Massachusetts Eviction Storage Law



Protecting the Belongings of Tenants Facing Eviction

Massachusetts law provides important rights to tenants who are facing an eviction or who have been evicted.

This booklet answers basic questions about the Massachusetts eviction storage law.

Prepared by the Massachusetts Law Reform Institute, October 2024 and available at MassLegalHelp.org/housing/eviction-storage-l

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Who the Law Protects

1. Whom does the storage law protect?

If you are a tenant in Massachusetts and are facing an eviction or you have already been evicted, the eviction storage law provides very important protections. If you cannot find a new place to live and your landlord has your belongings, put into an eviction storage facility, the law says:¹

- Your landlord must store your property in a <u>licensed</u> public warehouse;
- Your landlord must write to you and tell you where your things are being stored;
- You have the right to choose where your things are stored, as long as:
 - the place you choose is a licensed public warehouse,
 - the warehouse is not more than 20 miles from where you were evicted, and
 - you write to the landlord before or when your property is removed to say where they should be placed;²
- The warehouse must make a written list of everything it is storing for you as they store it;
- The eviction storage company may not remove any animals left behind; instead, they must notify the local animal control officer or police of the presence and condition of the animals;
- The eviction storage company must file all the fees it charges with the Division of Occupational Licensure (DOL) and the DOL must approve them;

- You have one-time access to remove items of primarily personal or sentimental value free of charge; and
- You have other protections described in this booklet.

The law was enacted to stop eviction storage companies from engaging in practices that are wrong and harmful to tenants. It is important to understand this law so that you can make sure your property is removed and stored in a lawful manner.

If a landlord violates the eviction storage law, you may ask the court that heard your eviction action to order the landlord to compensate you and to follow the storage law. You may also seek help from local consumer protection programs. To let others know about the law, please give out or post the one-page flyer on page 23.

Note: An eviction storage company mainly moves and stores the property of people being evicted from their home, as opposed to other storage facilities which provide additional services.

2. When and why did the eviction storage law become law?

The eviction storage law became law on November 8, 2004, and was amended in 2010. It came about because of two tenants who joined with legal services advocates and a broad-based coalition to fight for storage protections so other tenants would not face the abuse that they had faced.

Rosemary Niland and Margaret Pierone had been evicted through no fault of their own from an apartment that they had lived in for 20 years. The landlord had their belongings moved and put into storage by an eviction storage company which then held their personal belongings hostage, charged thousands of dollars in unreasonable fees, denied them access to the facility, and allowed their cherished belongings to deteriorate.

Such bad practices by eviction storage companies had become increasingly common, especially against elderly and low-income families. Now, because of this law, Massachusetts is regulating the moving and storage companies that deal with the belongings of tenants who are evicted.



Margaret Pierone, one of the tenants who fought for the eviction storage law, unpacks boxes she retrieved from storage.

Photo by Ken Martin

Facing Eviction

3. What should I know if I am facing an eviction?

To legally evict you and remove you and your belongings from your residence, your landlord must get a court order. If your landlord tries to evict you, you have a right to go to court and argue that you should not be evicted. For court forms and information to help you protect yourself, go to www.masslegalhelp.org/housing-apartments-shelter/eviction.

If the landlord gets what the law calls *possession* of your apartment (either because of a judge's order or because you have signed an agreement giving the landlord *possession*), the court will give the landlord a court order called an *execution*. On page 19 of this booklet there is a sample *execution*.

The landlord then gives the execution to a **constable**, **who is the only person who can legally move you out**. Your landlord does not have a right to physically remove you or your property.

IMPORTANT: A landlord can get an execution 10 days after a court enters a judgment for "possession" for the landlord and has up to 90 days to use it. After 90 days the execution is no longer valid.

The constable who comes to your residence must give you a written notice at least 48 hours before the date they intend to come to physically remove your property. This 48-hour period may not include weekends or holidays. Under the storage law, if you cannot moveout with your property within the 48-hour period, your property may be removed by a constable, but in a manner that must make sure your property is protected. Those protections include the requirement that the constable's notice have specific information in it, as noted in the checklist below.

