and a written decision must be made within 10 days of the hearing. If you are not satisfied with the hearing decision, you have 35 days to bring a lawsuit to have that decision reviewed by a judge.

## Moving Out

Here are some important steps for when you are ready to move out of your rental house or apartment.

1. **Cancel your utilities.** For more information on this see *Utilities -- an Overview* on page 46. If it is winter and you are canceling the service that provides the heat, it is important to be certain your landlord knows that you are cancelling the service so that the landlord can make sure that the pipes do not freeze, burst and damage the property. If you do not notify the landlord, you risk the landlord claiming that you were responsible for the damage.
2. **Leave an address where you can be reached** with the post office, utility companies, and your landlord. The address you give the landlord can be a mailing address, rather than the place you are living.
3. **Clean your apartment.** Check the lease and additional rules to determine if you must shampoo the carpet, defrost the refrigerator, clean the stove, etc. Remove all food, furniture, possessions and garbage from the unit to avoid any charges.
4. **Arrange for a time for you and your landlord to check the conditions of the apartment together**, if at all possible. Be sure to have the apartment's condition put in writing before you leave. Use the *Move-In/Move-Out Checklist* on page 71. Have it signed and dated by the landlord. If the landlord will not sign the checklist, ask a witness to look at the unit and sign the checklist; it is best if the witness is someone uninterested; that is, not a relative or a close friend. Take pictures or videotape the apartment if you are worried about getting your security deposit back or afraid of being held liable for damages to the apartment that you did not cause. Do not sign anything given by the landlord, manager, or maintenance workers related to cleaning, damages, or repairs needed unless you agree to be charged full price for the work. Be especially wary of landlords or their employees asking you to sign documents that do not say how much the cleaning or repairs will cost. For more information, see *Problems with Deposits and How to Prevent Them* on page 33.
5. **Return all keys to the doors, mailbox, and storage area.** This will avoid having money subtracted from your deposit and it also will also protect the security and safety of the next tenants who move into your apartment.



## **Ending the Landlord Tenant Relationship**

### **How to Get Out of Your Lease**

Your lease is a contract, and when you signed it you agreed to pay rent for the full term of the lease whether or not you continue to live in the apartment. Know how long your lease runs. It may be a six- or 12-month lease even though you pay rent every 30 days. If you do not pay the rent as it comes due, then the landlord can sue you, collect the money you owe, and evict you.

Except for victims of domestic or sexual violence protected by the Illinois Safe Homes Act (see page 39), there generally are only two ways to break your lease and end your duty to pay rent. One way is to get the landlord to agree to let you out. The other way is to find someone else to take over your lease. When someone else takes over your lease, it is called subletting, assigning or transferring your lease.

### **Consent of the Landlord**

The easiest way for you to get out of your lease is if your landlord agrees, but your landlord does not have to agree. If you do get your landlord to agree to let you out of your lease, get it in writing. Otherwise, you could be faced with a lawsuit for non-payment of rent even though he or she told you it was okay to move out.

The exact wording of an agreement by your landlord to let you out of your lease is important to make sure you are completely released from claims that the landlord can make against you for additional rent. The agreement should end both the lease and the tenancy, and should be clear that you do not owe additional rent. For example, the agreement might say something like this: “John Jones, Landlord, and Robert Johnson, Tenant, hereby agree to end their lease for 1234 Main Street, Elgin, Illinois. That lease was dated October 1, 2015 and we now agree the lease ends on May 31, 2016. Both the lease and Johnson’s tenancy end on May 31, 2016. Johnson has paid his rent through May 2016 and does not and will not owe additional rent for months after May 2016.” If the landlord will also agree to include a statement that he or she will return your security deposit, add that as well. The agreement should include signature lines for you and for your landlord and also dates for your signatures.

Make sure you have a copy of the agreement, and that your copy includes your landlord’s signature. Simply writing “void” on a lease or tearing up your copy is not enough because your landlord could always produce a copy of the original, claiming that you ended the lease without his or her consent.

### **Sublet, Assign or Transfer**

If your landlord is reluctant to let you out of your lease, he or she may be more likely to do so if you can provide another person to take over your lease, including paying the rent and doing any other things the lease requires. Look at the lease to see if there is a provision allowing you to do this, and follow the procedures in the lease exactly. This is called subletting, assigning or transferring. Although there are confusing differences between subletting, assigning, and transferring a lease, for most purposes, these are the rules:

1. You will need your landlord’s permission. Many leases state that you cannot sublet, assign or transfer your lease without written permission from the landlord. The landlord does not have to agree.

2. Whether it is called a sublease, assignment or transfer, get it in writing. Make sure the agreement is signed and dated by your landlord, yourself, and the new tenant. Be sure to keep a copy of it.
3. You are probably still responsible for the rent. Even though another person has agreed to take over your lease, he or she may agree to pay less rent than you did. If this is the case, make sure you are aware of it and that you pay the difference between what you originally agreed to pay and what the new tenant is paying.
4. You are probably still liable for the total rent during the term of your original lease if the new tenant does not pay. The landlord can sue either you or the new tenant, whomever the landlord chooses.

As a general rule, be cautious when you choose someone to take over your lease. Some basic tips are:

1. Check the lease to be sure you can sublet, assign or transfer your apartment and get permission, in writing, from your landlord if required. Remember, your landlord does not have to allow you to do this.
2. Try to get someone you know to take the apartment.
3. If you cannot find someone you know to take your apartment, ask your landlord if he or she knows of anyone who would be interested in taking the apartment.
4. If neither you nor your landlord know of anyone, ask friends or relatives if they know someone they trust who can take over the apartment.
5. You can put up notices around town in stores, laundromats, etc., or put an ad in a newspaper or on social media. However, be very careful. If the person who takes over your lease is not trustworthy, or worse, damages the apartment, you could find yourself in more financial trouble than if you had just stayed in the apartment and tightened your budget to pay the rent.

