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## *Introduction to Arizona's Housing Law and Policy Environment for Tenants*

Arizona is presently experiencing an acute and historical housing crisis. In short, there is a significant shortage of quality, affordable housing to meet community needs. Market factors have driven up the cost of rental housing in many Arizona communities to the point where families and workers simply cannot afford a home. Vacancy rates in most communities are low and, in many, they are at a rate considered unhealthily out of market equilibrium.

These market developments have ripple effects. Tenants struggle to find any affordable housing options, and – if they do – there is heavy competition for available rental homes with other families and individuals. Landlords employ ever stricter screening criteria, cutting many Arizona families and individuals out of housing opportunities. Arizonans from historically marginalized communities – more likely to have experienced eviction, medical and other debt, or interactions with the criminal legal system – struggle to find new homes when they are priced out of their current homes, or to find a home at all if they are experiencing homelessness.

Meanwhile, Arizona renters fortunate to have a home experience barriers to realizing authentic housing stability and recognition of their most basic civil property rights. Mobile home park tenants' and homeowners' rights are precarious at best, and they risk losing their homes entirely if they fall behind on rent for the lots they lease, or if there is a change in use to the park. Tenants who have rental homes feel fortunate to have them and are particularly vulnerable to discriminatory, exploitative, and otherwise predatory conduct by their landlords, since they have limited opportunities to move elsewhere.

Arizona's landlord-tenant law is generally not favorable to tenants. State and local court rules and systems – which control the resolution of landlord-tenant disputes – tilt in favor of landlords and property owners due to a variety of factors. Arizona's legal eviction process is incredibly fast and error-prone compared to other processes around the country. State and local housing health and safety regulations and protections are minimal, and tenants' enforcement mechanisms are limited. Tenants' fair housing and anti-discrimination rights, while robust, are subject to resource limitations and administrative inefficiencies at the federal, state, and local levels.

The availability of civil counsel for tenants to enforce their existing rights is extremely limited due to the unaffordability of private counsel, as well as the limited financial and staff resources of non-profit civil legal aid providers to meet community needs. Meanwhile, most landlords have access to legal counsel to pursue eviction and

other remedies against tenants, who far more often than not face eviction or collections actions without counsel.

Right now, as much as ever, Arizona needs a statewide structure and vision to inform strategic housing policy advocacy at the state and local level. The life stability and well-being of Arizonans and communities statewide depend on it.

### ***Proposed Model to Advance the Housing Rights of Arizona Tenants***

There is energy, momentum, and opportunity, right now, to make Arizona a fairer and safer place for tenants. It will take a strong coalition, leveraging the strengths and skills of each member, to begin leveling the playing field for Arizona tenants. Foundationally, the goal is to advance new rights, as well as to expand or to reinforce existing rights wherever and however possible, at the State and local level.

### ***An Arizona Tenants' Bill of Rights – Principles to Advance, Expand, and Reinforce***

Equal justice for all is a right not a privilege. To deliver on this foundational Federal and State Constitutional promise to all Arizonans, the following rights and principles apply broadly to the daily lives of tenants in Arizona communities. To realize fully the benefits of these principles will require advocacy and efforts to change Arizona statutory law. Here are core principles to guide advocacy on tenants' rights in Arizona:

1. All tenants shall have fair access and equal opportunities to apply for and to live in the homes and communities of their choice.
2. All landlords shall provide healthy, safe, and stable living environments to tenants, including the physical structures and the common areas of multi-home rental communities and mobile home parks.
3. Eviction shall be a remedy of last resort, and only in actions in which a landlord can establish just cause to terminate a tenancy.
4. All landlords and tenants shall have access to publicly funded eviction prevention resources, including State and local emergency rental assistance, to remedy financial disputes efficiently toward the broad goal of stabilizing families and individuals in their homes.
5. Prior to filing an eviction action, a landlord shall provide a tenant with a minimum of one month's notice of proposed termination of a lease and tenancy, as well as an opportunity for a pre-filing grievance hearing a minimum of ten days prior to the filing of an eviction action.
6. Upon receipt of a pre-filing lease and tenancy termination notice, a tenant shall have a meaningful opportunity to cure alleged lease violations and financial defaults

before they face eviction in court. Any notice purporting to terminate a tenant's lease and tenancy shall include information on available resources for emergency rental assistance and legal representation.

7. Upon the filing of an eviction action, the landlord shall serve the summons and complaint in accordance with the law to provide the tenant with a minimum of two weeks' notice prior to a hearing in the case. The Judicial Branch shall not schedule an initial hearing on an eviction action until a minimum of three weeks after the filing of the case, to allow for effective service or process and proper notice to the tenant.
8. Judicial officers presiding over initial hearings in eviction actions shall treat them as a pre-trial hearing and provide all parties with the following information:
  - a. The right to retain an attorney, either by hiring one or applying to available legal services organizations serving the area;
  - b. A plain language explanation of the eviction timeline and process;
  - c. Financial and other resources available to preserve tenancies or to search for new homes; and
  - d. Direction to the parties to mediate their dispute prior to the next hearing date in the case.
9. All tenants shall have a right to civil counsel in cases and controversies involving claims for eviction, housing health and safety, monetary debts and rent collection, and any other matter affecting tenants' contractual or possessory rights in their homes. A right to civil counsel is necessary to ensure due process of law and equal protection of the law for tenants, as well as to ensure fundamental fairness in civil legal proceedings affecting constitutionally protected property interests.
10. A landlord shall charge reasonable fees for late payment of rent, other financial defaults, or administrative services under the lease. The fees must be based on actual costs incurred and proportional to the administrative costs they cover. In no case may a landlord charge or a court award fees greater than 8 percent of the allegedly unpaid rent, or \$300, whichever is greater. Landlords must disclose all fees charged for utilities, late payment of rent, and other services or defaults. Unreasonable fees or fees imposed as penalties shall be unlawful and unenforceable. A tenant has a right to enforce violations of the aforementioned fee-charging principles affirmatively or defensively in court.
11. A landlord shall not retaliate against a tenant for the tenant's good faith actions and conduct to secure, to enforce, to assert, or otherwise to raise issues regarding their rights under applicable law. Retaliation includes, but is not limited to, filing an eviction action, terminating a tenancy by notice to quit, terminating a tenancy by non-renewal, decreasing services available under the lease or in a rental community, or other adverse actions against a tenant.