IMPORTANT: If you have lost your eviction case or you agreed to move and you need time to move, you can ask a

judge to postpone your eviction. To do this, immediately fill out a form called a <u>Stay of Execution</u>. You can get the form on <u>www.MassLegalHelp.org</u>. You can also go to court immediately and ask for a Temporary Restraining Order requesting that the court postpone the eviction. Go see the court clerk who can help you do this.

4. What information must the 48-hour notice that a constable gives me have in it?

At least 48 hours before a constable can move you and your belongings out of your residence, the constable must give you written notice with certain information. Use the checklist below to make sure that the notice that tells you:³

Date and Time of Constable's Arrival Specific date and time that the constable will arrive at your residence to physically remove your property.
Constable's Contact Information Constable's full name, business address, and business telephone number in case you need to call the constable.
Court Information Name of the court and the number of your eviction case.
Statement that Storage Company Is Licensed Statement that all personal property will at a storage company that is licensed by the Division of Occupational Licensure.
Storage Company's Contact Information Full name, business address, and business phone number of the storage company where your belongings are being stored.

Address and phone number of the Division of Occupational Licensure, where you can find out whether the storage company has filed its storage fees and whether the storage fees being charged have been rejected or approved.⁴

About the Storage Companies Right to Sell Your Property

A statement that the storage company may sell your property if you do not claim it after 6 months and that funds from the sale can be used to pay the storage company for unpaid fees.

That You Must Notify the Storage Company of Any Change to Your Mailing Address

The notice must state that you are required to notify the storage company in writing of any change to your mailing address.

5. Can I choose where my property will be stored?

The storage law requires a constable who is evicting you to move your belongings to a <u>licensed public warehouse</u>.⁵ A public warehouse is licensed by the Division of Occupational Licensure to store items.⁶

You have a right to have your belongings stored at a licensed public warehouse of your choosing, but it has to be within 20 miles of the place you were renting. To do so you must notify the constable of this in writing at or before the time of removal of your property. The storage law does not give you the right to choose to have your belongings stored at a self- storage facility or a friend or family's house. However, you can request that the landlord voluntarily move your belongings to a place of your choosing so you do not have to pay storage fees. Your landlord may voluntarily agree to do this but is not required to agree.

A list of licensed public warehouses that comply with the eviction storage law is available online at: mass.gov/info-details/public-warehouse-evictions

Important: Your landlord is required to pay the cost of removing your property to the warehouse. A landlord then has the right to seek reimbursement from you for storage fees and costs.⁹

6. How do I know what has been stored?

The storage law requires a constable who is moving your belongings to give you a written receipt that has a description of all of the property removed or of the packages containing the property. The constable must sign this list and include his or her name.¹⁰

The constable must hand you this list if you are present. If you are not present while your belongings are being moved out, the constable must mail it to you at your last and best-known address. The constable must also file this list in the court where your eviction case was heard.

Storage Company's Responsibilities

7. Does the storage company have to send me anything in writing?

Yes. Within 7 days after your property is removed from your home and put in storage, the storage company must mail or hand deliver to you a written receipt that includes a description of your property being stored. ¹⁰ **This is why you must notify the storage company in writing if your address changes**. Even if you have not found other housing, you should notify them of any temporary address where you can receive mail. The company must keep a duplicate copy of the receipt on file at the warehouse.

The receipt must also include the following information: 11

✓ After 6 Months, Your Property Can Be Sold

After 6 months, the storage company may sell any of your unclaimed property at an auction and keep the money from the sale for storage fees that you have not paid as of the auction date.

✓ List of Storage Rates

A list of the storage rates and a statement that the rates can be checked by contacting the Division of Occupational Licensure (address and telephone number of the Division must be included).

✓ Statement Concerning Your Address Change

A clear and obvious statement that you should notify the storage company in writing if there is a change in your mailing address.

✓ How to Get and Access Your Property

How you can get your property back and about your right to retrieve stored items of personal and sentimental value one time only for free.

✓ Warehouser's Lien on Your Property

A statement that you will be entitled to purchase back any of your individual items at any auction held by the storage company to sell your items as a way of recovering storage fees you have not paid.

