



VIRGINIA  
LEGAL AID  
SOCIETY

## PUBLIC HOUSING

### **What is Public Housing?**

Public housing was established to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities. The U.S. Department of Housing and Urban Development (HUD) administers federal aid to local Public Housing Authorities (PHA). The PHA's manage housing for low-income residents at rents they can afford. HUD provides help and assistance in planning, developing, and managing the housing units.

People who live in public housing live in housing that consists of a cluster of apartments that are owned and managed by a local PHA. For the cities and counties covered by Virginia Legal Aid Society (VLAS), public housing exists only in the cities of Danville, Franklin, Lynchburg, and Suffolk.

### **What is the Public Housing Authority's responsibility?**

The PHA is responsible for the management and operation of its local public housing program. They may also operate other types of housing programs such as Housing Choice Vouchers (Section 8). Sometimes a PHA will provide other services, such as: homeownership opportunities for qualified families, employment training opportunities for residents, and support programs for the elderly. Contact your local PHA for more information about what other kinds of housing assistance they might offer.

PHA's have many more rules to follow than do private landlords. These rules may include: who gets into the housing (admissions), who's allowed to live there in addition to the actual tenant (authorized occupants), rents, leases, grievances, and evictions. But if you live in public housing, you will also have more legal rights than most tenants in private rental housing. These rights include the following things:

- The PHA must follow certain rules about who gets admitted to the housing.
- Your rent is limited.

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- Usually you pay no more than 30% of your income for rent and utilities.
- Your tenancy usually is not time limited. As long as you don't break the lease or the law, you are allowed to stay.
- You may be evicted only for good cause.
- You must be given notice and a chance to contest a denial of admission.
- Before your subsidy may be ended, you must be given notice and a chance to contest the termination.

## **Who is eligible for Public Housing?**

Public housing is limited to low-income families and individuals. The PHA determines your eligibility based on: 1) annual gross income; 2) whether you qualify as elderly, a person with a disability, or as a family; and 3) U.S. citizenship or eligible immigration status. If you are eligible, the PHA will check your references to make sure you and your family will be good tenants.

PHA's use income limits developed by HUD. Income limits vary from area to area so you may be eligible at one PHA but not at another. The PHA serving your community can provide you with the income levels for your area and family size.

The PHA may deny admission to any applicant whose habits and practices may be expected to have a harmful or negative effect on other tenants or on the complex environment. This includes reviewing a tenant's criminal record, past behavior as a tenant, past evictions, and even a credit report. The PHA cannot deny admission, or evict you, just because you have an arrest record, but they can consider your conduct that led to the arrest if it relates to your suitability as a tenant.

If you are denied admission, your PHA must give you a written notice stating why you were denied. This notice must tell you of your right to contest the denial in writing or in person. If you are denied, contact your local legal aid office.

## **How do I apply for Public Housing?**

You usually apply at the local PHA, however, in some areas you can apply directly to the complex where you wish to live. You must be allowed to complete an application, unless the waiting list is so long there is no reasonable chance you can get housing within a year **or** you clearly do not fit the requirements of the complex (such as poor credit, criminal history, owing rents to former landlords, previous evictions, etc).

You can apply at more than one housing agency or apartment location at a time. Each housing agency has its own system for applications. Sometimes there are long waiting lists, and sometimes there are immediate vacancies. If you're able and willing to move, you might find a housing agency that can offer you housing right away. So check around.

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Once your application is accepted, your name is put on a waiting list. You must be told about the PHA’s preferences for admission. You may be required from time to time to say you are still interested in admission. If you fail to do so, your name may be removed from the waiting list and you will have to start the admission process again. Make sure that your telephone number and address are updated so that you receive the update notices.

Waiting lists usually are kept according to the number of bedrooms needed. Waiting lists also may be separated based on preferences for admission. (*See below.*) When there is a vacancy, the unit must be offered in the order of bedroom size, preferences, and date and time of application.

Below is a list, with contact information, of the public housing authorities that are in VLAS’s service area.