When you move out, follow the check-out procedures in the *Move-In/Move-Out Checklist* (page 71) and the section of this handbook on *Damage and Security Deposits* on page 33 to make sure you will only be charged for the damages done while you were living there.

### **Ending an Oral Lease**

If you have an oral lease and you want to move, you must give your landlord a full rental period's notice in writing. This means that if you pay rent weekly, you must give your landlord seven days' written notice of your intent to move. If you pay rent monthly, or on another schedule such as every two weeks, then you must give at least 30 days' written notice. To give a proper 30 days' notice, you must provide your notice to the landlord on the first day of the rental period for months with 31 days, and before the first day of the rental period for months with 30 days. The rental period begins when your rent is due.

For example: You have an oral lease and you pay rent on the first day of every month. You want to move out on August 31. You must give your landlord written notice no later than August 1. You could not give notice on August 15 to move on August 31 because August 15 is in the middle of your rental period and it does not provide your landlord with a full 30 days' notice. If you did not give notice until August 15, you would still be liable for rent through September 30. Remember that some months have

only 30 days. For example, if you want to end your lease at the end of November, you would need to give notice on or before October 31, in order to give the landlord the full 30 days' notice.

If you do not give enough written notice, you may end up owing an additional month's rent or losing your security deposit. To avoid additional charges, send a signed, dated 30 day notice to your landlord by registered or certified mail, or deliver it in person in the presence of a witness. Always keep a copy of the notice for your own records. Remember that your landlord is entitled to the full 30 day notice; it is not enough to mail the notice 30 days ahead; you must be sure that the landlord receives it 30 days before you want the oral lease to end.

If your landlord wants you to move, he or she must give you written notice following the same rules described above. If you have an oral lease, the landlord does not need a reason to end the lease. The landlord can end the lease for any reason as long as it is not a discriminatory reason. The notice the landlord gives you does not have to be notarized or delivered by the sheriff, but it should be signed and dated. If you do not move out by the date specified in the notice, your landlord may file a lawsuit in court to have you evicted. For more information on this process, see the section below titled *Eviction*.

### **Other Possibilities**

There are certain situations in which you may be able to break your lease without your landlord's consent. If the house or apartment does not comply with the state or local building codes, housing codes, health requirements, or zoning ordinances, a health or safety hazard may exist. In some cases, the landlord may not legally rent the apartment. If such a situation exists, you should notify the appropriate officials (for example health department, city inspectors, or housing code enforcement). Do not move out because of hazardous conditions without first talking with an attorney. A housing code violation by itself is not necessarily grounds for breaking a lease. Inspectors are very overworked and do not appreciate being called in to inspect your house or apartment when your only motive is breaking the lease rather than health and safety.

You may also have a case for moving out if your lease allows subletting but you have tried to sublet, assign, or transfer your lease several times and the landlord has refused to rent to the new tenants for no apparent reason. In this situation, be sure to get the names, addresses and phone numbers of every person whom your landlord turned down. Again, talk with an attorney before you move.

## **Eviction**

Eviction is the way a landlord removes a tenant from the premises after the lease (oral or written) has been ended properly. The violation of any clause in a lease by a tenant may give a landlord a reason to evict a tenant. Examples are: if a tenant fails to pay rent within five days after it is due; if a tenant keeps a pet and there is a no-pet clause or agreement; if a tenant makes too much noise and there is a no-noise clause.

### **Notice and Court Proceedings**

The following are the steps a landlord must take in order to legally evict you. **YOU CAN ONLY BE EVICTED BY COURT ORDER** as described below. If the landlord does not follow this procedure, the eviction is illegal. If you are the victim of an illegal eviction, call an attorney. If your immediate safety or the immediate safety of your property is threatened, call the police.

**IMPORTANT NOTE:** If you live in public housing, Section 8 housing, or any other subsidized housing there may be different rules and laws that apply to you. You may be able to ask for an informal or formal hearing before an eviction goes to court depending on the type of housing. See page 45 for more information.

Here are the steps for an eviction if you live in private housing:

1. **Written notice from the landlord.** Your landlord must serve you with a written notice stating that he or she wants you out by a definite or specific date. The notice must be dated and signed by the landlord, but it does not have to be notarized or delivered by a sheriff. The notice can be sent to you the notice by registered or certified mail, or it can be handed in person to you or to any person 13 or older who lives in the premises. Generally, posting the notice on the door or leaving it inside the premises is not proper. There are three different types of notices, depending on the reason for ending the lease:
  - a. For non-payment of rent, the landlord must give the tenant at least five days' notice. The notice cannot be served until the day after the rent is due. You must pay the rent due within five days after the day you receive the notice. If you do not pay within those five days, the lease is ended.
  - b. For any other breach of the lease except specific drug and criminal activity, the landlord must give you at least 10 days' notice, stating why he or she wants you out.
  - c. If you have an oral lease, the landlord may end the lease for no reason at all (except for a discriminatory reason) with written notice. The number of days' notice the landlord must give you depends on if you pay rent month-to-month, week-to-week, or otherwise. See *Ending an Oral Lease* on page 58. Even though the landlord can end an oral lease without a reason, he or she cannot evict you for a discriminatory reason or in retaliation for a complaint to the housing code enforcement department. For more specific information on this, see *Discrimination and Housing* on page 11 and *Acting on Possible Housing Code Violations* on page 28.
2. **Speak with an attorney.** If your landlord serves you with a notice that he or she is ending your tenancy, talk with a lawyer as soon as possible. There is information about how to contact Prairie State Legal Services and other free legal aid programs at the end of this handbook.
3. **Payment in full to stop the eviction.** In the case of a five-day notice for non-payment of rent, if you pay all of the rent within the five days, your landlord can take no further action against

you and you can stay. Be sure to get a receipt; if you think the landlord will refuse to take the money or to give you a receipt, bring a witness with you when you pay. If you do not pay the rent in full within the five days, your landlord can take the money later and evict you, or refuse the money later and evict you.

