

Arizona Eviction Actions

BACKGROUND

Rental property owners are in the business of renting homes, not evicting residents. In fact, on average in Pima and Maricopa Counties a rental property owner loses \$3,200 when a resident fails to pay an \$800 rental payment due to vacancy, court and legal costs, and repairs. Eviction actions resulting in judgements and writs of restitutions, cost rental property owners in Maricopa and Pima Counties combined nearly \$77 million annually.

The vast majority of rental property owners work with residents through partial payment agreements to avoid eviction actions altogether.

Arizona's process for Forcible and Special Detainer actions ("eviction actions") was designed to be a fair system for both rental property owners and residents and is considered to be one of the most equitably designed systems in the country.

Eviction actions in Arizona are civil matters and the vast majority of the cases are handled in the state's Justice Court System by elected Justices of the Peace; however, cases can be, though rarely are, heard in Superior Court.

While eviction actions in Arizona can be timely proceedings, they are fair and transparent due in large part to procedures put in place by Arizona's Judiciary in 2008.

All eviction actions in both Justice Court and Superior Court must follow the Rules of Procedure for Eviction Actions ("RPEA") set forth by the Arizona Supreme Court. The RPEA require four documents be served to the resident: 1) the Summons; 2) the Complaint; 3) the Residential Eviction Information Sheet; and 4) a copy of any notice to be attached to the Complaint.

The Summons instructs the resident when and where to appear for the hearing and the Complaint provides the specific reason for the eviction. The RPEA requires that the Complaint state in bold print, capitalized, and underlined at the top center of the first page, "YOUR LANDLORD IS SUING TO HAVE YOU EVICTED. PLEASE READ CAREFULLY." In 2019, the Arizona Supreme Court amended the RPEA again to now require the rental property owner to include a copy of the Lease Agreement and a six-month accounting ledger to the Complaint.

All eviction actions begin with Notice to the resident on the nature of the breach. Most Notices allow for the resident to cure the alleged breach of the lease and avoid any eviction action.

Non-payment of Rent #1 Cause for Evictions in Arizona

In a recent Elliot Pollack study, it was discovered that 96% of eviction actions filed in Maricopa County were due to nonpayment of rent, 4% were for immediate termination, and 3% due to a breach of lease agreement.

The primary finding of the Study showed, "that most tenants, regardless of the circumstances or type of notice provided, are unlikely to appear at eviction hearings ... [and] that appearing at a hearing does not improve the likelihood of judgments in favor of the defendant to a statistically significant degree."

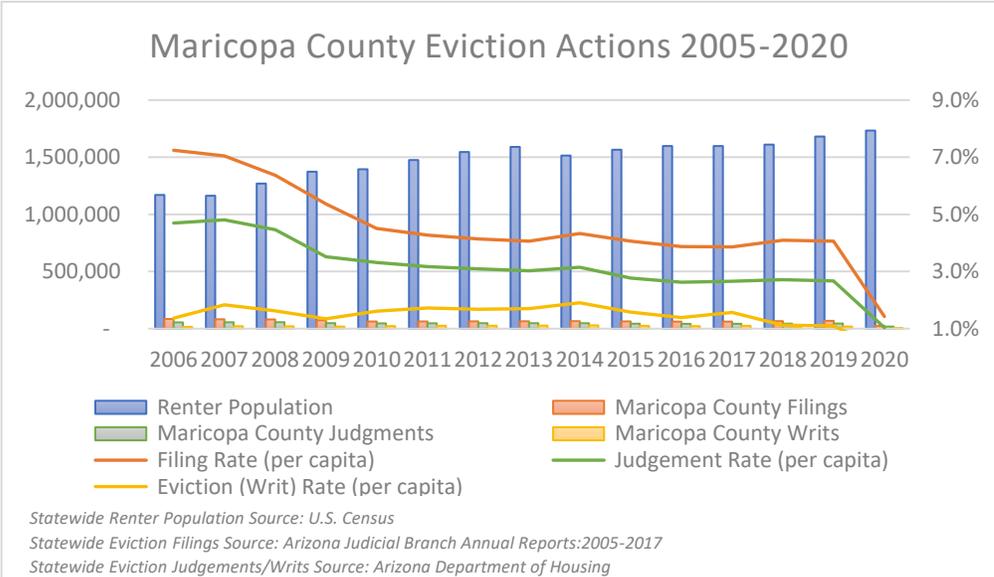
This finding suggests residents are aware that the inability to pay rent is not a valid defense for a breach. In Arizona, the only defense for the nonpayment of rent is that the rent was actually paid as provided in the lease.

THE TRUTH BEHIND THE MEDIA DEPICTION OF EVICTIONS IN ARIZONA

Claim: “Last year, 25,000 families were evicted from their homes in Phoenix and 45,000 were evicted in Arizona. That’s a 400% increase over the last 10 years[,]...”

Source: <http://kjzz.org/content/1118776/unaffordable-how-did-arizona-end-housing-crisis>

Truth: Eviction filings have dramatically decreased in the last ten years. According to data from the Arizona Courts, the state has experienced a 20% decrease in filings (excluding 2020) since its peak in 2006.



HIGHLIGHTS

- Eviction actions are in large part the result of a lack of affordable housing options.
- Rental property owners are in the business of renting homes, not evicting residents.
- The eviction process is costly for the rental property owner and there is no economic incentive for owners to file for eviction except as an option of last resort when a lease has been breached.
- Nonpayment of rent is a \$77 million annual hit on the rental housing industry in Maricopa County and Pima County.
- 96% of eviction actions are due to the nonpayment of rent.
- 4% of eviction actions are for jeopardizing the safety or disturbing the quiet enjoyment of other residents at the apartment community.
- Even when a resident fails to pay rent, the rental property owner must fulfill its own financial obligations for the dwelling unit including, but not limited to, maintenance, capital improvements, mortgage payments, utilities, insurance premiums, payroll and property taxes.
- While many eviction actions in Arizona include a monetary Judgement for the rental property owner, the reality is that many of those judgements remain uncollected.

EVICTIONS TURN AN \$810 NONPAYMENT OF RENT INTO A \$3,238 PROBLEM FOR RENTAL OWNERS

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| Missed Rent | \$810 |
| + Attorney Fee: | \$150 |
| + Court Fees (Complaint/Writ): | \$178 |
| + Process Service: | \$45 |
| + Vacancy (0.5 Mo. Rent): | \$405 |
| + Repairs and Maintenance: | \$350 |
| + Staff Time | \$150 |
| + Capital Expense | \$1,000 |
| + Storage (Abandoned Property): | \$150 |
| = TOTAL COST EVICTION | \$3,238 |
| x Total Judgements/Writs (2017): 23,735 | |
| = TOTAL ANNUAL COST OF EVICTIONS: | |

\$76,853,930