<p>Danville Redevelopment and Housing Authority (DRHA)          135 Jones Crossing          P.O. Box 2669          Danville, Virginia 24541          (434) 792-5544  <a href="http://www.drhava.com">http://www.drhava.com</a></p>	<p>Franklin Redevelopment and Housing Authority (FRHA)          100 East Fourth Avenue          Franklin, Virginia 23851          (757) 562-0384  <a href="http://www.frhaonline.org/">http://www.frhaonline.org/</a></p>
<p>Lynchburg Redevelopment &amp; Housing Authority (LRHA)          918 Commerce Street          P. O. Box 1290          Lynchburg, VA 24505          434-485-7200</p>	<p>Suffolk Redevelopment &amp; Housing Authority (SRHA)          530 East Pinner Street          Suffolk, VA 23434          757-539-2100          Fax – 757-539-5184  <a href="http://www.suffolkrha.org/">http://www.suffolkrha.org/</a></p>

## When will I be notified whether I’m approved?

The PHA must notify you in writing whether you’re eligible, and must tell you in writing about their rules for waiting lists and other important things. If your PHA determines that you are eligible, your name will be put on a waiting list, unless the PHA is able to assist you immediately. Once your name is reached on the waiting list, the PHA will contact you again.

If it is determined that you are not eligible, the PHA must give you written notice as to why you were denied, how to appeal, your rights to an informal hearing, and other information about how you can challenge their decision.

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## **Who may get a preference for Public Housing?**

The PHA may give a preference to these people: working people, the disabled, the elderly (age 62 or older), the homeless, victims of domestic violence, and people who live in a particular area.

## **How is rent set in Public Housing?**

In public housing, your rent is less than it would be if you were renting from a private landlord. Often, it's less than in subsidized housing, which is different from public housing.

The PHA starts by looking at your adjusted monthly income to determine your share of the housing costs, which include your rent and utilities. Your adjusted monthly income means your total income minus certain deductions, such as deductions for dependents, elderly and disabled families, high medical expenses, and costs of child care you need to pay in order to go to work or school.

In addition to the money you earn from wages and other sources, the PHA must count regular monetary and nonmonetary contributions or gifts from persons who do not live with you. Regular contributions from others include such things as: paying your bills for you, giving you cash, or providing your family with groceries or clothing. If these contributions are given to you only from time to time in a sporadic, non-recurring pattern, then they are not to be counted.

Usually tenants pay 30% of their adjusted monthly income for housing costs. If all utilities except telephone are included in the rent, your rent is 30% of your adjusted monthly income. But if all utilities except telephone are *not* included in your rent, your rent is 30% of your adjusted monthly income minus a "utility allowance." The utility allowance is given because you will have to be paying utilities in addition to your rent; remember that the PHA needs to consider your total housing costs, not just rent. The utility allowance is the reasonable cost of a modest amount of utilities.

If the utility allowance is more than 30% of your adjusted monthly income, you pay no rent. You also get a monthly utility allowance check equal to the difference, however, if you go over the utility allotment, you may be required to pay the overage.

To be sure you pay the right amount of rent, you must report your income at least once a year and be recertified for the unit. You also must report changes in income and family size as soon as the change occurs.

## **I have no income and the PHA said I have to pay a minimum rent of \$50.00 per month. Can they do that?**

Yes, the PHA can require a minimum monthly rent payment from you, up to \$50.00. There are circumstances under which the PHA can waive the minimum rent payment. You should file a grievance and contact your local legal aid office if you disagree with the minimum rent amount.

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## **Can the PHA change my rent?**

You are required to report changes in your income and size of your household within 10 days of the change. You should report all changes in writing. You should keep a copy. Make sure to include the date and who you're sending it to.

If your income increases, any change in rent starts two months after the change in income, assuming you reported it on time. But if your income went down, any change should be effective the next month, if you reported it on time.

You will be recertified every year for eligibility and for the amount of your rent. But, as noted above, don't wait until the recertification process to report changes in income and household compositions. You are required to report those changes at the time they happen. Failure to do so may result in being evicted or penalized in some other way.

## **What is the "mandatory community service" requirement in Public Housing?**

Unless they are exempt (excused from the requirement), all adult public housing tenants must perform 8 hours of community service each month, or participate in training, counseling, classes, or other activities that help an individual toward self-sufficiency and economic independence.

