

Tenant Advisory



ARIZONA
ASSOCIATION OF
REALTORS®



**The Tenant Advisory is a resource
provided by the Arizona Association of REALTORS®**

Verification of Ownership

Prior to executing a lease agreement or conveying any money, tenants should independently verify the owner of the property and confirm that they are contracting with the owner of record. If a person other than the owner signs the lease agreement, tenants should verify that the third party has authority to act on the owner's behalf. Information regarding property ownership can often be found through the local county assessor's office. Contact information for county assessors can be found at http://azstateparks.com/shpo/downloads/SHPO_SPT_Assessor.pdf.

COMMON DOCUMENTS A TENANT SHOULD REVIEW

1 Residential Lease Agreement

Tenants should protect themselves by taking the time to read the residential lease agreement and understand their legal rights and obligations before they enter into a lease agreement. A sample Arizona Association of REALTORS® (AAR) lease agreement can be found at <http://www.aaronline.com/wp-content/uploads/2013/02/SAMPLE-Residential-Lease-Agreement.pdf>.

2 Residential Lease Owner's Property Disclosure Statement (RLOPDS)

Many landlords provide a RLOPDS. This document poses a variety of questions for the owner to answer about the property and its condition. The property manager/broker is not responsible for verifying the accuracy of the items on the RLOPDS; therefore, a tenant should carefully review the RLOPDS and verify those statements of concern. View a sample RLOPDS at www.aaronline.com/wp-content/uploads/2012/12/sample-residential-lease-owner.pdf.

3 Homeowners Association (HOA) Governing Documents

If CC&Rs are recorded against the property, the tenant agrees to follow the CC&Rs. It is essential that the tenant review and agree to these restrictions prior to leasing a property. See www.realtor.com/BASICS/condos/ccr.asp. The Arizona Department of Real Estate (ADRE) advises: "Read the deed restrictions, also called CC&Rs (covenants, conditions and restrictions). You might find some of the CC&Rs are very strict." www.azre.gov/PublicInfo/PropertyBuyerChecklist.aspx.

In addition to CC&Rs, HOAs may be governed by Articles of Incorporation, Bylaws, Rules and Regulations, and often architectural control standards. Read and understand these documents. Also, be aware that some HOAs impose fees. Tenants with questions about their rights and remedies regarding homeowners associations or community associations should read the information provided at www.azre.gov/PublicInfo/RealEstateResearchTopics.aspx#LINK11 or Chapters 16 and 18 of the Arizona Revised Statutes - Title 33: www.azleg.state.az.us/ArizonaRevisedStatutes.asp?Title=33.

4 Lead-based Paint Disclosure Form

If the home was built prior to 1978, the landlord **must** provide the tenant with a lead-based paint disclosure form. Information about lead-based paint may be obtained at www.azre.gov/PublicInfo/RealEstateResearchTopics.aspx#LINK11 or www.epa.gov/lead/.

5 Move-in/Move-out Inspection

The importance of inspecting the property at the time of moving in cannot be over-emphasized. The tenant is encouraged to fill out a move-in/move-out checklist to identify material defects in the property within the stated timeframe. A sample of AAR's Move-in/Move-out Condition Checklist can be viewed at www.aaronline.com/wp-content/uploads/2012/12/sample-movein-moveout-checklist.pdf.

Tenants should keep a copy of the checklist for their records and may also want to take photographs of any damage observed at the time of move-in.

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TENANTS RIGHTS AND OBLIGATIONS

1 Notice

Unless otherwise agreed, all notices shall be sent registered or certified mail, or personally delivered. A.R.S. §33-1313.

2 Repairs and Property Condition

Pursuant to Arizona law, the landlord is generally responsible for ensuring that all “electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances, including elevators, supplied or required supplied by him” be in good and safe working order and condition. A.R.S. §33-1324. It is the landlord’s responsibility to make sure that necessary repairs are made to keep the property in a fit and livable condition. It is the tenant’s responsibility to notify the landlord of any/all necessary repairs. Following proper notice, the landlord has five days to make any repairs that materially affect the health and safety of the tenant(s) and 10 days to make any other requested repairs. **NOTE:** Pursuant to A.R.S. §33-1324(C), the landlord and tenant of a single family residence may agree in writing, supported by adequate consideration, that the tenant will perform the landlord’s duties to maintain a fit premises and perform specified repairs.

3 Access to the Property by Landlord or Landlord’s Representative

Unless the tenant requests repairs in writing, the landlord must give the tenant at least two days notice to enter the property, during reasonable hours, to make repairs, conduct inspections, have services completed or exhibit the property to prospective purchasers and tenants. The landlord has the right to immediately enter the premises in the event of an emergency or by court order. A.R.S. §33-1343.

4 Deposits/Fees

The lease agreement should specify which deposits/fees are refundable and which are not. A landlord is not permitted to receive refundable security in an amount in excess of one and one-half month's rent.

During the term of the lease, the tenant's security deposit should be held by the landlord or in a broker's trust account (disclosed in writing). At the end of the lease all refundable deposits shall be refunded to the tenant pursuant to A.R.S §33-1321(G). The landlord can subtract unpaid rent or repair costs from the security deposit.

Within 14 business days after termination of the tenancy and delivery of possession and demand by the tenant, the tenant is entitled to receive an itemized list of any/all security deposit deductions together with the amount due and payable to the tenant. A.R.S §33-1321(D) .

5 Termination of the Lease

Unless the parties desire for the lease agreement to continue, written notice of intent not to renew the lease agreement shall be issued pursuant to the terms of the lease. If the lease continues on a month-to-month basis, absent prior written agreement, either the lease owner or the tenant may terminate by providing 30-days written notice prior to the periodic rental date (i.e. the date on which rent is due) per A.R.S. §33-1375(B).

