

# Rights for Tenants under CARES ACT and GOVERNOR'S ORDER 2020-49



Community Legal Services



July 23, 2020

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# Who We Are

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## Serving Arizona Since 1952

Community Legal Services is a non-profit Arizona law firm that strives to assure fairness in the justice system no matter how much money you have but provides direct services to individuals falling below 125% of the federal poverty level.

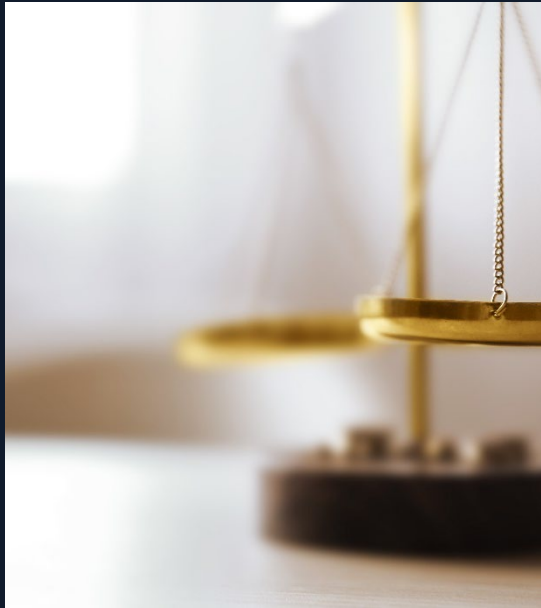
We were incorporated in 1952 as a legal aid program organized to promote “equal access to justice for all.”



# SERVICE AREA

- Maricopa County
- Yavapai County
- Mohave County
- La Paz County
- Yuma County





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# AGENDA

## For Tenants

- CARES ACT
- GOVERNOR'S ORDER 2020-49
- MOTIONS TO COMPEL
- **Questions?**

# CARES ACT: NONPAYMENT BETWEEN MARCH 27- JULY 25

1. Do you participate in a federal subsidized program?
2. Does your landlord's property have a federal subsidy or federally backed mortgage?

Fannie Mae: <https://www.knowyouroptions.com/rentersresourcefinder>

Freddie Mac: <https://myhome.freddiemac.com/renting/lookup.html>

NLIHC: <https://public.tableau.com/profile/dan5628#!/vizhome/shared/925GRC7M6>

IF YES, THEN VIOLATIONS IF:

- Nonpayment of rent notice or complaint
- Late fees
- If landlord didn't state in complaint that it is covered under CARES ACT

If covered by CARES Act and your landlord hasn't filed a complaint, the earliest a landlord can issue a Notice to Vacate is July 26 and must be a 30- day notice.

**If covered by CARES Act and there is a judgment from March 27, 2020 forward, you may want to file a motion to reconsider and/or contact CLS, Southern Arizona Legal Aid or DNA**



**Landlords May Not File Evictions for Nonpayment Rent or Charge Late Fees  
Against Tenants Living in Federal Subsidized Housing**

The **CARES Act** states your landlord cannot file for eviction if you do not pay your rent or charge you late fees beginning March 27 if:

- **You live in subsidized housing.** This applies to federal housing programs, including:
  - Public housing
  - Section 8 Housing Choice Voucher program
  - Section 8 project-based housing
  - Section 202 housing for the elderly
  - Section 811 housing for people with disabilities
  - Section 236 multifamily rental housing
  - Section 221(d)(3) Below Market Interest Rate (BMIR) housing
  - HOME
  - Housing Opportunities for Persons with AIDS (HOPWA)
  - McKinney-Vento Act homelessness programs (42 U.S.C. § 11360, et seq.)
  - Section 515 Rural Rental Housing
  - Sections 514 and 516 Farm Labor Housing
  - Section 533 Housing Preservation Grants
  - Section 538 multifamily rental housing
  - Low-Income Housing Tax Credit (LIHTC)
- Or your landlord has a **federally backed mortgage on the property you reside.**

**WARNING: you can still be evicted for other reasons besides nonpayment of rent.**

If your landlord files an eviction action against you or charges you late fees and one of the above conditions apply to you, you may want to call Community Legal Services for free legal assistance before your eviction hearing at 602-258-3434, Monday- Friday 8:00 am – 3:00 pm.