## **What counts as community service?**

Many things may count. For example, volunteering for a non-profit group may count. Doing volunteer work at the public housing complex may also count as community service. You should get your community service plan approved by the PHA before you start doing the work. You cannot use political activities or employment as your community service, but there are many other possibilities that can count as community service.

## **Who is excused from the community service requirement?**

Some of the people who are excused are:

- Tenants 62 years of age or older;
- Tenants who are blind or disabled and show that they cannot do the requirement because of their disability;
- The caretaker of a blind or disabled person;
- Tenants who are excused from the work requirements of state welfare programs;

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- Members of families that receive TANF if they are following the work requirement rules for TANF; and
- Tenants who are working 30 hours per week.

## **What happens if I don't do the required community service?**

The PHA must review your community service every year, at least 30 days before the end of a 12-month lease term, to see if you have satisfied your requirement. The PHA may require verification from the agency where you volunteer that you have done the hours of service. You cannot be evicted in the middle of your lease term if you fail to do your community service hours. However, if you don't follow these rules, your lease may not be renewed for another term. Before deciding not to renew your lease because you haven't done your community service, the PHA must notify you of the non-compliance and of your right to a grievance of that decision. The PHA also must give you a chance to fix the problem. You can fix it by agreeing to make up the hours over the 12 month period of the new lease term (in addition to your usual 8 hours per month). However, if you still fail to do the hours or refuse to comply and you are not exempt from the community service requirement, the PHA eventually may not renew your lease.

## **What if I think that the PHA is wrong in saying I'm not exempt from the community service obligation or that the community service doesn't qualify?**

You can ask for a grievance hearing within a certain period of time after the PHA's decision. The grievance procedures must be available at your PHA for you to review. You should review the procedures to be sure you don't miss any deadlines or give up any rights you have.

## **What's in a Public Housing lease?**

You must be given a written lease. The lease must tell you the amount of rent and security deposit, when rent is due, the PHA's duty to keep the housing in good condition, your rights and duties as a tenant, the way to handle disputes, and the way to handle evictions. The lease may include other matters. Everything in the lease must be reasonable and not in conflict with the law.

The lease cannot include provisions that you give up your legal rights, or that you agree in advance to not hold the PHA responsible for their negligence or wrongdoings.

## **Can the PHA inspect my apartment?**

Yes, the lease must require that you and the PHA do an inspection before you move in. The PHA is required to give you a written statement that describes the condition of the apartment and the equipment, such as appliances, that are provided.

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Generally, the PHA will inspect your apartment once per year. However, some problems with housekeeping may justify that they inspect more often. You should be given notice of these inspections (unless management believes an emergency exists), and they should occur at a reasonable time. If you believe that the inspections are not for a legitimate purpose, you should file a grievance.

## **How do I handle problems in Public Housing?**

In public housing there is not a landlord, but a property manager or site manager. The property or site manager is based at the complex. In most public housing, if you have a problem you may ask the property or site manager for a grievance hearing. You must ask for this in writing. You must ask for a hearing within 10 days after the property manager takes an action that you disagree with. You can use a grievance to deal with things like repairs, security, guests and visitors, and the amount of rent owed, without going to court.

The hearing is held in front of an unbiased person. You may look at the property manager's records, be represented, present evidence, question the PHA's evidence, and have a written decision. If you win the decision, your property manager must follow it. If you lose the decision, you still may contest it if the dispute goes to court.

If you believe that there are repairs or maintenance that the PHA should be doing, you should request it in writing. If they do not make repairs within a reasonable time after you've requested it, you may be able to file in court what is called a "tenant's assertion," to try to get the repairs ordered by the judge. You should contact legal aid or another lawyer for advice on that.

## **Can the PHA deny me a grievance hearing if they are trying to evict me?**

A PHA does not have to provide a grievance hearing in an eviction case if it involves:

- any activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents, or
- any violent or drug-related activity on or near the premises, or
- any activity resulting in a felony conviction.

## **Can the PHA keep my guests from visiting me?**

The PHA may, within certain limits, prohibit your guest from coming onto the property. This is usually done after the PHA decides there has been illegal or other undesirable conduct by your guest. This is referred to as "banning" or "barring" your guest from the premises. Another word you may hear is "barment." This is allowed, within certain limits. The PHA must have written policies on the reasons someone may be banned, and how that will be done.