If the tenant vacates the property before the lease expires, they can still be held responsible for damages, including, but not limited to, monthly rent. A holdover tenant is someone who stays in the lease property after the express term of the lease has expired. The landlord can choose to evict a holdover tenant or allow the tenant to continue living in the property on a month-to-month basis under the terms and conditions of the lease agreement.

6 Foreclosure

The landlord shall not allow the property to become the subject of a trustee's sale and doing so may place the landlord in breach of the lease agreement. Nonetheless, a landlord’s failure to pay the mortgage does not eliminate the tenant’s obligation to pay rent. To avoid breaching the lease, the tenant should continue paying rent to the landlord up to the date on which the foreclosure is completed.

Should foreclosure occur during the term of the lease, The Protecting Tenants at Foreclosure Act of 2009 provides certain protections to tenants facing foreclosure by the landlord’s lender. If the tenant is occupying residential property pursuant to a bona fide, written lease, the tenant is generally entitled to continue residing in the property for the duration of the lease term. An exception exists where the property is sold to an individual intending to reside in the property as a primary residence. In such circumstances, the new owner can evict the tenant after providing 90-days notice to vacate. Information on The Protecting Tenants at Foreclosure Act of 2009 can be found at:

www.nlchp.org/content/pubs/ForeclosureStatutes6.09.pdf.

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7 Insurance

Tenants are strongly encouraged to obtain renter's insurance for their benefit.

Pursuant to some lease agreements, certain pets may require additional insurance coverage. Tenants are encouraged to contact an insurance professional concerning additional coverage that may be required. www.id.state.az.us/publications/Renters_Ins_Guide_w_Prem_Comp_12_-_Final_Web.pdf

8 Fair Housing & Disability Laws

The Fair Housing Act prohibits discrimination based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and handicap (disability). Visit HUD's Fair Housing/Equal Opportunity website at http://portal.hud.gov/portal/page/portal/HUD/program_offices/fair_housing_equal_opp. For information on the Americans with Disabilities Act, visit www.usdoj.gov/crt/ada/adahom1.htm.

ADDITIONAL INFORMATION

ADDITIONAL RESOURCES

1 Pests

Bedbugs: Bedbug infestation is on the rise in Arizona and nationally. For more information on rights and obligations with respect to bedbugs visit the following websites: www.azdhs.gov/phs/oids/vector/bedbugs/files/Bed-Bug_FAQs.pdf or www.cdc.gov/parasites/bedbugs/ or www.epa.gov/bedbugs/.

Scorpions: Information on scorpions may be found at www.desertusa.com/oct96/du_scorpion.html.

2 Swimming Pools and Spas

Barriers: Each city and county has its own swimming pool barrier ordinance and tenants should investigate and comply with all applicable state, county and municipal pool regulations. Pool barrier contact information for Arizona cities and counties may be found at www.aaronline.com/documents/pool_contacts.aspx. The Arizona Department of Health Services Private Pool Safety notice may be found at http://azdhs.gov/phs/oeh/pool_rules.htm. The state law on swimming pools is located at www.azleg.state.az.us/ars/36/01681.htm.

3 Sex Offenders

The presence of a sex offender in the vicinity of the property is not a fact that the landlord or broker is required to disclose. Since June 1996, Arizona has maintained a registry and community notification program for convicted sex offenders. This information may be accessed at <https://az.gov/webapp/offender/main.do> or through the National Sex Offender Public Website: www.nsopw.gov/Core/Portal.aspx. Prior to June 1996, registration was not required and only the higher-risk sex offenders are on the website.

- **Links to state agencies, city and county websites:** www.az.gov.
- **Tenant's Rights Handbook:** www.azag.gov/sites/default/files/sites/all/docs/civil-rights/fha/TenantRightsResponsibilities.pdf
- **Arizona Department of Real Estate Consumer Information:** www.azre.gov/InfoFor/Consumers.aspx.
- **Find a REALTOR®:** www.aaronline.com.
- **For information on indoor environmental concerns,** the EPA has a host of resource materials and pamphlets available at www.epa.gov/iaq/pubs/index.html.
- **For crime statistics in all Arizona cities** go to www.leagueaz.org/lgd/, click on the city/town and search for "crime statistics."
- Tenants may find that children cannot attend the school nearest to the property and may even be transported to another community. **For information about Arizona's schools** visit www.ade.state.az.us.
- A **U.S. Department of Housing and Urban Development** Housing Choice Vouchers Fact Sheet can be found at http://portal.hud.gov/hudportal/HUD?src=/topics/housing_choice_voucher_program_section_8.
- **Information regarding Section 8** programs available through the Arizona Public Housing Authority can be found at: www.azhousing.gov/ShowPage.aspx?ID=187&CID=11 or www.findsection8housing.com/
- **Maps for military airports** can be found at www.azre.gov/AirportMaps/MilitaryAirports.aspx.
- **Maps for many of the public airports** can be found at www.azre.gov/AirportMaps/PublicAirports.aspx.

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TENANT ACKNOWLEDGMENT

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*A Resource for
Real Estate Consumers
Provided by the*



Tenant acknowledges receipt of all four pages of this advisory. Tenant further acknowledges that there may be other disclosure issues of concern not listed in this advisory. Tenant is responsible for making all necessary inquiries and consulting the appropriate persons or entities prior to the leasing of any property.

The information in this advisory is provided with the understanding that it is not intended as legal or other professional services or advice. These materials have been prepared for general informational purposes only. The information and links contained herein may not be updated or revised for accuracy. If you have any additional questions or need advice, please contact your own lawyer or other professional representative.

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