4. **What you can do if the eviction is for a lease violation.** If you are being evicted for some breach of the lease other than nonpayment, the landlord does not have to accept any promise or solution; he or she can evict you unless you have a good defense to the claim that you breached your lease. Continue to pay your rent and get receipts, even though you have received a notice terminating your tenancy for breach of the lease. This may help you convince a judge that the landlord has acted contrary to the notice of termination and that you should be able to stay. If the landlord does not accept your rent, it is smart to save it so that if you win the eviction case you will be able to pay the rent you owe; otherwise, you might win the lease violation case and later be evicted for non-payment of rent.
5. **If you are disabled.** If the reason you are being evicted is connected to a disability, you may be able to prevent the eviction by requesting a reasonable accommodation. For more information on this, see *Discrimination and Housing* on page 11 and speak with a lawyer.
6. **What happens when the time in the landlord's notice ends.** If you have not left the premises by the time stated in the notice, the landlord must take you to court. **YOU DO NOT HAVE TO LEAVE THE PREMISES UNTIL YOU HAVE BEEN TO COURT AND A JUDGE TELLS YOU TO LEAVE BY COURT ORDER.**
7. **Landlord files an eviction case in court.** Next your landlord now must file suit against you. The sheriff or a special process server will give you a summons, which will state the time and date that you will have to go to court for a hearing. The summons also may be served on someone else who is at least 13 years old and resides in the premises. If you did not talk to a lawyer when you received the notice of termination of tenancy, try to talk to a lawyer as soon as possible.
8. **Go to court and ask for a trial.** It is important that you go to court at the time and on the date on the papers you were served with. If you do not appear in court the judge will enter a default judgment, which means that you will be evicted and owe whatever money the landlord is claiming. You have the right to have an attorney represent you in court, but the court will not appoint an attorney for you. If you do have an attorney, the attorney will do the things explained here for you. File an appearance (not required in every county) and an Application for Waiver of Court Fees, asking the court to excuse your filing fees. If you disagree with the reason for the eviction, or if you disagree with the amount that the landlord says you owe, tell the judge that you want a trial. Even if you have moved out by the time of the court hearing, you should go to court to make sure the amount of money the landlord tells the judge you owe is correct. Even if you plan to move, it is smart to go to court so that you can ask for more time to move out. The judge does not have to give you more time, but he or she may give you anywhere from a few days to a week or two weeks to move.
9. **The case will be set for trial.** Depending on which county you live in, your trial might take place on your first court date or the trial may be set for some time later, often one week later. It is best to bring all of your witnesses and evidence (for example: rent receipts, pictures of damages, police reports, etc.) to your first court date.
10. **Trial.** At the court hearing, you and your landlord each will have an opportunity to tell your story. Be prepared to have any receipts, documents, or witnesses with you to help convince the

judge. The judge will then decide whether you violated your lease. If the judge decides in your favor, you will be able to stay. If the judge decides in favor of the landlord, he or she can order you to be out that same day. This is unusual; most judges will give you a short period of time to move out. UNDER ILLINOIS LAW, HARDSHIP IS NOT A DEFENSE. For example, if it is winter or you are pregnant, the judge still will order you to move.

11. **Court order.** Once the judge makes his or her decision, the judge will ask someone, usually the landlord's lawyer, to write an order for the judge to sign. Do not leave court until you have seen the order. Get a copy of the order and keep the copy. If the judge has decided that you must leave the house or apartment, the order will say how long you have to remain before you must move out. Usually this is written in an order as "possession is stayed until [specific date, for example June 1]." This means that you have until that date to move out.
12. **Removal from the premises.** If you do not move out by the date in the court order, the landlord will contact the sheriff to schedule the eviction. You can find out the date that the sheriff plans to do the eviction by calling the sheriff's office. The sheriff will supervise the landlord and the landlord's workers; they can, and will, move you and your property out on the front lawn.

## **Lock-outs and Changing Locks**

Lock-outs, changing locks, utility shutoffs, and using force to remove you from the premises are always illegal. Your landlord must give you notice and take you to court in order to evict you. If he or she attempts some type of force to get you to leave, call the police and an attorney.

## **Liability for Rent**

Just because your landlord is trying to evict you does not mean you do not have to pay rent. You are liable for rent every day you are in the premises, whether you win or lose the eviction case in court. Hold onto your rental payment during court proceedings since eventually you will need to pay your landlord the rent that is due. Even if you are evicted, after you move out you may be liable for rent for the remaining time on the lease until a new tenant moves in.

## **Seizure of Property**

In general, your landlord cannot take any of your personal belongings as a means to get you to move out of the premises. However, if you owe your landlord rent, he can seize your property provided that he or she immediately files a lawsuit against you, listing all the property he or she has taken. In most cases, the landlord who seizes a tenant's property fails to file suit against the tenant which means the seizure is illegal and the landlord may be liable to the tenant for damages. In addition, some property is exempt or protected by law, including \$4,000 in value of any property; if the landlord takes this property, he or she may be liable for twice the value of the property taken. If you experience a problem with seizure of your property, contact an attorney.

## **Retaliatory Eviction**

Your landlord cannot evict you for complaining to a government authority such as your local housing code enforcement department about a legitimate housing code violation. If you receive an eviction notice after making a complaint, seek legal help to be sure of your rights. For more information on this, see *Acting on Possible Housing Code Violations* on page 28.

## **Small Claims**

Small claims court is a court where the judge hears claims for money in amounts less than \$10,000. The purpose of small claims court is to give people an opportunity to sue someone or defend themselves without having to be represented by an attorney, using simplified court rules and procedures. Although you may hire an attorney for small claims court, you do not have to have one.

In some counties, the same judge hears eviction cases and small claims cases. However, the procedures for the two types of cases are not identical. Small claims cases are lawsuits for money only. Evictions are not small claims cases and do not follow the small claims court rules. Some common small claims are suits brought by landlords against tenants for back rent or damage to a unit, and suits by tenants against landlords for seizing the tenant's property or failing to return a security deposit.