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The PHA must have a very good reason for the banning. This might include such things as the guest having engaged in criminal, abusive, or other extremely negative behavior that threatens the safety and well-being of other tenants or the PHA staff. You may be able to challenge the banning on Constitutional grounds (such as the freedom to associate with others), or under state law.

The PHA must send a letter to the person they intend to ban, and they must send you a copy of that letter, so you are both on notice. If the banned guest has been properly served with this notice and later comes back onto the property, the PHA may try to bring criminal charges against the guest for trespassing.

## **What if I think that the PHA was wrong to ban one of my guests?**

You may file an action in court asking the judge to review the PHA's letter to the guest, and asking the judge to have the ban lifted. This is called a "tenant's assertion." A tenant's assertion must be done properly so you may wish to get legal advice on this.

## **Can the PHA lock me out or shut off my utilities?**

The PHA may not shut off utilities, lock you out of the rental unit, or evict you without giving proper notice and going to court. You do not have to move out just because the PHA tells you to leave. The PHA must give you proper notice and, if you don't move out, they must then bring an eviction (Unlawful Detainer) action against you in court, asking the judge to have you evicted. It's only after the judge gives the PHA an order for your eviction that they can actually take the steps to have you physically removed.

If the PHA locks you out or deliberately fails to supply essential services, such as heat, water, gas, or electricity, you should call local law enforcement for help. You may also have grounds to sue in court to get back in, or to terminate the lease and owe no more rent. In either case, you can also sue the landlord for damages (for example, the cost of finding alternative housing), and you may be able to collect attorney fees from the PHA.

## **For what reasons can I be evicted from Public Housing?**

Public housing tenants can only be evicted for good cause, which is defined as serious or repeated violation of their obligations as a tenant. Whether there's good cause to be evicted depends on the facts of each situation. In the end, you may end up in court on an eviction action, and then it's up to the judge to decide if there's good cause. An important factor in deciding if the PHA has good cause to evict you is whether you were at fault.

Many public housing leases state that being late on your rent a specific number of times is good cause for eviction. Even if it's not in your lease, you might be evicted for nonpayment or late payment of rent and other charges, failure to report changes in income and household composition, and for criminal activity. Such things are imposed by laws and regulations.

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## **Can the PHA evict me because I have not paid for damages that they say I caused in the apartment?**

Extra charges, such as for damages claimed by the PHA, are separate from rent for eviction purposes, so the PHA cannot evict a tenant for nonpayment if they have not paid such extra charges. Shorter notice is allowed for nonpayment of rent evictions, so this is an important distinction because the tenant should be given more time to either resolve the nonpayment of extra charges, or prepare to move out if necessary.

## **Can I be evicted for something done by one of my household members or by my guest?**

The federal law's "one strike rule," which only applies to public housing, states that if the actions of a tenant, other household member, or a guest (someone who is invited to stay overnight) are involved in either violent criminal or drug activity, and that activity occurred either on or off PHA property, then the tenant is held strictly liable for the actions of their guest. "*Strictly liable*" means the tenant can be evicted even if they didn't know about the activity of the other household member or guest.

On the other hand, if the activity was done by "any other person under the tenant's control," meaning a temporary visitor rather than a household member or overnight guest, then the tenant can be evicted only if the activity occurred on PHA premises, whether or not the tenant knew about it.

Evictions based on criminal or drug related activity can happen immediately and don't require the usual 30 days advance notice.

## **Can the PHA evict me for something one of my guests did after they left my apartment?**

Tenants are responsible for the actions of their guests. The question is whether the actions of your guest were foreseeable and whether you had any power to control the actions of the guest. If the actions were neither foreseeable nor within your control, then you may be able to avoid eviction.

## **Can the PHA try to evict me for actions of my guests, or if I have the guest visit me after the PHA sent them the notice not to come on the property?**

Yes. As the tenant, you are responsible for the way your guests act. Your guests must keep the rules of the lease that you follow and must not break the law. If the PHA has served the proper notice on you that the guest is banned from the property and they come to see you anyway, that can be a reason for PHA to evict you. If you live in public housing or subsidized housing, you may be held responsible for the acts

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of a guest even if you did not know that they were coming to see you or that they were going to break the rules. Many subsidized housing and public housing complexes also have strict rules about how long a guest may stay with you before the stay violates your lease, as well as rules about reporting guests.

