

Chapter 1



INTRODUCTION

A. About this guide

Renting a place to live presents many important questions and can have legal consequences. Landlords and tenants often suffer from inaccurate information. A lack of information, or the wrong information, may cause disputes that turn into eviction actions. When tenants do not have information about their rights and duties, it hurts their ability to provide their families with a safe and secure place to live. This purpose of this guide is to:

- Provide information about the landlord-tenant relationship
- Tell you about your rights in that relationship
- Help you avoid some of the problems that sometimes occur in renting houses or apartments

B. The law that applies to rental housing

This guide is based on the New Mexico law that covers landlord-tenant relations for residential housing. The law is called the “Uniform Owner-Resident Relations Act,” and may be found within the New Mexico Statutes Annotated (NMSA) at § 47-8-1 through § 47-8-52. Under the Act, the landlord is referred to as “the owner,” and the tenant is called “the resident.” In this guide, we will use the terms *landlord* and *tenant*.

There are other laws that are important to the landlord-tenant relationship, depending on the kind of housing the tenant rents. If you rent a mobile home space, many of your rights and duties will be covered by the Mobile Home Park Act, which may

be found at NMSA § 47-10-1 through § 47-10-23. The Mobile Home Park Act is discussed in Chapter 12 of this guide. If you live in public housing, or if your rent is subsidized by the government, you will want to look at Chapter 14 of this guide. Public housing and rent subsidies involve both federal law and New Mexico law, and your rights and duties are affected by those laws when the government is helping you pay for your rental housing. Particular issues affecting mobile home parks or public housing tenants will also be discussed as they come up in other sections of this guide.

The Fair Housing Act, which may be found at United States Code Title 42 Chapter 45 (42 USC § 3601 et seq.), is a federal law that protects many tenants who are discriminated against based on race, color, national origin, religion, gender, family status or disability. The New Mexico Human Rights Act, which may be found at NMSA § 28-1-1 through § 28-1-14, further protects many tenants from discrimination based on sexual orientation, gender identity, or spousal affiliation. (See Chapter 13.)

There are also Federal laws that protect tenants if the police help a landlord evict tenants without a court order. These police are violating the tenants’ constitutional rights.

C. Exempt housing

The Uniform Owner-Resident Relations Act (UORRA) covers most kinds of residential rental housing. There are certain types of housing that are exempt from the UORRA. In exempt housing, you are not covered by the UORRA. For instance, the

Act does not cover stays in a hotel or motel if rent is paid more often than weekly (NMSA § 47-8-9(D)). The Act also does not generally cover dormitories, hospital rooms, or places where people stay while receiving medical or mental health treatment (NMSA § 47-8-9(A)). It does not apply to religious or educational institutions (NMSA § 47-8-9(A)). If you are buying a house or mobile home under a land or real estate contract, the UORRA does not apply (NMSA § 47-8-9(B)). Housing provided to an employee is not covered *if there is a written agreement conditioning the housing on continued employment* (NMSA § 47-8-9(E)). Housing used primarily for agricultural purposes is exempt (NMSA § 47-8-9(F)). This guide does not deal with those types of living arrangements.

Eviction from some of these exempt housing arrangements is covered by the Forcible Entry and Detainer Statute (NMSA § 35-10-1 through § 35-10-6). If the owner believes the occupant no longer has the right to go on living in the home, the owner must give the occupant 3 days' written notice to leave, and after the 3 days have expired, file in court to have the occupant removed (NMSA § 47- 8-24). As with the UORRA, this statute does require court process before eviction.

If you are an occupant or an owner in one of the exempt categories of housing, you should consult a lawyer about your legal rights and responsibilities.

D. Some thoughts on record keeping

There are two very important points to remember as you use this guide.

First, the information contained in the guide is general, and it is not a substitute for getting legal advice.

Second, there are steps tenants and landlords should take that are not always mentioned in this guide, and they usually involve the need to keep careful records of your dealings. For example, it is particularly important that there be a written lease when renting an apartment or house. Not only is this required by the law (NMSA § 47-8-20(G)), but it ensures that the tenant and landlord know exactly what the rental agreement is. Whenever possible, put all tenant- landlord communications in writing and keep copies of everything!

We have tried to help you with both of these important issues. At the end of the guide is an Appendix called "Resources" and you can start there when you need to find legal help. There are many papers that may not seem important at the time you get them but will be important to have if you wind up with a problem in your rental housing.

One final word of advice to both landlords/owners and tenants: Always keep receipts or some other form of proof of payments. Many disputes arise from the failure to keep written proof of payment of rent, deposit or damages.

