

If you're 60 or over, call your local legal aid office:

Eastern CT	800-413-7796	Western CT	800-413-7797
Hartford Area	860-541-5000	Bridgeport Area	800-809-4434
Stamford Area	800-541-8909	New Haven Area	203-946-4811

If you're under 60, call SLS for help:



Statewide Legal Services  
1-800-453-3320  
860-344-0380

Search our website for help:



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

## HOUSING

## LEGAL SERVICES

SELF-HELP SERIES

# Foreclosure: Your Rights and Options

August 2017



### We offer free legal help in many areas, including

- welfare,
- SNAP (food stamps),
- divorce,
- child support,
- domestic violence,
- bankruptcy,
- special education,
- nursing home care,
- health insurance,
- eviction,
- foreclosure,
- and more.

*See the reverse side for more about legal services.*

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If you're over 60, call your local legal aid office.

#### **Connecticut Legal Services**

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

##### *Bridgeport*

211 State Street 203-336-3851

##### *New Britain*

16 Main Street 860-225-8678

##### *New London*

153 Williams Street 860-447-0323

##### *Stamford*

20 Summer Street 203-348-9216

##### *Waterbury*

85 Central Avenue 203-756-8074

##### *Willimantic*

872 Main Street 860-456-1761

#### **Greater Hartford Legal Aid**

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

999 Asylum Avenue  
Hartford, CT 06105  
860-541-5000

#### **New Haven Legal Assistance Association**

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

426 State Street  
New Haven, CT 06510  
203-946-4811

#### **Consumer Law Project for Elders**

Free legal assistance to people 60 and over throughout Connecticut who have money/debt problems.

1-800-296-1467

### **Foreclosure: Your Rights and Options**

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*This booklet was produced by Connecticut Legal Services, Greater Hartford Legal Aid, New Haven Legal Assistance Association, and Statewide Legal Services.*

*The information in this booklet is based on laws in Connecticut as of 8/2017. We hope that the information is helpful. It is not intended as legal advice. For advice on your situation, call Statewide Legal Services or contact a lawyer.*

## Other ways to avoid foreclosure

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- If you have a mortgage insured by the VA, HUD, FmHA, or FHA, you may have other rights. Talk to a lawyer to learn more.
- You can sell your property before the Law Day or Sale Date. Selling the property may save you court and auction costs. Make sure you'll get enough from the sale to cover the total debt. If you can't find a buyer willing to pay a high enough price, you can ask the lender if it will accept less for your debt. This is called a *short sale*.
- If you don't have very much equity and you can't refinance or sell your property, you can ask the plaintiff to take your property and cancel the foreclosure and/or deficiency judgment. This is called a *deed in lieu of foreclosure*. By choosing this option, you will not have a foreclosure in your credit history, but you may have to pay taxes. Talk to a lawyer for more information.
- You can try to pay off the debt, interest, court costs, and other fees on or before the Law Day or Sale Date. Get a *Satisfaction of Judgment* from the plaintiff that says you paid off the amount of the judgment and file it with the court clerk. You should also file a certified copy with the town clerk where the property is located.
- You can ask the judge to extend the Law Day or Sale Date if you need time to sell the property or pay off your debt. This may increase the amount you owe. Ask the court clerk for help applying for an extension before the Law Day or Sale Date. At the hearing, tell the judge how and when you plan to pay off your debt.
- Filing bankruptcy may prevent foreclosure. Talk to a lawyer to see if this is a good option for you.

This booklet will tell you what to do if you are behind on your mortgage and facing foreclosure.

If you're behind on your mortgage, **don't ignore the problem**. Talk to your lender as soon as you start having trouble. You may be able to avoid foreclosure by working out a payment plan or a loan modification.

Visit the Connecticut Fair Housing Center website at [www.ctfairhousing.org](http://www.ctfairhousing.org) for help and more detailed information.

## Where to get help

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Here are some resources and programs that can help you keep your home:

**Go to a foreclosure prevention clinic.** The Connecticut Fair Housing Center offers free clinics to any homeowner facing foreclosure. You don't need to register ahead of time. Go to [www.ctfairhousing.org/foreclosure-prevention-clinics](http://www.ctfairhousing.org/foreclosure-prevention-clinics) to find a free clinic near you.