8. What can a storage company charge?

The storage law requires a constable who is evicting you to move your belongings to a <u>licensed public warehouse</u>. A public warehouse is a facility that has been licensed by the Division of Occupational Licensure to store goods. Its rates must be filed with and approved by the Division of Occupational Licensure.¹²

If you feel that the storage rates are too high, you can contact the Division of Occupational Licensure at 617-701-8600 to speak with any person in the Division responsible for the eviction storage law. You may ask whether the storage company has filed its rates with the Division, whether the rates filed are the same as the rates you are being charged, and whether the rates filed were approved by the Division. A storage company cannot change its rates more than once a year, unless there are extraordinary circumstances and the Division approves such a change. In addition, these rates cannot be higher than rates for similar quality storage facilities in the storage company's geographical area.

Also, the storage company can charge you only for the actual storage of your property. It cannot add extra charges, which they may call "docking fees" or "administrative fees" or "warehouse labor fees." ¹⁶

The storage company must give you credit for any monies paid in advance by your landlord.¹⁷ In other words, the storage company cannot "double charge" you by having both you and your landlord pay for storage for the same period.

Lastly, the storage company cannot charge any minimum fees.¹⁸ This means that they can charge you only for the time that your property is actually stored. They cannot, for example, have a minimum of a month or two of storage fees.

Protecting My Belongings

9. Who pays for the property to be moved and stored?

The landlord in an eviction case must pay the cost of moving your property to the storage place. However, the landlord is then entitled to be reimbursed by the tenant for this cost.¹⁹

As the tenant, you are responsible for paying the monthly fees for storage of your property. These fees must be "reasonable" and must be filed with and not rejected by the Department of Public Safety. If you do not pay the fees that are owed, the storage company may sell your belongings after a 6-month period and after providing you with advanced notice of publication of the sale.²⁰ (See Question 13 for more about when a company can sell your belongings.)

10. Can I get access to my belongings?

Under the storage law, you have a right to get into your stored property once free of charge to inspect the property or to remove items that have a primarily personal or sentimental value. Such items may include funeral urns, photographs, passports, other documents, or anything else that has personal or sentimental value to you.²¹

11. How can I get my property back?

You can get your stored property back any time upon payment of all of the monthly storage fees that are owed.²² If you do not claim your property after 6 months from the date that it was stored, the storage company may sell it and keep the money from the sale to recover any unpaid monthly storage fees.²³

12. What can I do if my belongings are damaged while they are in storage?

An eviction storage company has a duty of care under the law. This means the company must treat your stored property with the watchfulness and care that any reasonable person would use in the same circumstance.²⁴

A storage company cannot require you to sign any papers that release it of liability for damage to your property.²⁵ To protect yourself, you should make a list of the damaged items and their approximate value. Give this list to the storage company and ask for reimbursement. Or try to negotiate a deal when you get your belongings so that you do not have to pay the entire storage bill.

If the company refuses to reimburse you for the damage to your property, and will not negotiate your storage bill, you can consider filing a court case against it in either small claims or another court. In many cities and towns there are local consumer programs that may have staff who can provide you with advice. You can also contact the <u>Division of Occupational Licensure</u> (DOL) and/or the <u>Consumer Division of the Attorney General's office</u> if you need more assistance. See Question 14 for more information.

13. Can an eviction storage company sell or dispose of my belongings?

If you have not paid your monthly storage fees, an eviction storage company can sell or dispose of your belongings. However, they must wait 6 months before doing this.²⁶

If you pay the eviction storage company for half of all storage fees, plus the reasonable costs it incurred in preparing for the sale of your property, then you have a right to postpone the sale or disposal of your property for 3 months.²⁷

14. What should I do if a constable or storage company violates the eviction storage law?

If a landlord, constable, or eviction storage company violates the eviction storage law, you may ask the court that heard your eviction action to order them to compensate you and to follow the storage law.²⁸ You may also choose to report any unlawful conduct to:

Attorney General's Office

Office of the Attorney General Consumer Advocacy and Response Division at 617-727-8400

Division of Occupational Licensure

at 617-701-8600

Local Consumer Programs

You can also contact your local consumer program to help you enforce the new eviction storage law. See a link to the full list of programs here: https://www.mass.gov/info-details/local-consumer-programs-of-the-attorney-generals-office. A partial, regional list can be found below.