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# CARES ACT/SUBSIDIZED HOUSING



# GOVERNOR'S EXECUTIVE ORDER 2020-49

**Until August 21**

STATUS QUO

**August 22- October 31**

Three requirements:

- 1) Notice of COVID hardship and documentation
- 2) Completed application for rental assistance
- 3) Asked for payment plan

# Trouble Paying Rent:

1. COMMUNICATE with landlord (Give notice and documents of COVID hardship in writing)
2. Decide if you want to remain at your property
3. Apply for rental assistance
4. Offer payment plan to landlord
5. Pay what you can
6. Try to avoid judgment



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**TIPS for TENANTS**  
**Executive Order 2020-14 & 2020-49**  
**on EVICTIONS**

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To delay the enforcement of eviction **BEFORE** August 22, 2020, tenants must follow these steps:

- Provide your landlord/property manager written notice if:
  1. You have been diagnosed with COVID-19 and must be quarantined;
  2. You have been ordered to self-quarantine by a medical professional because of your symptoms defined by the Centers for Disease Control;
  3. Someone in your household has been diagnosed with COVID-19, and you must be quarantined;
  4. You have a health condition, as defined by the Centers for Disease Control, that makes you more at risk for COVID-19 than the average person; or
  5. You have suffered a substantial loss of income as a result of COVID-19, such as job loss, reduced pay or compensation, your workplace closed, an obligation to miss work to care for a home-bound school-age child, or other circumstances

\*AND\*

- Provide your landlord with any available supporting documents for one or more of the above listed conditions.

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**HOW** do I notify my landlord/property manager?

Provide notice to your landlord/manager of COVID-circumstance related to any item 1-5 above along with available documentation (can be by email or text). Make sure to keep copies.

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**WHEN** do I notify my landlord/property manager?

Give notice and documentation to your landlord as soon as possible. Communication with your landlord is IMPORTANT. You may provide notice to your landlord up until you are locked out by a constable or sheriff.

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**WHAT** are some examples of documentation?

You only have to provide the landlord/property manager documents that are available to you, but the more documentation the better. Examples might include: a note from your doctor or medical professional about your condition or situation, notices from your employer, notice of school/child care closure, or pay stubs that show a loss of income because of COVID-19.

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**WHAT** if I cannot get or don't have documentation?

If you cannot get documentation from others, write a detailed statement explaining your COVID-19 circumstance listed above in 1-5. Include your detailed statement with the notice to the landlord.

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**WHY** am I getting notice of a court hearing?

The landlord can still go to court and get a judgment against you. Providing notice to the landlord/property manager keeps the constable or sheriff from locking you out of the property until August 22. After August 21, you have additional requirements. The landlord may still file a Motion to Compel to attempt to prevent you from receiving the delay to the lock out. If you receive a notice of a Motion to Compel, be prepared to show the court your notice to the landlord and your documentation concerning your COVID-19 circumstance.

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**WHO** can request to see the notice?

If the court, constable, or sheriff requests to see the notice and documentation provided to your landlord, you must show them the notice and documentation. If the constable or sheriff still intends to lock you out of the property, you may want to contact an attorney immediately. [Community Legal Services](#), [DNA People's Legal Services](#) or [Southern Arizona Legal Aid](#) may be able to help.

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**WHAT** am I responsible for if I delayed the eviction?

**You are still responsible for all monthly payments of rent and late fees.** If rent is refused by the landlord/property manager, save it for future payment as long as you remain in the property. Document all of your efforts to pay monthly rent. Remember, you are still obligated to comply with the law and your lease for as long as you and your family reside in the property.

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TENANT COVID-19 NOTICE FOR POSTPONEMENT OF LOCK OUT BECAUSE OF  
GOVERNOR DUCEY'S EXECUTIVE ORDER 2020-49  
REQUIRING TEMPORARY DELAY OF EVICTION ENFORCEMENT

Date: \_\_\_\_\_

Landlord Name: \_\_\_\_\_

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

Tenant Name: \_\_\_\_\_

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

This is notice that any eviction from the above address may not be enforced by a constable or sheriff because of one or more of the following circumstances I am currently experiencing:

- I have been diagnosed with COVID-19 and must be quarantined.
- I have been ordered to self-quarantine by a medical professional based on my symptoms defined by the Centers for Disease Control.
- Someone in my household has been being diagnosed with COVID-19 and I must be quarantined.
- I have a health condition, as defined by the Centers for Disease Control, that makes me more at risk for COVID-19 than the average person.
- I suffered a substantial loss of income as a result of COVID-19, such as job loss, reduced pay or compensation, my work place closed, an obligation to miss work to care for a home-bound school-age child, or other circumstances.

I have enclosed supporting documents available to me about one or more of the above circumstances.

Despite my circumstances, I know that the terms in my lease agreement continue to be in effect.