**Talk to a housing counselor.** To find a free counselor approved by HUD (U.S. Department of Housing and Urban Development), call 2-1-1 or go to [www.consumerfinance.gov/find-a-housing-counselor](http://www.consumerfinance.gov/find-a-housing-counselor).

**Talk to a lawyer.** Volunteer attorneys give advice and answer questions at some courthouses. You can get the schedule from the Judicial Branch website at [www.jud.ct.gov/volunteer\\_atty\\_prgm.htm](http://www.jud.ct.gov/volunteer_atty_prgm.htm) or by calling 860-263-2734. You may also be able to get free legal help from Statewide Legal Services by calling 1-800-453-3320 or 860-344-0380.

### **Beware of foreclosure rescue scams.**

Be careful of groups that say they can save your home from foreclosure. Only use counselors that are approved by the U.S. Department of Housing and Urban Development (HUD).

**Call 2-1-1 for a referral to a HUD-approved housing counselor.**

**Call the State of Connecticut foreclosure hotline** at 1-877-472-8313. They can answer questions and send you information.

**Contact the Connecticut Housing Finance Authority (CHFA).** CHFA provides counseling for people facing foreclosure. Call 1-877-571-2432 or 860-571-3500 or visit their website at [www.chfa.org](http://www.chfa.org).

**Talk to Making Home Affordable** at 1-888-995-4673 or go to [www.makinghomeaffordable.gov](http://www.makinghomeaffordable.gov). Making Home Affordable is a free government resource that offers information and resources to homeowners who are behind on mortgage payments or worried about falling behind in the future.

**Talk to someone at the Connecticut Office of the Attorney General** if you think your lender misled you or tricked you into a mortgage you can't afford. They may be able to help. Call 860-808-5318 to learn more.

## The foreclosure process

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**You probably don't need to hire a lawyer.** Most people in foreclosure handle their cases without one.

Foreclosure starts when a marshal serves you these papers:

- *Summons*,
- *Complaint*, and
- *Mediation Certificate*.



Most people in foreclosure handle their cases without a lawyer.

The marshal will come with movers on the date and time on the notice. If you haven't moved your things out, the movers will put your things in storage. Call your town and ask where your belongings are being stored. You will have 15 days to claim your belongings from storage. After 15 days, the town can auction them off. Be aware that the town may charge you a storage fee.

**Important!** If you're 18 or older and you are not the spouse of the borrower, you have to move out **only if your name is listed in the foreclosure or eviction papers**.

## You may owe money after foreclosure

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How much money you will owe will depend on the type of foreclosure you chose:

**Foreclosure by Sale:** If you owe more than the property sold for, the lender may ask the court to enter a *deficiency judgment* against you. A *deficiency judgment* is a court record that says you owe money to the bank or to the lender.

**Strict Foreclosure:** If you owe more than the property is worth, the *plaintiff* (bank or lender) has 30 days after the Law Day to ask the court to enter a deficiency judgment against you. A deficiency judgment is a court record that says you owe money to the bank or lender. There will be a hearing where you can tell the judge why your property is worth more than the plaintiff says. You can hire your own appraiser, ask the plaintiff's appraiser questions to show that the value is wrong, or testify about the value yourself.

Strict Foreclosure	Foreclosure by Sale
<p><b>Things to remember:</b></p> <ul style="list-style-type: none"> <li>• Another defendant in your case, such as a spouse who also owns the home, can pay the debt by the Law Day.</li> <li>• If no one pays the debt, the plaintiff will own the property. The plaintiff is the party that brought the case (usually the bank or lender).</li> <li>• You will not get any of the equity in your property.</li> </ul>	<p><b>Things to remember:</b></p> <ul style="list-style-type: none"> <li>• Only ask for a foreclosure by sale if you have a lot of equity in your property.</li> <li>• You must file a <i>Motion for Foreclosure by Sale</i> with the court. Ask the clerk for help.</li> <li>• There will be a court hearing on your Motion. The judge will want to know that the property is worth more than your total debt. You may want to get someone to tell you the value you of (or <i>appraise</i>) your home. A judge will give more weight to an appraisal than to your opinion of the home's value.</li> </ul>

## If you don't move out after foreclosure

If you don't move out after the *Law Day* or *Sale Date* of the property, the new owner will probably start an ejectment or eviction against you and have a marshal move your things out. An ejectment takes less time than an eviction, and it will be part of the foreclosure case. An eviction is similar, but it requires a new court case in housing court. The marshal will give you a notice with the time and date that he or she is coming to move your things. **You may only get 24 hours' notice.**

## Fill out and file court forms

**You must give your forms to the court and to everyone in your case within 15 days of the *Return Date*.** You can find the *Return Date* in the upper right-hand corner of the *Summons* form. You don't have to go to court on the *Return Date*.