15. Where is the nearest Consumer Program?

The Office of the Attorney General, which is the primary agency that enforces state consumer laws, funds a statewide network of local consumer programs to mediate complaints from individual consumers, including complaints involving landlord/tenant issues. Look below for a partial list of the regional programs nearest you and use this link to for a full list by city and town: https://www.mass.gov/info-details/local-consumer-programs-of-the-attorney-generals-office.

AGO Consumer Advocacy and Response Division(617) 727-8400				
Upside413 Local Consumer Program(413) 443-7138 x221				
Fenn Street, 4th Floor, Pittsfield MA 01201				
https://upside413.org/consumer-services-program/				
Boston Consumer Affairs and Licensing Division(617) 635-3834 1 City Hall Square, Room 809, Boston, MA 02201				
https://www.boston.gov/departments/consumer-affairs				
Cambridge Consumers' Council				
831 Massachusetts Ave., First Floor, Cambridge, MA 02139 https://www.cambridgema.gov/Departments/consumerscouncil				
Consumer Affairs Office, Revere City Hall(781) 286-8114				
281 Broadway, Revere, MA 02151 https://www.revere.org/departments/consumer-affairs				
Consumer Aid Program				
SouthShore Community Action Council (508) 747-7575 x6226				
71 Obery Street, Plymouth, MA 02360				
https://www.sscac.org/consumer-aid				
Cape Cod Consumer Assistance Council, Inc.				
Mid/Lower Cape(508) 774-6371				
444 Waquoit Highway, Suite 5, E. Falmouth, MA 02536				
(Main Office)(508) 771-0700 https://consumercouncil.com/				
https://consumercounch.com/				

La Colaborativa Consumer Protection Program 318 Broadway, Chelsea, MA 02150				
https://la-colaborativa.org/what-we-do/community-organizing/ To contact use this form: https://la-colaborativa.org/contact/				
Metro West Mediation Services				
Worcester Consumer Rights Program(508) 799-1232 Worcester Senior Center, 128 Providence St., Worcester, MA 01604 https://www.worcesterma.gov/senior-center/consumer-rights				
Consumer Protection Office Northwestern District Attorney's Office(413) 774-3186 56 Bank Row, Greenfield, MA 01301 https://www.northwesternda.org/consumer-protection-unit				
North Essex Consumer Dispute Resolution Center(978) 872-1560 Serving all 22 cities in and town in Northern Essex County 188 State Street, Newburyport, MA 01950 https://disputecenter.org/				
Consumer Protection Office Northwestern District Attorney's Office(413) 586-9225 One Gleason Plaza, Northampton, MA 01060 https://www.northwesternda.org/consumer-protection-unit				
New Bedford City Hall, Department of Community Services				
MassPIRG Consumer Action Center 294 Washington St., Suite 720, Boston, MA, 02108 (main office)				

Springfield Mayor's Office of Consumer Information	
Middlesex Community College Law Center	

Sample Letters and Forms

Sample Execution

EXECUTION ON JUDGMENT FOR SUMMARY PROCESS THE TRIAL COURT COMMONWEALTH OF MASSACHUSETTS

No.

To the Sheriffs of our several Counties, their Deputies, or to any Constable of any City or Town within the Commonwealth, Greeting:

BY ORDER of the Judge of the HOUSING

COURT, Plaintiff
Recovered Judgment on May _____, 2024, against

Defendant

For Possession of premises at PROPERTY ADDRESS,

and For:

Compensatory Damages
Punitive Damages
Attorney Fees
Prejudgment Interest
Court Costs
Judgment Total
Postjudgment Interest
Execution Total

\$

SAMPLE

SAMPLE

SAMPLE

We command you, therefore, to deliver said premises to the [PLAINTIFF or DEFENDANT], and to collect the above sum, with your fees, of the money of said judgment-debtor, or his or her goods, chattels, lands or tenements, in any manner permitted by law, and to return this writ, satisfied or unsatisfied, to the Clerk of this Court, all within twenty years of the date of judgment, or within ten days after this writ has been satisfied or discharged.