The person bringing the suit is the *plaintiff*. The person being sued is the *defendant*. To file a suit, the plaintiff must go to the small claims clerk at the courthouse and ask for a complaint form, or find a form online. This is usually a fill-in-the-blank form. Many courthouses have either a self-help center or a small claims help desk to assist with finding the form complaint and/or filling it out. The self-help center or help desk also should be able to help you with other forms you will need.

On the complaint form, you will put your name and address, the name and address of the defendant, how much money you are suing for, and a brief description of why you are suing the defendant (for example, "I paid a security deposit of \$500.00 on June 1, 2015; the landlord refused to return my deposit when I moved out."). A small claims case you can only ask the judge to enter a money judgment against the defendant. The small claims judge does not have the power to order the defendant to *do* something, such as return property which he or she took. Therefore, if you are suing in small claims court because your landlord seized your belongings, you can only sue for the value of the items. This may cause the landlord to return the items to you but the judge cannot order him or her to do so; the judge can only enter a judgment for the value of the property. If you believe the landlord still has the items and you want them returned, it is best to see a lawyer who can file the proper lawsuit rather than a small claims suit.

There are filing and service fees required to bring a small claims suit. If you want to file a small claims case but you have limited income and cannot afford to pay a filing fee, you can file an Application for Waiver of Court Fees. You need to supply financial information on this form. The clerk should allow you to file the case once you turn in the Application for Waiver of Court Fees, but you may have to pay the fee later. A judge will review your Application and enter an order that will either allow or reject your petition to file the case without paying filing fees. If the judge denies the Application, you usually will have a certain period of time to pay the fee. If you are sued in small claims court, you can use this same form to ask the judge to excuse you from paying the filing fee for defending the case.

When you turn in your form, the staff at the Circuit Clerk's office will set a date and time for the judge to hear the case. Then the complaint and summons must be served on the defendant. The small claims court rules allow the complaint and summons to be served by certified or registered mail, restricted delivery. If the defendant does not sign for the mail then service will need to be made in person. This is done through the county sheriff's office. The clerk generally will help you send copies of the complaint and summons to the sheriff for service.



At the date and time on the summons, both the plaintiff and the defendant should show up at the small claims courtroom. If the defendant shows up but the plaintiff does not, the judge will dismiss and the defendant will not have to pay anything. If the plaintiff shows up but the defendant does not, then the defendant will lose by default and probably will have to pay whatever the plaintiff claims the defendant owes. If neither the plaintiff nor the defendant shows up, the judge will dismiss the case.

Assuming you are the one who filed the suit, if both you and the defendant show up, the judge may hear the case that day or the judge may set a date for you to return for the trial. At the trial, you must explain to the judge why you are suing the defendant. You must state exactly how much money the defendant owes you, and you must bring any documents or witnesses you have to support your story. After you and any other witnesses you bring have testified, the defendant will be allowed to “cross-examine” you or your other witness, which means he or she will be able to ask the witness questions as well.

The defendant then must explain to the judge why he or she does not owe you what you claim. The defendant must bring any documents or witnesses he or she has to support his or her story. After the defendant and his or her other witnesses have testified, you will be allowed to “cross-examine” the defendant or other witness. (If you are the defendant rather than the one who brings the lawsuit, you will have these same rights.)

After this, the judge then decides who wins and how much, if anything, the defendant must pay. The judge will ask one of the plaintiff or defendant to write an order with the judge’s decision including the amount of money, and the judge will sign the order. If the judge finds the defendant must pay, the defendant does not have to pay that day. In fact, if the defendant refuses to pay, you probably will need to take the defendant to court again at another time to get him or her to pay.

There are a variety of ways to legally collect a judgment, but you should consult an attorney if you are having trouble doing so. Some methods are locating and freezing bank accounts, garnishing wages, and obtaining liens against property. Be aware that if your landlord obtains a judgment against you in small claims court, he or she can use these and other methods to collect from you. If you have questions about small claims court, contact the small claims clerk, the self-help center at the courthouse, or the small claims help desk. If the case is complicated or if you are unsure of what to do, see an attorney.

## **What Happens When Your Landlord is in Foreclosure**

Foreclosures in Illinois grew by a large number beginning in 2007. Many tenants were surprised to find out that the houses or apartments they were renting were being foreclosed and tenants often had to leave their homes with very little notice. State and federal laws were passed to give some protections to tenants whose landlords lost rental properties to foreclosure; however the federal law (“Protecting Tenants in Foreclosure Act” or “PTFA”) expired on December 31, 2014. Congress is considering reviving these laws, but has not yet done so as of the printing date of this handbook. Therefore, this handbook is based only on Illinois state laws as of May 2016. This is an area of the law that is changing often. If you learn that your landlord is in foreclosure, you should check for current information and updates about the rights of tenants in foreclosure.

### **Checking Into Foreclosure before You Rent**

Renting a property that is in foreclosure may not be a good idea, and it is something you will want to think about before signing a lease. One of the problems with renting a house or apartment which is in foreclosure is that foreclosure almost certainly means that the landlord is having financial difficulties. The same problems which are preventing the landlord from paying the mortgage are also likely to prevent the landlord from keeping the property in good repair, or possibly even from paying utilities if the lease says they are the landlord’s responsibility. These financial problems may also make it difficult to recover your security deposit from the landlord when you move out.

Unfortunately, there is no easy way to find out whether a landlord is behind on mortgage payments before a foreclosure case has been filed in court. It is NOT illegal for a landlord to rent out a property that is in foreclosure, and your landlord is NOT required to tell you that the property is in foreclosure. If you ask a landlord if mortgage payments are current or if the property is in foreclosure, your landlord should not lie to you, although it can be difficult to do anything about it if he or she does lie.