12. Landlords shall not discriminate against applicants for housing based on their race, color, national origin, religion, sex (including gender identity and sexual orientation), familial status, disability, source of income (including receipt of public benefits or services), age, marital status, or military service or veteran status, in processes used for screening applicants for rental homes or in enforcing the terms and conditions of a lease during a lease and tenancy.
13. A landlord shall not enter a tenant's home without reasonable advance notice of at least 24 hours and shall otherwise respect, and not take any action to interfere with, a tenant's right to privacy and peaceful use and possession of their home.
14. Government actors shall not mandate that landlords take any adverse action against tenants based on the alleged criminal or otherwise unlawful conduct of tenants, their family members, or their guests. Government-endorsed "crime-free" housing laws and programs are inconsistent with the Federal and State Constitutions, as well as multiple other Federal and State laws and authorities protecting the most basic civil rights of Arizonans.
15. Government actors shall conduct community development, housing, and land use planning and actions to maximize the availability of affordable housing opportunities in Arizona communities, and to ensure that Arizonans have opportunities to live in affordable homes in the communities where they wish to live.

### ***Elaboration of Legal Bases for Bill of Rights***

Here is a working list of topics and areas of expansion of the legal rights of tenants:

1. Tenant screening
  - a. Fee limitations
  - b. Screening criteria disclosure/transparency
  - c. Screening criteria limitations
  - d. Penalties
  - e. Refunds to applicants for screening charges in either of the following circumstances:
    - i. The vacant unit is rented before the applicant is screened
    - ii. The applicant is not screened for any reason
2. State Emergency Rental Assistance Program
3. Right to civil counsel in eviction proceedings
4. Termination of lease and tenancy – Revise A.R.S. § 33-1385(B) to require a three-month written notice to terminate a periodic lease and tenancy with a rent interval of one month or more (e.g., a month-to-month tenancy)

5. Eviction procedure reforms
  - a. Longer pre-filing notice
    - i. 30 days for alleged defaults under the lease
    - ii. May consider a shorter notice for imminent threats to life and health of others
  - b. Clarified and expanded cure rights
  - c. Extended periods post-filing
    - i. Cases should be heard at least three weeks after filing
    - ii. Service should be mandated at least two weeks before hearing
    - iii. Personal service should be the standard – alternative service only after three personal service attempts
  - d. More safeguards at writ execution stage
6. Housing health and safety
  - a. Higher standards than current law
  - b. More affirmative enforcement options and relief for tenants
7. Just cause eviction
  - a. Pre-eviction notice to quit
  - b. Eviction action in court
  - c. Non-renewal of term leases
8. Consumer protections
  - a. Utilities (disclosure/transparency and limited to actual costs to landlord)
  - b. Late fees (percentage cap – 6%?)
  - c. Administrative and other fees (must be reasonable and reality-based – must not be punitive)
9. Creation of a statewide, court-led eviction diversion program –  
<https://www.ncsc.org/consulting-and-research/areas-of-expertise/access-to-justice/eviction-diversion-diagnostic-tool/eviction-diversion-planning>
10. Implementation of digital equity rules and procedures that acknowledge the resource disparity between landlords (93% of whom are represented by counsel and have extensive IT support) and tenants, who often have only a cell phone.
11. Expanded anti-retaliation protections
12. Expanded anti-discrimination protections
13. Expanded right of privacy
14. Abolition or reform of crime-free housing programs

15. Zoning for equity concept and principles

*An Incomplete List of Tenants' Bill of Rights Models*

[National tenants bill of rights fundamental to racial equity – BCN Stay \(bcn-stay.com\)](https://bcn-stay.com)

<https://homesguarantee.com/white-house/>

[THE CALIFORNIA TENANT BILL OF RIGHTS | Tenants Together](https://tenants-together.org)

<https://pinellasevictiondiversion.org/housing-update-series-tenant-bill-of-rights-overview/>

[https://media.defense.gov/2020/Feb/25/2002254968/-1/-1/1/MILITARY\\_HOUSING\\_PRIVATIZATION\\_INITIATIVE\\_TENANT\\_BILL\\_OF\\_RIGHTS.PDF](https://media.defense.gov/2020/Feb/25/2002254968/-1/-1/1/MILITARY_HOUSING_PRIVATIZATION_INITIATIVE_TENANT_BILL_OF_RIGHTS.PDF)

<https://homelinemn.org/selected-legislative-history/the-2010-tenant-bill-of-rights-2010-minn-laws-ch-315/>