VITNESS, Judge of the Housing Court, on DATE PREPARED.
Clerk Magistrate
OTICE TO OFFICER: This Execution may not be used to recover possession after
XPIRATION DATE.
his execution is returned to Court in [no part] [part] satisfied [for the sum f], never having been in the hands of an officer.

Attorney for (PLAINTIFF or DEFENDANT

Sample Letter to Give Constable About Where to Bring Your Belongings

If you want your belongings stored at a **particular** <u>licensed public</u> <u>warehouse</u> within 20 miles of the place you were renting, you need to put this request **in writing**. On the next page is a sample letter that you can give to the landlord or the constable whom the landlord has hired to move your belongings. (To be safe, give the letter to both.) You must notify the constable in writing **at** or **before** the time of the removal of the property.

What follows are instructions about how to fill in the letter on the next page.

First paragraph: Write your: 1) name, 2) the address of the place you are being evicted from, and 3) the date that the constable is planning to move you out (which you should have received in a notice at least 48 hours in advance).

Second paragraph: Write exactly where you want your belongings delivered to. Your belongings must be stored at a <u>licensed public</u> <u>warehouse</u> within 20 miles of the place you were renting. A list of licensed public warehouses that comply with the eviction storage law is available online at: https://www.mass.gov/info-details/public-warehouse-evictions

IMPORTANT: You should make sure, in advance, that the licensed public warehouse is willing to accept your belongings at the time and date that is specified in the 48-hour notice. Your landlord is required to pay the cost of removing your property to the warehouse. A landlord then has the right to seek reimbursement from you for storage fees and costs.

Third paragraph: Write all phone numbers where the landlord or constable can reach you.

Sign the letter and write in the date: The date can be the same date that a constable is coming to move your belongings.

1. **Deliver letter:** If you can, make a copy of the letter for your records. Hand deliver the original and/or fax it to the landlord or

constable (preferably both). You can do that **at** or **before** the removal of your property. It is a good practice to call the constable and/or landlord and tell them you will be delivering this notice.

2. **New address optional:** You can include your new address after your signature. You do <u>not</u> have to do this.

Notice of Delivery of Tenant's Belongings to Alternate Location

Dea	r landlord and/or constable,		
1.	Ι,	,	
	am the tenant at		
	and am facing eviction o	n	
2.	Pursuant to my rights under Massachusetts law,* I am		
	requesting that you deliver my belongings to the following		
	licensed public warehou	ase:	
		is any payment due for storage n , I am responsible for it.	
3.		if you have any questions.	
Sign	nature	Date	
Nev	v address and phone:		

Massachusetts Eviction Storage Law

Protecting the Belongings of Tenants Facing Eviction

If you are a tenant and facing an eviction or you have already been evicted, the eviction storage law:



- ✓ Requires that property be stored in a licensed warehouse;
- ✓ Requires that you be told who is storing your property;
- ✓ Gives you the right to choose a particular licensed public warehouse within 20 miles of where you were renting;
- ✓ Requires that your property be inventoried before being put in storage;
- ✓ Requires that all fees charged by an eviction storage company be filed with and approved by the Division of Occupational Licensure;
- ✓ Gives you one-time access to remove items of primarily personal or sentimental value free of charge; and
- ✓ Provides other protections.