For these reasons, it is always a good idea to do a quick check to learn whether the property you are considering renting is in foreclosure – that is, whether a foreclosure case has been filed in court. Two ways to do this are through the Recorder of Deeds and through the Clerk of the Circuit Court for the county where the rental property is located. All Circuit Court foreclosure lawsuits and all records at the Recorder of Deeds are open to the public. In some counties, you may be able to check the Clerk of the Circuit Court or Recorder of Deeds information online. If you need help searching the records, it may be easier to go in person so that staff at the office can help you.

Through the Recorder of Deeds, you can usually search the county’s property records by address. This will help you identify the names of all property owners so that you can check the Clerk of the Circuit Court records for foreclosure cases filed against those names. Also, when a mortgage company files a foreclosure lawsuit, it often files a public notice of the foreclosure (called a *lis pendens*) with the Recorder of Deeds. There is no requirement that a *lis pendens* be filed with the Recorder, so the fact that you do not find one will NOT guarantee that no foreclosure lawsuit has been filed.

Through the Clerk of the Circuit Court, you can search for any lawsuits which name the landlord or any other owner of the property. Be sure to also search the landlord’s name and his or her business name(s) if there are any. If you find any lawsuits against your landlord or other owners, you can ask the staff at the clerk’s office to show you the court files so you can find out whether they are foreclosure cases on the property you are looking to rent.

## **The Foreclosure Process in Illinois: Figuring out Where the Landlord is in the Process**

To understand the rights of tenants whose landlords are in foreclosure, it is important to know a little about the foreclosure process in Illinois. If property which you own is in foreclosure, it is important to get more detailed information than is provided here, but the information here will help you understand your rights if your landlord is foreclosed.

The court foreclosure process usually takes at least nine months, and in many cases can take much longer. A tenant has the right to stay in the unit throughout the foreclosure case as long as he or she remains in compliance with the terms of his or her lease, *which includes continuing to pay rent to the current owner*. The bank or lender begins a foreclosure by filing a complaint in court stating that the mortgage borrower is behind in payments and that the bank seeks to foreclose. The law does not require the landlord to notify his or her tenants, nor is the lender required to provide notice to any tenant unless the lender names the tenant as a defendant in the lawsuit. The law says that the lender may include tenants as defendants in a foreclosure, but the lender is not required to include tenants and in fact most lenders do not. Naming a tenant as a defendant does not make the tenant responsible for the mortgage payments.

If the lender proves to the court that it has the right to foreclose, the court will enter a Judgment of Foreclosure. The property can be sold at a foreclosure auction three months after the Judgment is entered (a little longer in some circumstances) unless the landlord refinances or pays off the mortgage, gets caught up on the payments, sells the property, or gets approved for a loan modification. Shortly after the sale takes place, the lender must go back to court to ask the judge to “confirm” the sale. When the judge enters the order confirming the sale the foreclosure is complete and the deed to the property may be transferred to whoever purchased it at the foreclosure sale.

Even when the court enters a judgment, the property is sold, and the court confirms the sale, a tenant is not required to move yet. A tenant has the right to stay in the property throughout the foreclosure case as long as he or she remains in compliance with the terms of his or her lease, which includes continuing to pay rent. The next section discusses when a tenant must move out after a foreclosure sale is confirmed.

Note that in some cases, the foreclosure can move more quickly than the timeline set out here, and in other cases it can take much longer. The only way to know how quickly the case is moving is to check the court file from time to time. Court files are public record and you have the right to see the file if you go to the office of the Clerk of the Circuit Court. Many courts offer limited information on the status of cases for free online. Check with the court or its website for more information on accessing case information online.

## **How Long the Tenant May Continue to Rent a Property after Foreclosure**

State and federal laws protecting tenants in foreclosure have been changing, and the answer to the question of how long a tenant may continue to rent a foreclosed property is complicated. You may wish to speak with an attorney to determine the correct rules and exceptions that govern the exact length of time that applies to your lease. Illinois state law requires new owners who buy property at a foreclosure auction to honor most existing leases. In most cases, the law also requires landlords to provide written notice to tenants before they can be required to move. Only a court can order a tenant to move. As a reminder, this manual is based only on Illinois state laws as of May 2016.

### ***If you have a “bona fide” lease***

The length of time a tenant may continue to rent a foreclosed property varies depending on a number of factors, most importantly whether there is an existing lease which meets the law’s definition of a *bona fide* lease. A lease may not be bona fide if:

1. The tenant is the landlord’s spouse, parent, or child;
2. The amount charged for rent is substantially less than fair market rent (unless it is subsidized);
3. The lease was not an arm’s length business transaction -- for example, it has unusually friendly terms for the tenant that would not be normal in the general rental market; or
4. The lease was entered into after the property was sold at a foreclosure auction.

Most tenants have *bona fide* leases. If the new owner wants to evict a tenant with a *bona fide* lease, the new owner must give the tenant 90 days written notice to vacate after the sale is confirmed, even if the lease is only month-to-month or week-to-week, or if the lease was set to expire in less than 90 days. If the lease was not set to expire within that 90 days, the tenant has the right to stay for the full term of the lease, and the landlord must still provide at least 90 day notice to terminate the tenancy. The new owner can time the 90 day notice so that the 90 days end at the same time as the lease ends; he does not have to wait for the lease to expire to give the 90 day notice. There is an exception to this rule if the new owner plans to move into the property. A new owner who plans to move in is not required to let the tenant stay through the end of the lease but the new owner must still provide at least 90 days’ notice.

A note about oral leases: as explained on page 18, an oral lease is still a lease. Because it can be hard to prove the terms of an oral lease, it may be difficult to prove the length of the lease if it is for a specific period of time such as six months, and not just month-to-month. If you have an oral lease you may have to fall back on the 90 day notice rule, which still applies even if your lease is treated as month-to-month, so long as it otherwise meets the requirements of a *bona fide* lease.

### ***If you do not have a bona fide lease***

If your lease is not a bona fide lease, then your timeframe to stay in the property depends on the method the landlord uses to obtain a court order requiring you to leave. See the next section, *Steps the New Owner May Take to Remove a Tenant*, for a description of each of these methods with applicable timeframes.