## **If the PHA does want to evict me for the actions of a guest, what must they do?**

The PHA must first send you a written notice stating the reason for the eviction. There are some things that are considered “remediable”-- meaning they can be fixed. In those cases the PHA is supposed to send a notice giving you 21 days to fix the situation, or else your lease terminates in 30 days. This is called a “21/30 day notice.” However, if your guest did something very serious or broke the law in a serious way, the PHA can give a 30 day notice to terminate without the chance to correct the problem, or an even shorter notice if the act was criminal and poses a threat to health or safety. After the PHA has given the proper notice and the time has passed for you to leave, the PHA must file an unlawful detainer action in court. You will have the chance to present any evidence you have at the court hearing.

## **What notice is needed to evict me from Public Housing?**

If you are in a public housing unit that is owned and operated by a public housing authority, all notices must be in writing. The notice must give you the right to a grievance. Grievance procedures are designed to resolve individual tenant complaints. Generally the PHA will provide for some sort of grievance procedure. The grievance procedures should be included in the lease.

If you are late with rent, you must be given a 14 day notice to pay the rent or move. If you pay the rent within the 14 days, you get to stay. If you don't pay, the PHA can start an Unlawful Detainer action (an eviction) in General District Court (GDC). Even then, if the PHA's only reason for eviction is non-payment of rent, you get to stay if you pay the amounts owed on or before the court date. These amounts might include:

- All rent and arrears,
- Late charges and attorney's fees contracted for in a written rental agreement,
- Interest, and
- Court costs

The Summons for Unlawful Detainer lists all rent, late charges, attorney's fees, interest, and court costs. If a new month's rent is due after you get the Summons, but before the date that you pay, you will have to pay that as well.

You must pay the amounts owed before the court enters a judgment. The Summons for Unlawful Detainer lists the return date and time. You should pay what you owe on or before that date. You may pay the

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amounts owed to the PHA, the PHA's attorney, or the court. If you pay the amounts owed, you need to get a written receipt. You need to come to court on your court date even if you have paid the amounts owed, and bring your receipts or other evidence to prove your case. You can prevent eviction by paying the amounts owed only once each year that you continue to live in the same place.

To evict you for any other reason, your PHA usually must give you what is called a 21/30 day written notice to move. This notice must explain the problem and the reason that the PHA wants to evict you. If you correct the problem in 21 days, you get to stay. If not, the lease is terminated after 30 days from the date of the notice. If you don't move out after those 30 days, then the PHA can start an unlawful detainer action in GDC.

To evict you for a reason that can't be corrected, the PHA must give you a written notice to move in 30 days. If you don't move by the end of the 30 days, the PHA can start an unlawful detainer action in GDC.

If the PHA wants to evict you for drug-related criminal activity, the notice must state that:

- You have been charged with, or convicted of:
  - Illegal sale, distribution, or manufacture of a controlled substance, **or**
  - Possession of a controlled substance with the intent to sell, distribute, or manufacture,
  - And . . .
- The PHA has determined that this is a threat to the health or safety of other residents or employees of the PHA agency.

## **Can I prevent an eviction for late payment of rent if I get the money to pay?**

If the only reason the PHA has for evicting you is non-payment of rent, you may stay in the rental unit if you pay all the rent owed, and court costs (plus any late charges, interest, and attorney's fees if provided for in a written lease) on or before the *first* eviction (unlawful detainer) court date.

If you do not have all the money that's owed, you may be able to prevent the eviction by getting a written commitment from a local government or nonprofit agency to pay the rent due, plus late charges, attorney fees, and court costs within 10 days of the first date set to appear in court (called the "return date"). This is called a "redemption tender" and it can be given to the court either before or at the return date. The court must then continue (postpone) the hearing for 10 days to allow for the money to be paid to the landlord. If it is paid in full within those 10 days, then the court will dismiss the case and you can stay. If the promised money is not paid in full within those 10 days, however, then the judge will give a

judgment to the landlord for immediate possession of the premises, in addition to judgment for all the amounts owed.

If an unlawful detainer is filed, you can prevent eviction only once every 12 months that you continue to live in the same place by paying these amounts owed or by presenting a redemption tender.