\_\_\_\_\_  
Tenant Signature

- This notice was sent by email to the landlord's email address: \_\_\_\_\_ (landlord's email) on \_\_\_\_\_ (keep copy of email)
- This notice was sent by text to the landlord's phone number: \_\_\_\_\_ (landlord's phone number) on \_\_\_\_\_ (keep copy of text)
- This notice was sent by regular mail on: \_\_\_\_\_
- This notice was sent by Certified Mail/Return receipt requested – tracking number: \_\_\_\_\_
- This notice was hand-delivered to (name/title): \_\_\_\_\_
- Date and time of hand-delivery: \_\_\_\_\_

**KEEP SEVERAL COPIES OF THIS COMPLETED NOTICE FOR YOUR RECORDS**

# Tenant COVID-19 Notice for Postponement of Lock Out Because of Governor Ducey's Executive Order 2020-49 Requiring Temporary Delay of Eviction Enforcement

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**TIPS for TENANTS**  
**Executive Order 2020-14 & 2020-49**  
**on EVICTIONS**

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To delay the enforcement of eviction **BETWEEN August 22, 2020- October 31, 2020**, tenants must follow these steps:

- Provide your landlord/property manager written notice if:
  1. You have been diagnosed with COVID-19 and must be quarantined;
  2. You have been ordered to self-quarantine by a medical professional because of your symptoms defined by the Centers for Disease Control;
  3. Someone in your household has been diagnosed with COVID-19, and you must be quarantined;
  4. You have a health condition, as defined by the Centers for Disease Control, that makes you more at risk for COVID-19 than the average person; or
  5. You have suffered a substantial loss of income as a result of COVID-19, such as job loss, reduced pay or compensation, your workplace closed, an obligation to miss work to care for a home-bound school-age child, or other circumstances
- Provide your landlord with any available supporting documents for one or more of the above listed circumstances.
- Provide your landlord/property manager written proof you completed a rental assistance application and with a city, county, state or nonprofit.
- Provide your landlord/property manager written proof that you attempted to enter into a payment plan with your landlord.

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**HOW** do I notify my landlord/property manager of my COVID-19 hardship?

After August 21, provide notice to your landlord/manager of COVID-19 hardship related to any item 1-5 above along with available documentation (can be by email or text). Make sure to keep copies.

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**WHAT** are some examples of documentation?

You only have to provide the landlord/property manager documents that are available to you, but the more documentation the better. Examples might include: a note from your doctor or medical professional about your condition or situation, notices from your employer, notice of school/child care closure, or pay stubs that show a loss of income because of COVID-19.

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**WHAT** if I cannot get or do not have documentation?

If you cannot get documentation from others, write a detailed statement explaining your COVID-19 hardship listed above in 1-5. Include your detailed statement with the notice to the landlord.

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**HOW** do I prove I applied for rental assistance?

Apply for rental assistance as soon as possible. The application does not need to be accepted. You must have written proof the application was **completed**, not just started. If you do not receive a confirming email that your application was completed, reach out to the governmental agency or nonprofit and ask for written confirmation.

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**HOW** do I prove I attempted to enter a payment plan with the landlord?

Propose a payment plan in writing that you can afford to your landlord as soon as possible. You can find a copy of a proposed plan on Community Legal Services' website, [www.clsaz.org](http://www.clsaz.org). The landlord does not need to accept your proposed plan to get the delay.

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**WHY** am I getting notice of a court hearing?

The landlord can still go to court and get a judgment against you. Providing the required documentation to your landlord/property manager keeps the constable or sheriff from locking you out of the property until November 1, 2020. The landlord may still file a Motion to Compel to attempt to prevent you from receiving the delay to the lock out. If you receive a notice of a Motion to Compel, be prepared to show the court your notice to the landlord and your documentation concerning your COVID-19 circumstance.

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**WHO** can request to see the notice?

If the court, constable, or sheriff requests to see the notice and documentation provided to your landlord, you must show them the notice and documentation. If the constable or sheriff still intends to lock you out of the property, you may want to contact an attorney immediately. [Community Legal Services](#), [DNA People's Legal Services](#) or [Southern Arizona Legal Aid](#) may be able to help.

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**WHAT** am I responsible for if I delayed the eviction?

**You are still responsible for all monthly payments of rent and late fees.** If rent is refused by the landlord/property manager, save it for future payment as long as you remain in the property. Document all efforts to pay monthly rent. Remember, you are still obligated to comply with the law and your lease for as long as you and your family reside in the property.

