

SENT VIA E-MAIL

May 4, 2020

Office of Arizona Governor
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Dear Gov. Ducey:

The American Civil Liberties Union (ACLU) and the ACLU of Arizona urge you to immediately expand and extend the statewide moratorium on evictions in Arizona and commit to prevention of mass evictions after the moratorium ends.

Across the nation, the COVID-19 pandemic has already resulted in widespread and devastating economic consequences, as the number of unemployment claims filed has reached over 30 million. In Arizona, more than 470,000 workers have filed unemployment claims, amounting to over 13 percent of the total state workforce of nearly 3.6 million.¹ In the face of staggering unemployment numbers and climbing medical costs, millions of people living in the United States—and hundreds of thousands of renters living in Arizona—face the imminent threat of losing their homes. These consequences risk further spread of COVID-19 throughout Arizona and undermine efforts to protect public health and well-being. Moreover, the nearly guaranteed wave of evictions would inflict far-reaching and significant economic and social harm on hundreds of thousands Arizona residents — particularly on women, people of color, low-income residents, and other vulnerable communities.

We commend Governor Ducey's efforts thus far in providing relief to residents through halting evictions of small business owners² and delaying enforcement of residential evictions for persons impacted by COVID-19.³ However it is critical that Arizona immediately expand and extend protections for renters

¹ Howard Fischer, Arizona Releases Latest Unemployment Numbers, KAWC News (Apr. 28, 2020), <https://www.kawc.org/post/arizona-releases-latest-unemployment-numbers>.

² Executive Order 2020-21, Prohibiting Small Business Evictions (April 7, 2020), https://azgovernor.gov/sites/default/files/eo_2020-21_prohibiting_small_business_evictions.pdf.

³ Executive Order 2020-14, Postponement of Eviction Actions (March 24, 2020), https://azgovernor.gov/sites/default/files/eo_2020-14_0.pdf.

given the size and estimated duration of the economic crisis caused by the pandemic. We recommend the Governor immediately extend and expand the moratorium so that the moratorium:

- 1) applies to all renters, regardless of reason for eviction;
- 2) halt every stage of the eviction process;
- 3) extend protections to *after* the declaration of the COVID-19 health emergency ends;
- 4) prohibits the collection of late fees and protect tenants who assert their rights; and,
- 5) prevent mass evictions after the moratorium ends.



It is vital that the state move quickly to protect families that are under threat due to the economic and social fallout of the COVID-19 pandemic.

Evictions Will Disproportionately Harm Communities of Color—And Particularly Women of Color.

The ACLU’s Data Analytics team [analyzed national eviction data from 2012 to 2016](#), provided by the Eviction Lab at Princeton University, and found that on average, Black renters had evictions filed against them by landlords at nearly twice the rate of white renters.⁴ Women of color, and particularly Black women, [bear the burden of eviction](#).⁵ The harmful impact of eviction is further compounded by other racial, gender, and socioeconomic barriers—such as wealth gaps, pay disparities, and inequities in our healthcare system.

Critically, the aftermath of an eviction persists for decades, as tenants with prior eviction records face major obstacles to accessing future housing opportunities. Landlords routinely employ screening policies that deny housing to any renter previously named in an eviction case, regardless of whether the case was dismissed, occurred many years ago, or was filed on unlawful grounds.⁶ As a result, eviction often exacerbates and reproduces conditions of economic insecurity for low-income women and communities of color.

⁴ Sophie Beiers et al., *Clearing the Record: How Eviction Sealing Laws Can Advance Housing Access for Women of Color* (Jan. 10, 2020), <https://www.aclu.org/news/racial-justice/clearing-the-record-how-eviction-sealing-laws-can-advance-housing-access-for-women-of-color/>.

⁵ Matthew Desmond, *Poor Black Women Evicted at Alarming Rates, Setting Off a Chain of Hardship* (Mar. 2014), https://www.macfound.org/media/files/HHM_-_Poor_Black_Women_Are_Evicted_at_Alarming_Rates.pdf.

⁶ Sandra Park, *Unfair Eviction Screening Policies Are Disproportionately Blacklisting Black Women* (Mar. 30, 2017), <https://www.aclu.org/blog/womens-rights/violence-against-women/unfair-eviction-screening-policies-are-disproportionately>.



