SEXUAL HARASSMENT AND TENANT RIGHTS DURING COVID-19

Please note that things are changing rapidly with regard to both State and National policy. Therefore, we ask that you please check back for ongoing updates as we work to provide you with the most current and up to date information as it relates to addressing the needs of survivors in Arizona.

Throughout the COVID-19 pandemic, fair housing organizations have reported an increase in unwanted sexual contact and propositions from landlords to their tenants as renters across the country are unsure how they will pay rent. According to a recent article by NBC News, the executive director of the Hawaii State Commission on the Status of Women, Khara Jabola-Carolus stated "Landlord coercion has always been a reality, but we've never seen anything like this." Jabola-Carolus also brought attention to a "power dynamic" that exists between landlords and their tenants that leads renters to "feel intimidated by our landlords because shelter is so critical."

Sexual harassment by housing providers is illegal under the Fair Housing Act and other federal laws, and there are resources and support available if you would like to take action.

KNOW YOUR RIGHTS

According to the Department of Housing and Urban Development, the Fair Housing Act prohibits landlords or property managers from sexually harassing their tenants. Many states across the country, including Arizona, have their own statutes that also prohibit sexual harassment in housing. These laws also prohibit harassment because of race, color, religion, national origin, familial status, or disability.

Sexual harassment in housing is a form of sex discrimination prohibited by the Fair Housing Act. Sex discrimination is also prohibited by other federal laws, such as Section 109 of the Housing and Community Development Act of 1974, and Title IX of Education Amendments of 1972. There are two main types of sexual harassment and are defined below:

Quid Pro Quo - Quid pro quo harassment occurs when a housing provider requires a person to submit to an unwelcome request to engage in sexual conduct as a condition of obtaining or maintaining housing or housing-related services. For example:

- A landlord tells an applicant they won’t rent an apartment to them unless they have sex.
- A property manager evicts a tenant after the tenant refuses to perform sexual acts.
- A maintenance employee refuses to make repairs unless a tenant gives them nude photos.

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Hostile Environment - Hostile environment harassment occurs when a housing provider subjects a person to severe or pervasive unwelcome sexual conduct that interferes with the sale, rental, availability, or terms, conditions, or privileges of housing or housing-related services, including financing. For example:

- A landlord subjects a tenant to severe or pervasive unwelcome touching, kissing, or groping.
- A property manager makes severe or pervasive unwelcome, lewd comments about a tenant’s body.
- A maintenance employee sends a tenant severe or pervasive unwelcome, sexually suggestive texts and enters the tenant’s apartment without invitation or permission.

The 2015 Arizona Residential Landlord & Tenant Act of 2015 also includes tenant rights and protects from retaliation. Though there is no state agency that enforces the provisions, disputes that arise between landlord and tenants are generally considered private matters and seeking legal assistance is recommended.

It may also be arguable as sex trafficking under the Justice for Victims of Sex Trafficking Act of 2015, which expanded the definition of sex trafficking to include anyone who uses coercion to solicit an exchange of sexual conduct for something of value (rent).³

COVID-19 RELATED CHANGES

Governor Ducey’s Executive Order 2020-14: Postponement of Eviction Actions provides that the enforcement of evictions can be delayed in certain circumstances related to COVID-19, but did not fully stop eviction actions. Instead, the constable will not lock out the tenant after the eviction judgment, if the tenant provides their landlord any of the following:

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 as 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;
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.

On March 27, 2020, the president signed the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) into law. The law includes important, immediate protections for tenants and homeowners, including the federal eviction moratorium, that created a temporary prohibition on evictions and foreclosures for all federally-backed mortgages for 60 days beginning on March 18, 2020.

1. A borrower with a federally-backed mortgage experiencing financial hardship due to coronavirus may request a forbearance for up to 180 days, which may be extended for another 180 days at the borrower’s request.
2. Multifamily housing owners with a federally-backed mortgage can request a forbearance for up to 30 days, which can be extended by another 60 days at the request of the borrower, on the condition that they agree NOT to evict tenants or charge tenants late fees.
3. The law includes a temporary prohibition on evictions and foreclosures for renters in homes covered by a federally-backed mortgage for 120 days after enactment.


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4. The law also includes a temporary prohibition on evictions for most residents of federally-subsidized apartments for 120 days after enactment.

**WHAT TO DO**

If you are experiencing sexual harassment, act quickly. Consider documenting the following:

- What happened
- When and where it happened
- The name of the harasser
- The names, addresses, and phone numbers of any witnesses or any other tenants who have been harassed

Keep any documents related to the harassment (e.g., notes, gifts, rent increase notices, warning notices, eviction notices, text messages, etc.)

**YOU HAVE OPTIONS**

- **File a complaint with HUD** using the [online form](http://www.hud.gov) or calling (800) 669-9777 or (800) 877-8339 (TTY). When you file your complaint with HUD, you should tell them the name of the person harassing you, when and where it happened, and the names of any witnesses or other individuals who have been or are being harassed.

- Reach out to an attorney or fair housing organization like those listed below:

  **Southwest Fair Housing Council (SWFHC)** offers full service fair housing services and assist victims of housing discrimination in exercising their rights by providing investigative assistance, counseling, mitigation of complaints and referrals to resources across Arizona. All of their services are provided at no cost. SWFHC is currently holding office hours by appointment only and can be reached by telephone. Tucson: 520-798-1568; Phoenix: 602-218-6491; Toll free: 1-888-624-4611; TTY: 520-670-0233; or visit their website: [http://swfhc.com/enforcement](http://swfhc.com/enforcement)

- **File for an Injunction Against Harassment.** As defined by Arizona Law, the defendant can be anyone (whether or not related to you). Harassment is defined as a series of acts (at least two events) over any period of time that is directed at a specific person that would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct in fact seriously alarms, annoys, or harasses the person and serves no legitimate purpose or one or more acts of sexual violence. You may file a petition for an Injunction Against Harassment in any superior, municipal, or justice court in Arizona. You can fill out the paperwork for a protective order through the Arizona Protective Order Initiation and Notification Tool (AZPOINT) online portal web portal, but you must file the petition with an Arizona court to start your case. For more information or to begin a petition: [https://azpoint.azcourts.gov/](https://azpoint.azcourts.gov/)

- **Seek legal help in Arizona** by pre-applying for assistance through the Arizona Legal Aid Self-Help Center at [https://a2j.azlawhelp.org/](https://a2j.azlawhelp.org/) or call (866) 637-5341.

- You can also contact one of the local organizations directly, listed in the chart that follows:

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4 Arizona Revised Statutes §12-1809. [https://www.azleg.gov/ars/12/01809.htm](https://www.azleg.gov/ars/12/01809.htm)

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