### **Steps the New Owner May Take to Remove a Tenant**

Illinois law sets out three different court procedures that a new owner can use to remove a tenant after the sale is confirmed. Remember that you always have the right to stay in the property until a judge enters an order requiring you to move. The three court procedures for removing tenants are:

1. The lender may specifically list you by name as a defendant in the foreclosure case and serve you with a summons. If you are a defendant in the foreclosure, the court will enter an order telling you when you need to move at the same time that it confirms the foreclosure sale at the last court date in the foreclosure case. If you have a *bona fide* lease, the judge’s order should comply with your rights and timeframes as a tenant described above; you should be entitled to at least 90 days, and unless the new owner plans to move in, to stay for the length of your lease

if more than 90 days. If you do not have a *bona fide* lease, you should be given at least 30 days. Most lenders list “unknown occupants” as defendants in a foreclosure but the court can only evict you through the order confirming the sale if you are actually listed by name as a defendant and if you were served with summons.

2. The new owner may file a written request called a Supplemental Petition in the foreclosure case, asking the judge to order you to leave within 120 days from when the Supplemental Petition was served on you, or at the end of your lease, whichever is *shorter*. In either event, you should be given at least 30 days from the date the order is entered. This Supplemental Petition cannot be used unless it is filed within 90 days after the foreclosure sale is confirmed. A Supplemental Petition cannot be used to terminate a lease that meets the requirements of a *bona fide* lease (see above).
3. The new owner may file a separate court case outside of foreclosure court to evict you. However, the new owner cannot evict a tenant with a *bona fide* lease until the lease expires and the new owner gives at least 90 days’ notice. The new owner must wait until the end of the 90 days to file the eviction. The new owner can always file an eviction without waiting if he has valid grounds outside of the foreclosure case to evict you, such as non-payment of rent or another breach of the lease.

If the landlord uses a Supplemental Petition or separate eviction case to evict you due to the foreclosure, you should ask the judge to seal the court file so that it will not be available to the public where it could potentially harm your ability to rent in the future.

### **Paying Rent During and After a Foreclosure**

“Do I have to pay my rent if my landlord is in foreclosure?” This is a very common question asked by tenants. The answer to the question is “yes.” As a tenant, your right to stay in the property before, during, and after foreclosure depends on your paying the rent and abiding by all the terms of your lease.

This leads to the next question: whom do I pay? In general, you should pay your rent to your original landlord until the date the court confirms the foreclosure sale. It is always important to get and keep rent receipts, but it is particularly important to do so when there is a foreclosure because there may be a change in ownership of the property and there may be questions of whether you have the right to stay in your house or apartment.

In some cases, a lender may ask the court to be “placed in possession” early in the court case. This might happen, for example, if the landlord is not taking good care of the property. If the court agrees that the lender is entitled to possession of the property, the lender will then have the right to collect the rent. If that doesn’t happen with court approval earlier in the foreclosure process, the court will enter this order of possession when it confirms the sale. The new owner is required to try to find out who all of the tenants are. The new owner must then give a very specific written notice letting you know who the new owner is, where to call if you have questions or need repairs, and where to pay rent. This notice must also be posted on the main entrance to the building. The notice should include the court case number so that you can check the court file to see what has happened in the court case.

After the sale is confirmed, your original landlord no longer owns the property and no longer has the right to collect rent. Whoever purchased the property at the sheriff’s sale has the right to collect rent as the new owner from that point forward. The new owner must give a very specific written notice to the

tenants about the change in ownership. The notice is supposed to be given within 21 days of the confirmation, but even if it is given later, the tenant will still owe back rent for all of the time the tenant lived in the unit, including the time between the confirmation of sale and when the tenant got the notice. Once the notice has been given, you can be evicted for not paying rent, including back-rent owed from before the notice was given. If you are not sure to whom to pay rent, it is very important that you save the rent money, so that you will have the money ready when you get proper notice of whom to pay.

### **Moving Assistance**

You may be able to negotiate with the new owner for assistance to help pay your moving costs and the up-front costs of signing a new lease somewhere else. This is sometimes called “relocation assistance” or “cash for keys.” Although you have the right to stay for the time periods described above, the new owner of the property (oftentimes the bank) most likely wants you to move. If the new owner of the property wants you to move and you are willing to leave early, you may be able to negotiate an agreement with the new owner to pay you to move sooner than you are otherwise required. Contact the new owner or the new owner’s attorney to start negotiations. Be sure to get any agreements in writing.

### **Return of Security Deposit after Foreclosure**

In cases where the foreclosing lender becomes the new owner of the property, the old landlord is liable for the return of your security deposit unless the security deposit is actually transferred to the foreclosing lender, in which case the lender then becomes liable to return it. Within 21 days of the transfer, the new owner is required to post a written notice on the primary entrance to each unit in the building notifying its residents that the security deposit has been transferred.

For real estate with five or more units, the court should enter an order at the confirmation hearing requiring the foreclosed owner to transfer any security deposits to the new owner along with an accounting and the name and address of each tenant for whom a security deposit is held.

In cases where a third party who is not the foreclosing bank becomes the new owner of the property, then both the old owner and the new owner are liable to you for the return of your security deposit and you may choose to seek recovery from either of them.

In any scenario, if you are having trouble recovering your security deposit, for example if the old owner and new owner each claim the other is responsible for returning it, it may be necessary to sue them both in small claims court and let the court determine the outcome.

## Move-In/Move-Out Checklist

**How to use this checklist:** Go through the house or apartment on your own or with your landlord when you move in. In the left column, note any problem or write “good” or “o.k.” if there is no problem. If you fill out the checklist on your own, ask your landlord to go through the house or apartment with you to review the problems you noted. Make sure both you and the landlord sign and date the form and initial each page; make sure that you get either the original or a copy. If the landlord will not agree, you can bring a witness to go through the house or apartment, and be sure to take photos of any problems. You can use the form again when you move out.