These stark racial and gender disparities in eviction are even more alarming at state and local levels given the racial wealth gap in Arizona. In Arizona, communities of color and Indigenous people are disproportionately affected by poverty and homelessness. In 2016, one in three American Indians (33.3%) in Arizona lived at or below the federal poverty rate ⁷ and Black residents in Arizona experienced a poverty rate of 22.1%.⁸ The disproportionate number of racial minorities living in poverty in Arizona make them particularly vulnerable to the harmful impact of mass evictions due to an inability to pay rent.

In light of the widespread and devastating impact of eviction during the pandemic, we urge you to immediately expand and extend the current moratorium on evictions throughout the entire state. In doing so, Arizona should implement a moratorium that prohibits every stage of the eviction process without exception for types of tenants or lease violations. The state should also plan for when the moratorium ends to prevent mass evictions and other enduring housing consequences for tenants hurt by the pandemic.

I. *Arizona’s Moratorium Should Apply to All Types of Tenants and Lease Violations.*

In light of the ongoing public health crisis and its economic consequences, all residents—regardless of their circumstances or background—must have access to safe and stable housing throughout the course of the COVID-19 pandemic. Given the extraordinary circumstances that Arizona residents are facing, an effective eviction moratorium should not be limited to evictions related to infection with, or job loss because of, COVID-19. Rather, the moratorium must prohibit all evictions, regardless of the type of tenant or lease violation. Any exception to an eviction moratorium should be narrowly tailored to circumstances in which an individual’s tenancy poses a serious and imminent safety threat to other tenants that the landlord demonstrates in court cannot be reduced or eliminated except by eviction.

While the state’s current moratorium has limited the rate of evictions in Phoenix and other areas, some evictions are still proceeding and the rate of total evictions threaten to dramatically increase after the state’s current

⁷ Arizona Community Action Association & Coalition on Human Needs, *Poverty and Progress: The State of Being Poor in Arizona and the New Threats Ahead* (Nov. 1, 2017), <https://www.chn.org/wp-content/uploads/2019/02/Poverty-and-Progress-in-Arizona.pdf>.

⁸ Arizona Community Action Association & Coalition on Human Needs, *Poverty and Progress: The State of Being Poor in Arizona and the New Threats Ahead* (Nov. 1, 2017), <https://www.chn.org/wp-content/uploads/2019/02/Poverty-and-Progress-in-Arizona.pdf>.

moratorium on evictions ends.⁹ Nearly a third of all renters were not able to pay their landlords at the beginning of April.¹⁰ Given that the wide-ranging economic and social implications of COVID-19 for Arizona renters extends to all persons who may face eviction, we ask that Arizona expand the persons who are eligible for protection under the current moratorium to all persons facing eviction and extend the moratorium past the current July 22, 2020 date.

II. *Arizona’s Moratorium Must Halt Every Stage of the Eviction Process.*

In addition, we ask that the Governor extend the current moratorium to apply to each stage of the eviction process. An [effective eviction moratorium](#) must prohibit landlords and housing providers from proceeding with any stage of the eviction process, including, but not limited to: (1) formal or informal issuance of eviction notices; (2) service of legal process in eviction actions; (3) filing of new eviction cases; (4) eviction hearings; and (5) enforcing orders of eviction, including orders that were issued prior to the date that the moratorium went into effect.¹¹ Moreover, the moratorium should extend or toll all court deadlines for pending eviction proceedings for at least 30 days after the moratorium is lifted. Absent a clear and comprehensive moratorium, tenants still face a heightened risk of losing their homes or sustaining an eviction filing record that may unjustly act as a barrier to housing in the future.

III. *A Moratorium on Evictions Must Continue to Prevent Evictions During and Shortly After the Pandemic, with Extensions.*

Given the ongoing and unpredictable nature of the COVID-19 pandemic, Arizona’s moratorium must, at a minimum, continue until at least 45 days¹² after the following conditions are met: (1) the period for mandated or recommended social distancing has ended; (2) the State has determined the moratorium is no longer needed to control or limit the spread of COVID-19; and (3) the State has determined there are no further public health, economic, or other circumstances supporting the continued need for the moratorium.

⁹ Catherine Reagor, *Phoenix-area Evictions Dropped with Moratorium. Here’s Why Tenants Are Urged Not to Skip Rent*, The Arizona Republic (April 29, 2020), <https://www.azcentral.com/story/money/real-estate/catherine-reagor/2020/04/29/metro-phoenix-rental-evictions-fall-april-amidst-covid-19-pandemic/3040997001/>.