If you don't file your forms on time, you may not be able to fight the foreclosure or participate in mediation. If you miss any deadlines, contact the court clerk right away. If you don't live in Connecticut, talk to a lawyer before you file any forms.

### **Appearance (JD-CL-12)**

Everyone facing foreclosure must file an *Appearance*. The *Appearance* form tells the court your name, address, and that you are representing yourself in the foreclosure. You must file this form with the court within 15 days of the *Return Date*. Once you give the court your *Appearance*, you will get notice of everything that happens in your case. Get the form from the court clerk or online at <https://www.jud.ct.gov/webforms/forms/cl012.pdf>

### **Mediation Certificate (JD-CV-108)**

*Mediation* is a free program that can help you work out an agreement with your lender. You must go to mediation if you live in and own a home that houses up to four families. You can get the *Mediation Certificate* attached to the foreclosure papers, from the court clerk, or online at <https://www.jud.ct.gov/webforms/forms/CV108.pdf>.

### **Answer (JD-CV-106)**

**Most people in foreclosure don't have to file an *Answer*.**

You should only file one if you have a *defense* to the foreclosure, meaning you think there is a good reason why your house should not be in foreclosure (for example, the mortgage company didn't credit your account with payments that you made, or it didn't follow an agreement it made with you). Try to talk to a lawyer before you file an *Answer*.



Read everything in the *Complaint* very carefully before you fill out the *Answer* form. You will need to check *Agree*, *Disagree*, or *Do Not Know* for each paragraph in the *Complaint*. If you don't understand a paragraph, check *Do Not Know*. Use the *Special Defenses* section to explain why the court should let you keep your home.

Get an *Answer* form from the court clerk or online at <https://www.jud.ct.gov/webforms/forms/CV106.pdf>.

## Mediation

If you are in foreclosure because you are behind on your mortgage, you will have to meet with a mediator. *Mediation* is automatically scheduled if your case qualifies for it, and it can take up to 8 months (or longer if you ask for an extension). You should talk to a housing counselor or a lawyer before you go.

### ***Tips and information about mediation***

- Don't agree to move out if you want to keep your home.
- The mediator can't make the lender agree to something, but they may help the lender to be more flexible.
- Keep all appointments and complete all paperwork that the mediator asks of you. If you don't, the foreclosure may move forward faster.
- The lender's representatives may be at some mediation appointments, but they probably won't be at all of them.
- If you can't work out an agreement in mediation, you can ask to see the judge after mediation is finished.
- If the lender doesn't do what the mediator asks, talk to a lawyer to find out your options.

## Go to every court date

If the judge orders foreclosure of your property, you can ask for extra time

- to sell or refinance the house,
- to let your kids finish the school year, or
- to move (if someone in your family is disabled).

The judge will order either *strict foreclosure* or *foreclosure by sale*, depending on the status of other lienholders, the value of the property, and whether you ask for a sale.

### ***Which type of foreclosure is right for me?***

Strict Foreclosure	Foreclosure by Sale
The judge will set a date called a <i>Law Day</i> , which is the last date you have to get your home back. To do that, you must pay what you owe (usually the amount of the debt plus court costs and attorney's fees). You can try to sell the property or get a loan to pay what you owe. If you don't do this by the <i>Law Day</i> , the bank will own your home the next day.	The judge will set a <i>Sale Date</i> , which is the date that your house is to be sold at auction. You can pay what you owe (usually the amount of the debt plus court costs and attorney's fees), before the <i>Sale Date</i> . You can try to sell the property or get a loan to pay off your debt.
There may be more than one <i>Law Day</i> , but the one that matters for you is <b>the first Law Day</b> .	On the sale date, your property will be auctioned to the highest bidder. The money will first go to auction and court costs and to pay the <i>plaintiff</i> (usually the bank or lender). If there is any money left over, it goes to you.