

FAQ: How to protect yourself from an eviction

On July 16, 2020, Governor Ducey extended his Executive Order (EO) through October 31, 2020, to postpone the enforcement of eviction orders for tenants experiencing certain financial and medical hardships. Keep in mind that the EO does not necessarily prevent an eviction. The landlord or property manager can still file a complaint in court to evict you from your residence. The EO, however, delays the enforcement of the eviction. To delay an eviction there are steps you need to take and things you should know.

- You can read the Governor's EO 2020-49 [here](#). The EO states that:

Beginning on August 22, 2020, you must take the following actions to delay the eviction to give yourself extra time to secure funds to pay your rent:

- 1) (Re)notify your landlord or property owner using this [form](#) and provide in writing supporting documentation of your ongoing financial hardship as result of COVID-19;
- 2) Ask your landlord or property owner for a payment plan;
- 3) Apply for rental assistance through the state, city, county or nonprofit program and provide your landlord or property owner a copy of the completed application along with any available supporting documentation; and
- 4) Provide a copy of all this information to the constable, law enforcement officer, or court, if requested.

HOW do I prove I applied for rental assistance?

Apply for rental assistance as soon as possible. Upon submission, you will receive an email that your application was completed. This email is all you will need as proof that you applied for rental assistance. If you do not receive a confirming email, reach out to the governmental agency or nonprofit and ask for written confirmation.

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

Propose a payment plan that you can afford, in writing, to your landlord as soon as possible. You can find a copy of a proposed payment plan on Community Legal Services' website at www.clsaz.org. The landlord does not need to accept your proposed plan in order for the delay to be granted. (Here is a website with a [template](#) for a payment plan.)

CAN the landlord still file for an eviction?

Yes, the landlord can still go to court and get a judgment against you. Remember, the EO did not stop the eviction process, it only delays the constable or sheriff from removing you from your residence.

Providing notice to the landlord/property manager keeps the constable or sheriff from evicting you until August 22. After August 21, you have additional requirements:

1. The notice you presented to your landlord of your COVID-19 related hardship dated before August 21 and any available supporting documentation;
2. Written proof you completed an application for rental assistance from a city, county or state or nonprofit; and
3. A payment plan or written proof you asked your landlord for a payment plan.

The constable or sheriff will request to see all the documentation provided to your landlord. Keep careful records.

Bottom Line: Your landlord can't force you out of your home; only a county constable or sheriff can. If your landlord files an eviction in court, you still need to appear at the hearing by phone, Zoom, or in person.

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

You can file a Motion to Reconsider or contact an attorney immediately. You have five days from the day of your hearing to act. See below for free legal assistance.

WHAT is a Motion to Compel and what should I do if my landlord files one?

A motion to compel is a request to Court from the landlord/property manager to compel the constable or sheriff to remove you from your home regardless of your circumstance. If a motion is filed, the court will set a hearing and you will be notified of the court date. It is important that you attend the hearing and show the court your notice to the landlord and all of your documentation concerning your COVID-19 circumstance.

- You may also want to seek legal advice and/or representation. Below is a list of organizations offering free legal advice.

WHAT happens once the judge rules on the Motion to Compel?

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 return to your residence within 24-48 hours to lock you out.

If the judge rules against you, you can file a motion to reconsider. Complete [this form](#) and file it with the court immediately. You may only have 24 to 48 hours to do so. Be sure to include in your statement why you should be able to stay in your home or apartment. Be sure to attach all the related documentation noted at the beginning of this FAQ. You should make every attempt to seek legal advice.

WHAT am I responsible for if I have a delayed eviction?

You are still responsible for all monthly payments of rent and late fees as well as rent and late fees awarded in the court's judgment. And you can still be evicted if:

- You cannot pay rent for a reason unrelated to COVID-19
- You violate any other term of your lease

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.

What if the 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.

Free Legal Assistance in Pima County:

- **Southern Arizona Legal Aid (SALA)**
<https://www.sazlegalaid.org/>
(520) 623-9465
- **Snell & Wilmer**
<https://www.swlaw.com/locations/tucson>
(602) 382-6919
- **Step Up to Justice (SU2J)**
<http://www.stepuptojustice.org>
- Only website application
- **Arizona Bar Association**
<https://azbar.legalserviceslink.com/>
866-611-6022

NOTE ON CARES ACT PROTECTED PROPERTY: If the property is covered by the CARES Act, then no fees or penalties can be recovered for the period when the CARES Act was in effect: March 27 to July 25. You can find out more at the link below.

For more information, go to the Pima County website at:

<https://webcms.pima.gov/cms/One.aspx?portalId=169&pageId=604639>