Address: \_\_\_\_\_

Landlord: \_\_\_\_\_ Tenant: \_\_\_\_\_

Date Moved In \_\_\_\_\_

Date Moved Out \_\_\_\_\_

### Condition at move-in

### Condition at move-out

#### ENTRY DOORS

_____	_____ Locks/keys
_____	_____ Storm doors/screens
_____	_____ Patio/balcony/deck
_____	_____ Railing
_____	_____ Other

NOTES:

#### LIVING ROOM

_____	_____ Door
_____	_____ Walls/ceiling
_____	_____ Windows/screens/sills
_____	_____ Floor/tile/carpeting
_____	_____ Light fixtures
_____	_____ Switches
_____	_____ Woodwork
_____	_____ Curtains/curtain rods
_____	_____ Closets
_____	_____ Closet doors
_____	_____ Other

NOTES:

#### KITCHEN

_____	_____ Door
_____	_____ Walls/ceiling

**Condition at  
move-in**

**Condition at  
move-out**

**KITCHEN**

_____	_____	Windows/screens/sills
_____	_____	Floor/tile/carpeting
_____	_____	Light fixtures
_____	_____	Switches
_____	_____	Woodwork
_____	_____	Curtains/curtain rods
_____	_____	Closets
_____	_____	Closet doors
_____	_____	Refrigerator/freezer
_____	_____	Ice trays
_____	_____	Shelves
_____	_____	Drawers
_____	_____	Stove
_____	_____	Oven
_____	_____	Racks
_____	_____	Broiler
_____	_____	Broiler pan
_____	_____	Hood and fan
_____	_____	Garbage disposal
_____	_____	Sink
_____	_____	Faucets
_____	_____	Drain
_____	_____	Counter
_____	_____	Cabinets
_____	_____	Drawers
_____	_____	Doors
_____	_____	Other

NOTES:

**HALL/STAIRS**

_____	_____	Door
_____	_____	Walls/ceiling
_____	_____	Windows/screens/sills
_____	_____	Floor/tile/carpeting
_____	_____	Light fixtures
_____	_____	Switches
_____	_____	Woodwork
_____	_____	Curtains/curtain rods
_____	_____	Closets
_____	_____	Closet doors
_____	_____	Other

NOTES:



**Condition at  
move-in**

**Condition at  
move-out**

**BATHROOM**

_____	_____ Door
_____	_____ Walls/ceiling
_____	_____ Windows/screens/sills
_____	_____ Floor/tile/carpeting
_____	_____ Light fixtures
_____	_____ Switches
_____	_____ Woodwork
_____	_____ Curtains/curtain rods
_____	_____ Closets
_____	_____ Closet doors
_____	_____ Sink
_____	_____ Faucets
_____	_____ Drain
_____	_____ Counter
_____	_____ Tub/shower
_____	_____ Faucets
_____	_____ Drain
_____	_____ Tile
_____	_____ Cabinet
_____	_____ Drawers
_____	_____ Doors
_____	_____ Mirror
_____	_____ Toilet
_____	_____ Flush
_____	_____ Fan
_____	_____ Towel holders
_____	_____ Tissue holder
_____	_____ Other
_____	_____ Other

NOTES:

**BEDROOM #1**

_____	_____ Door
_____	_____ Walls/ceiling
_____	_____ Windows/screens/sills
_____	_____ Floor/tile/carpeting
_____	_____ Light fixtures
_____	_____ Switches
_____	_____ Woodwork
_____	_____ Curtains/curtain rods
_____	_____ Closets

**Condition at  
move-in**

**Condition at  
move-out**

**BEDROOM #1**

\_\_\_\_\_ Closet doors  
\_\_\_\_\_ Other

NOTES:

**BEDROOM #2**

\_\_\_\_\_ Door  
\_\_\_\_\_ Walls/ceiling  
\_\_\_\_\_ Windows/screens/sills  
\_\_\_\_\_ Floor/tile/carpeting  
\_\_\_\_\_ Light fixtures  
\_\_\_\_\_ Switches  
\_\_\_\_\_ Woodwork  
\_\_\_\_\_ Curtains/curtain rods  
\_\_\_\_\_ Closets  
\_\_\_\_\_ Closet doors  
\_\_\_\_\_ Other

NOTES:

**BEDROOM #3**

\_\_\_\_\_ Door  
\_\_\_\_\_ Walls/ceiling  
\_\_\_\_\_ Windows/screens/sills  
\_\_\_\_\_ Floor/tile/carpeting  
\_\_\_\_\_ Light fixtures  
\_\_\_\_\_ Switches  
\_\_\_\_\_ Woodwork  
\_\_\_\_\_ Curtains/curtain rods  
\_\_\_\_\_ Closets  
\_\_\_\_\_ Closet doors  
\_\_\_\_\_ Other

NOTES:

**HEAT AND MISCELLANEOUS**

\_\_\_\_\_ Electric outlets  
\_\_\_\_\_ Furnace/thermostat  
\_\_\_\_\_ Air conditioning/thermostat  
\_\_\_\_\_ Water heater  
\_\_\_\_\_ Furniture supplied by landlord  
\_\_\_\_\_ Other

NOTES:

**Move-in:**

_____	_____	_____	_____
Renter	Date	Landlord	Date
_____	_____		
Witness	Date		

**Move-out:**

_____	_____	_____	_____
Renter	Date	Landlord	Date
_____	_____		
Witness	Date		

## Where to Get Help

### Making a Housing Discrimination Complaint

If you feel that you have been the victim of illegal housing discrimination, PSLS may be able to help you. Call the Fair Housing Project at 855/347-7757 or contact one of the agencies listed below.

Department of Housing and Urban Development Phone: 800/669-9777

Online: <https://portal.hud.gov/FHEO903/Form903/Form903Start.action>

Illinois Department of Human Rights Phone: 800/622-3942 or 312/814-6229

Online: <http://www2.illinois.gov/dhr/FilingCharge>

There may be a local human rights or fair housing commission in your city or county. Contact the county government or city hall to ask.