For a **free booklet** with more information about the eviction storage law, go to your nearest legal services office or go on-line to: www.MassLegalHelp.org/EvictionStorage

Endnotes

- 1 The Massachusetts Eviction Storage Law was first passed in 2004 in Chapter 271 of the Acts of 2004 and officially called *An Act Relative to the Storage of Personal Property upon Execution of a Summary Process Judgment*. It amended M.G.L. c. 239, § 3, M.G.L. 239, § 4, and M.G.L. c. 105, § 4. In 2010, M.G.L.c. 239, § 4(a) was amended by Chapter 393 of the Acts of 2010 to require that the belongings of an evicted person must be stored in a licensed public warehouse. The 2010 amendment went into effect on March 16, 2011. Other recent amendments to M.G.L. c. 239, § 3 were passed in 2017 and 2021, requiring that any inquiry regarding storage fee rates be made to the division of occupational licensure (and not to the division of public safety). St. 2017 c. 6 § 201; St.2021 c.39 §121.
- Chapter 393 of the Acts of 2010 amended M.G.L. c. 239, § 4(a) and requires that the belongings of a person who is being evicted must be stored at a licensed public warehouse. The tenant has the option, under the law, to choose a particular licensed public warehouse within a 20-mile radius of the apartment from which they are being evicted. Prior to this amendment, tenants could choose another place to store their property, such as self-storage or a friend or family's home. Such options are no longer permitted under Chapter 393 of the Acts of 2010. More recently, chapter 6 of the Acts of 2017 and Chapter 39 of the Acts of 2021amended all references to the division of "public safety" such that they now read division of "occupational licensure." Chapter 219 of the Acts of 2018 further amended M.G.L. c. 239, § 4(a), providing that any animal(s) left behind may not be removed by the officer serving the execution; rather, the officer is required to notify the local police or the animal control officer of the presence and condition of the animal(s).

In many cases it will be the constable who will choose where to store the belongings. They, too, are required to choose a licensed public warehouse, but they are not apparently bound by the 20-mile radius rule. Rather, the property must be stored within a "reasonable distance" from the apartment from which they are being removed. See M.G.L. c. 239, § 3, 4th paragraph.

- 3 M.G.L. c. 239, § 3, 3rd paragraph.
- Fees will be deemed approved so long as they have been filed with and not rejected by the Division of Occupational Licensure; and so long as they are not more than the market rates for similar storage facilities in their general geographical area. M.G.L. c. 239, § 4(b)(3)-(4).
- M.G.L. c. 239, § 3, 3rd paragraph; M.G.L. c. 239, § 4(a). The warehouse chosen by the constable must also be within a "reasonable distance" of the place that you were renting. M.G.L. c. 239, § 3, 4th paragraph.
- There are different types of public warehouses. Eviction warehouses are where items are stored as a result of eviction and they must comply with M.G.L. c. 239, § 4. For a recent list of warehouses compliant with M.G.L. c. 239, § 4, visit: https://www.mass.gov/info-details/public-warehouse-evictions.

- 7 M.G.L., c. 239, § 4(a).
- 8 M.G.L., c. 239, § 4(a).
- 9 M.G.L. c. 239, § 4(c)
- 10 M.G.L. c. 239, § 4(a); M.G.L. c. 106, § 7-202.
- 11 M.G.L. c. 239, § 4(d)(1)-(4).
- 12 M.G.L. c. 239, § 4(b)(2). See also Public Warehouse Evictions An Overview of Regulations and Registered Eviction Warehouses at: https://www.mass.gov/info-details/public-warehouse-evictions.
- 13 M.G.L. c. 239, § 4(b)(3).
- 14 M.G.L. c. 239, § 4(b)(2).
- 15 M.G.L. c. 239, § 4(b)(4).
- 16 M.G.L. c. 239, § 4(b)(5).
- 17 M.G.L. c. 239, § 4(b)(7).
- 18 M.G.L. c. 239, § 4(b)(6).
- 19 M.G.L. c. 239, § 4(c).
- 20 M.G.L. c. 239, § 4(d)-(e). See also M.G.L. c. 106, §7-210.
- 21 M.G.L. c. 239, § 4(f).
- 22 <u>M.G.L. c. 239, § 4(f)</u>.
- 23 M.G.L. c. 239, § 4(e).
- 24 M.G.L. c. 239, § 4(b).
- 25 M.G.L. c. 239, § 4(b).
- 26 M.G.L. c. 239, § 4(e).
- 27 <u>M.G.L. c. 239, § 4(e)</u>.
- 28 M.G.L. c. 239, § 4(h).