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## **Do I have to go to the unlawful detainer hearing?**

If you don't want to oppose the eviction, you don't have to go to court, but there are good reasons to go anyway. It is in your best interests to always go to court. (You won't be arrested if you do not go to court. That only happens in criminal cases. This is a civil (noncriminal) case.)

If you don't go to court, and the other side does and proves its case, you will lose the eviction case. Even if you have no defense to prevent the eviction, you should go to court because it might give you more time to move. Also, if you are in court, you will know about any new court dates, and any additional amounts for damages or rent which the landlord might say you owe.

If you do not go to court for the eviction hearing, the landlord can show up and give the judge either an affidavit (sworn written statement) or oral testimony, concerning the amount of rent you owe as of the date of the hearing. The landlord must tell the judge about any payments you've made that reduce the amount that was due when the eviction process began. If the landlord asks for the full month's rent for the month in which the hearing is held, then the judge must award the landlord the full rent without prorating it for just the amount of time you are still in the rental unit.

So, it is clear that there are good reasons to go to the hearing, even if you think you may not win. You may be able to hold down the amount you're ordered to pay, and you may get more time to move out.

## **What if I disagree with the judge's decision?**

If you believe the judge's decision is wrong, then you can appeal the judgment, but it can be difficult. You have ten days to file the appeal after the judgment was entered. You must pay an appeal bond and court costs. The appeal bond is usually the amount of the judgment entered against you, but it can be as much as one year's rent. If you do not pay the appeal bond, your appeal will not be allowed.

An alternative to appealing the judge's decision is to file a Motion for New Trial. You need to file such a motion within 30 days after the judgment. You must have a very good reason for getting a new trial, and it is up to the original trial judge to decide if you'll get one. The judge has some discretion in whether to give you a new hearing. You may be able to get a new trial, for example, if you didn't get proper notice of the first trial, or if you find new evidence that wasn't available to you at the time of the first trial and that you couldn't have discovered in time to present to the judge.

## **What if I make payments to the PHA after the PHA gets a Judgment for Possession from the court?**

If the judge agrees, in an eviction case, that you are not current in your rent, the judge may issue a Judgment for Possession, which means you must move out and the PHA gets the unit back to rent to someone else.

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Simply making payments to the PHA after the Judgment for Possession will not stop the eviction process. The PHA can take your money and still proceed with eviction (for up to one year after the judgment). You can pay everything you owe after the judgment and be completely current, and your landlord still can evict you (for up to one year after the judgment). There are only two ways to stop this.

(1) If the PHA takes your money, paying the judgment in full, after the judgment of possession, they must give you a written notice within five (5) business days that they're accepting your money with reservation. "With reservation" means the PHA is keeping (reserving) the right to evict. If your PHA does not give you this written notice, it may be possible to stop the eviction. If you did not get this notice and still face eviction, get legal help right away!

(2) If you pay everything owed, in full, and you and your PHA enter into a new rental agreement after the judgment of possession. In this case, it may be possible to stop the eviction. Some examples showing a new rental agreement has been entered include these things.

- You and the PHA sign a new lease.
- You receive a new notice of termination of tenancy from the PHA based on something other than non-payment of rent.
- You pay & the PHA accepts rent for a new rental period before the rent is due.

Even then, you should check with both your PHA and the sheriff to make sure that the eviction has been cancelled. If the eviction is not cancelled, get legal help right away!

## **What happens after the Writ of Possession is issued?**

At some time after the Judgment for Possession is ordered by the judge, but within one year, the PHA can ask the clerk of court to issue a Writ of Possession. This writ authorizes the sheriff to have you and your belongings removed from the premises.

The sheriff must take the Writ of Possession to your home and serve (legally deliver) the writ on you. The writ must say the date and time after which you will be evicted. The writ must give you at least 72 hours before the actual eviction will take place.

## **What does the sheriff do when evicting a tenant?**

On the date set for you to be out, if you are not already moved out, the sheriff usually will let you gather up some of your personal belongings and then make you leave. The sheriff then will change the locks, or allow the PHA to change the locks, and give you 24 hours to contact the sheriff to re-enter the premises and remove the rest of your belongings. If you do not remove your belongings within this 24 hour period, they may be considered abandoned.

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