### Making a Complaint with the Illinois Commerce Commission

Phone: 800/524-0795

TTY: 800/858-9277

Online: <http://www.icc.illinois.gov/consumer/complaint/wizard.aspx>

### Need an Attorney and Can't Afford One?

Prairie State Legal Services, Inc. provides free legal help for people and groups who cannot afford legal fees.

Prairie State charges no fees except for court filing costs and litigation costs that are not waived by the court.

Prairie State does not handle every type of case. Below is a list of some of the types of cases that we may handle.

Landlord-Tenant	Fair housing/housing discrimination
Public or subsidized housing problems	Mortgage foreclosure
Special education	School discipline (suspensions and expulsions)
Welfare problems	General Assistance
Health benefits	Domestic violence
Elder abuse	Social Security and SSI
Food Stamps (SNAP)	Unemployment compensation
Utilities and utility terminations	Medicaid
Medicare	Nursing home problems
Hospital bills	Race discrimination
Tax controversies	

Prairie State Cannot Handle Criminal Cases

**To be eligible for free legal help from Prairie State Legal Services, you must:**

- Meet certain income standards which are based on family size OR be eligible through our Senior Citizens Project or other special program; and,
- Live in one of the following counties:

Boone	Lee
Bureau	Livingston
Carroll	McDonough
DeKalb	McHenry
DuPage	Ogle
Fulton	Peoria
Grundy	Putnam
Henderson	Rock Island
Henry	Stark
Iroquois	Stephenson
Kankakee	Tazewell
Kendall	Warren
Knox	Whiteside
Lake	Will
LaSalle	

**How to Reach Prairie State Legal Services**

If you want to speak to an attorney about a legal problem or question, call the Prairie State office which serves the county where you live. The telephone numbers and other contact information for our local offices is located at the end of this handbook.

If you are 60 years old or older, you can apply for legal help and get legal advice by phone by calling our Older Adult Help Line at 888/965-7757.

If you have an income tax problem, you can contact our Low Income Tax Clinic directly at 855/TAX-PSLS or 855/829-7757.

If you have a mortgage foreclosure problem, you can contact our Legal Help for Homeowners Project directly at 888/966-7757.

If you have a fair housing problem, and you live in Lake, McHenry, Boone, Winnebago, Peoria or Tazewell County, you can contact our Fair Housing Project directly at 855/347-7757.

For some legal problems, you also can begin an application for legal help online at [www.illinoislegalaid.org](http://www.illinoislegalaid.org).

## **OFFICES OF PRAIRIE STATE LEGAL SERVICES, INC.**

### **BLOOMINGTON**

201 West Olive Street, #203  
Phone: 309/827-5021  
Toll Free: 800/874-2536  
Serving McLean, Livingston & eastern Woodford Counties

### **DUPAGE (WHEATON)**

400 West Roosevelt Road  
Phone: 630/690-2130  
Toll Free: 800/690-2130  
Serving DuPage County

### **FOX VALLEY (ST. CHARLES)**

1024 West Main Street  
Phone: 630/232-9415  
Toll Free: 800/942-4612  
Serving DeKalb, Kane & Kendall Counties

### **JOLIET**

5 West Jefferson Street, Lower Level  
Phone: 815/727-5123  
Serving Will County

### **KANKAKEE**

191 South Chicago Avenue  
Phone: 815/935-2750  
Toll Free: 800/346-2864  
Serving Kankakee & Iroquois Counties

### **MCHENRY**

5320 West Elm Street  
Phone: 815/344-9113  
Toll free: 877/480-3020  
Serving McHenry County

### **OTTAWA**

1021 Clinton Street  
Phone: 815/434-5903

Toll Free: 800/892-7888  
Serving Bureau, Grundy, LaSalle, Lee & Putnam Counties

### **PEORIA**

331 Fulton Street, #600  
Phone: 309/674-9831  
Toll Free: 800/322-2280  
TDD: 309/674-3811  
Serving Knox, Fulton, Henderson, McDonough, Marshall, Peoria, Tazewell, Stark, Warren & western Woodford Counties

Galesburg Satellite office  
311 East Main Street, #302  
Call Peoria number to apply for legal help

### **ROCK ISLAND**

1600 Fourth Avenue, #200  
Phone: 309/794-1328  
Toll Free: 800/322-9804  
Serving Rock Island, Henry, Mercer & Whiteside Counties

### **ROCKFORD**

303 North Main Street, #600  
Phone: 815/965-2902  
Toll Free: 800/892-2985  
Serving Boone, Carroll, JoDaviess, Ogle, Stephenson & Winnebago Counties

### **WAUKEGAN**

325 West Washington Street, #100  
Phone: 847/662-6925  
Toll Free: 800/942-3940  
Serving Lake County

### **OTHER SOURCES OF LEGAL HELP IN ILLINOIS**

#### **LAF (formerly, Legal Assistance Foundation of Metropolitan Chicago)**

Phone: 312/341-1070  
Serves residents of Cook County

#### **CARPLS (Coordinated Advice and Referral Program for Legal Services)**

Phone: 312/738-9200  
Serves residents of Cook County

**Land of Lincoln Legal Assistance Foundation**

Phone: 618/394-7300

Toll free: 877/342-7891

Serves residents of 65 counties in southern and central Illinois

**Illinois State Bar Association Lawyer Referral Service (charges a fee)**

Phone: 217/525-5297

Online: <http://ilf.isba.org/search.html>

**LEGAL INFORMATION ON THE WEB:**

[www.illinoislegalaid.org](http://www.illinoislegalaid.org)

[www.pslegal.org](http://www.pslegal.org)



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The information contained in this handbook is accurate at the time of the publication. This information is not meant to be legal advice or to replace the advice you should receive from an attorney. There are times when it would be smart to talk to a lawyer and other times when it is essential to get advice from a lawyer. Always remember, each individual case is unique. If you have additional questions or want legal advice, contact an attorney.

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[www.pslegal.org](http://www.pslegal.org)