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RENT PAYMENT PLAN AGREEMENT

<b>Landlord Information</b>
Landlord Name:
Landlord Address:
Landlord Email:
Preferred method of contact:
Preferred method to receive messages:

<b>Tenant Information</b>	
Tenant Name:	
Tenant Address:	
Tenant Email:	
Preferred method of contact:	
Preferred method to receive messages:	
<b>Status of the Lease</b>	
Monthly Rent:	Security Deposit:
Date Tenant moved in:	
Date Lease is up for renewal:	

Has tenant completed an application for rental assistance through a government office or non-profit? (Attach copy of screenshot showing application is complete to agreement)		
<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> In process

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<b>To be completed by Landlord:</b>
<b>Steps taken in agreement with tenant (Select all that apply)</b>
<input type="checkbox"/> Waived late fees
<input type="checkbox"/> Waived penalty for ending lease early
<input type="checkbox"/> Forgive \$_____ of rent for a period of _____ months
<input type="checkbox"/> Reduce rent by \$_____ for _____ months
<input type="checkbox"/> If a balance, divide amount due across _____ months to be paid monthly
<input type="checkbox"/> Use the \$_____ from the security deposit towards rental arrear
<input type="checkbox"/> Rent paid _____ days early will receive a credit of \$_____
<input type="checkbox"/> Other Arrangements (ex. Forgiving rent for maintenance/cleaning services completed by tenant)

<b>Modified Rent Schedule</b>
As noted above Rent will be:
<input type="checkbox"/> Reduced per month by: \$_____ <input type="checkbox"/> Deferred for: _____ Months <input type="checkbox"/> Forgiven for: _____ Months
<ul style="list-style-type: none"> <li>Rent Amount of \$_____ is scheduled to begin on _____ and is valid for _____ months</li> <li>Total amount of arrearage balance due is \$_____ no later than _____</li> <li>Monthly Balance Due Payments of _____ are due to begin on _____ and should be submitted:           <ul style="list-style-type: none"> <li><input type="checkbox"/> With rent in a single payment of \$_____</li> <li><input type="checkbox"/> As a separate payment of \$_____ due on _____ day of the month.</li> </ul> </li> <li>We will accept complete balance due payment at any time without penalty</li> </ul>
<p>***Rent payment not covered in this modified schedule should be due according to the original lease agreement. Failure to abide by this Schedule may result in penalty up to and including eviction action***</p>

\*\*\*This document does not change any of the terms or requirements established under the Lease Agreement between the Parties. This document is intended to provide short term relief to the Tenant and does not waive or supplement any of the Landlord's or Tenant's rights or responsibilities under that Lease Agreement. \*\*\*\*\*

Tenant \_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_

Landlord \_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_



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**TIPS for TENANTS**  
**Executive Order 2020-14 & 2020-49**  
**on EVICTIONS/Motions to Compel**

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In evictions, a landlord may file a Motion to Compel with the court to try to stop the tenant from receiving the delay in the enforcement of the eviction. To respond to a landlord's Motion to Compel, tenants should know the following:

**WHAT** should I do if my landlord files a Motion to Compel?

Contact the court listed on your eviction complaint immediately to find out how to submit your documents and appear at the Motion to Compel hearing. Make sure the court has your correct phone number before the hearing. If you do not respond to the Motion, your landlord may be able to stop the delay to enforcement of the eviction.

**WHAT** should I prepare for the hearing if it is before August 22?

You will need to present your notice you gave to your landlord of your COVID-19 circumstance and all of your supporting documentation to the judge. Make sure your landlord and their attorney has all of your documentation before or at the hearing.

**WHAT** should I prepare for the hearing if it is between August 22 and October 31?

- 1) The notice you presented to your landlord of your COVID-19 related hardship dated after August 21 and all of your supporting documentation;
- 2) Written proof you completed an application for rental assistance from a city, county or state or nonprofit; and
- 3) Written proof you made an offer in writing to your landlord to enter into a payment plan.

**WHAT** happens once the judge rules on motion?

If the judge rules in your favor, you will continue to receive a delay in the enforcement of your eviction.  
If the judge rules for the landlord, the sheriff or constable can lock you out five days after the judge rules on the motion.

**WHAT** if I didn't receive a notice of the hearing?

You may want to file an emergency Motion to Reconsider or contact an attorney immediately. [Community Legal Services](#), [DNA People's Legal Services](#) or [Southern Arizona Legal Aid](#) may be able to help.

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## HOW TO REACH US??

- ▶ Telephone (602) 258-3434
  - \* Applications 8am-3pm in Maricopa County
- ▶ [www.azlawhelp.org/accesstojustice.cfm](http://www.azlawhelp.org/accesstojustice.cfm)
- ▶ [www.clsaz.org/](http://www.clsaz.org/)

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## FOLLOW US

[WWW.CLSAZ.ORG](http://WWW.CLSAZ.ORG)

A laptop displaying the Community Legal Services logo. The logo features a golden scale of justice icon above the text "Community Legal Services" and the tagline "Advocate. Litigate. Educate." below it. The background of the laptop screen is dark blue with faint images of legal documents and a gavel.

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THANK YOU



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[clsaz.org](http://clsaz.org)