¹⁰ *Id.*

¹¹ National Housing Law Project, *Protecting Renter and Homeowner Rights During Our National Health Crisis*, <https://www.nhlp.org/campaign/protecting-renter-and-homeowner-rights-during-our-national-health-crisis-2/>.

¹² See, e.g., Mass. H. 4647, *An Act Providing for a Moratorium on Evictions and Foreclosures During the COVID-19 Emergency*, <https://malegislature.gov/Bills/191/H4647>.

Moreover, an effective eviction moratorium should allow for extensions as necessary to allow tenants reasonable time to apply for and receive financial resources and assistance during and following the conclusion of the pandemic. The moratorium should also guarantee that landlords and housing providers give at least 30 days' notice to evict a tenant upon expiration of the moratorium period.¹³

IV. *Arizona's Moratorium Should Prohibit the Collection of Late Fees, and Protect Tenants Who Assert Their Rights*

The moratorium should prohibit landlords from imposing fees or fines associated with the late payment of rent due or eviction-related court costs during the period of the moratorium, which can often be considerable. Additionally, Arizona should prohibit landlords from retaliating against tenants who seek protections under the moratorium.

The mere filing of an eviction—even where an eviction judgment is not entered—may deprive tenants of housing opportunities, because landlords often will not rent to anyone who has been subject to an eviction case. This type of blacklisting is devastating, locking out families from better housing, schools, and employment for decades. Arizona must ensure that any evictions filed during this period do not impede tenants' opportunities for the rest of their lives by preventing consideration of evictions filed during this crisis period. Moreover, Arizona should prohibit landlords and housing providers from reporting missing or late rental payments to credit agencies or debt collection agencies to avoid future economic hardship following the pandemic.

V. *Arizona Must Also Prevent Mass Evictions After the Moratorium Ends.*

The issuance of a moratorium will play an important role in mitigating the public health and economic impact of the pandemic. In addition to containing further spread of COVID-19 by ensuring residents can comply with stay-at-home orders, a moratorium will prevent the harmful aftermath of eviction, such as medical and mental health issues, financial hardship, and homelessness.¹⁴ However, permitting mass evictions to take place the moment the moratorium lifts will similarly cause huge upheavals in local communities, harm public health, and threaten families. For that reason, Arizona should

¹³ See, e.g., Coronavirus Aid, Relief, and Economic Security Act (CARES Act), § 4024.

¹⁴ Matthew Desmond & Carl Gershenson, *Housing and Employment Insecurity among the Working Poor*, Oxford: Social Problems Advance Access 1–12 (Jan. 11, 2016),

<http://scholar.harvard.edu/files/mdesmond/files/desmondgershenson.sp2016.pdf?m=1452638824>; see also Allison Bovell-Ammo & Megan Sandel, *The Hidden Health Crisis of Eviction*, Boston Univ. School of Public Health (Oct. 5, 2018), <https://www.bu.edu/sph/2018/10/05/the-hidden-health-crisis-of-eviction/>.

commit to adopting policies that would prevent mass evictions once the moratorium ends.

Key policies should include requiring landlords to negotiate payment plans prior to the filing of eviction cases, creating renters' relief funds to cover back rent, providing renters with a grace period of at least 30 days to pay rent, establishing right to free legal counsel to tenants facing eviction, and exploring other creative strategies for addressing this unprecedented threat to community stability. Such policies should provide meaningful mechanisms to ensure compliance by landlords and housing providers. For example, Arizona officials should issue guidance for housing courts to require landlords and housing providers to show that they have engaged in good faith negotiation of payment plans prior to filing for eviction and allow for dispute resolution in circumstances where the eviction is for reasons other than non-payment of rent.



With the first of the month rapidly approaching, it is critical that Arizona act quickly to protect its residents against eviction. Expanding and extending the moratorium as described above would provide the certainty and stability that residents need to ensure that no one is at immediate risk of losing their homes while we work to find longer-term solutions to handling unpaid rent, providing economic and financial support, and ensuring access to stable housing in the aftermath of the COVID-19 pandemic.

We encourage your office to act quickly in addressing the critical issues facing the residents of Arizona. If you have any questions or concerns, please contact ACLU of Arizona Policy Director Darrell Hill at dhill@acluaz.org.

Thank you in advance for your time.

Sincerely,

A handwritten signature in blue ink that reads "Darrell Hill". The signature is written in a cursive, flowing style.

Darrell Hill
Policy Director
ACLU of Arizona