HOME IS WHERE THE HEAT IS: THE URGENT NEED TO INCLUDE COOLING IN RENTAL WARRANTIES OF HABITABILITY

BY

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The climate crisis is making the world hotter and increasing the number of extreme heat days in many American states. Extreme heat kills a growing number of people every year and worsens many chronic health conditions. These impacts from extreme heat are focused in formerly segregated and low-income communities. Despite the deaths and disabilities from extreme heat, American law has been slow to provide heat-related public health protections. A lethal example is that no state and few localities require air conditioning or any means of cooling in rental housing through warranties of habitability, even though those warranties in every state require heating for protection from the cold. Because these warranties are grounded in safety and health, they must be expanded to include cooling as well as heating. This Article examines the laws of Florida, Arizona, and Texas, and suggests ways these states, and the growing number of other extreme heat states, could improve their laws to protect tenants from heat-related death and debilitation, using models provided by local ordinances in American cities and counties.

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I. INTRODUCTION

As the global climate crisis worsens, American law has been slow to provide heat-related public health protections. A deadly example is that many states are experiencing lethal extreme heat, yet no state and few localities require air conditioning or any means of cooling in rental housing. As with most of the damaging impacts of climate change, the deaths, disabilities, and exacerbation of chronic health conditions resulting from extreme heat fall most heavily on historically segregated and low-income communities and individuals.

Extreme heat is defined as a period of high heat and humidity with temperatures above 90°F for at least two to three days.[1] We typically think of states like Florida, Arizona, and Texas as extreme heat states, but on July 28, 2025, the National Weather Service issued extreme heat warnings for seventeen states, including states like Minnesota, Iowa, and Tennessee, as well as states like Florida and Georgia, with temperatures in those states exceeding 110–115°F.[2]

Today's extreme heat necessitates an expansion of warranties of habitability to include cooling as part of a landlord's duty to provide safe and habitable housing, for the same reasons that these warranties have always included heating. This Article reviews the laws of Florida, Arizona, and Texas, and suggests ways these states, and the growing number of other extreme heat states, could improve their laws to protect tenants from heat-related death and debilitation.

II. THE REALITY OF EXTREME HEAT AND ITS HEALTH EFFECTS

A. Climate Change Is Creating a Hotter World.

The increasing concentration of greenhouse gases in the atmosphere is creating a much hotter world. The ten-year period from 2015 through 2024 saw the ten highest average annual temperatures in recorded history,[3] with 2024 surpassing records set in 2023.[4] Each of the first four months of 2024 was the hottest ever recorded.[5] NASA records show that by 2024, average global temperature had increased 2.3 °F (1.28°C) above the 1951–1980 average.[6] The United States is warming even faster than the rest of the world; average U.S. temperatures have risen about 60% more than the global average since 1970.[7]

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[1] *Extreme Heat*, U.S. DEP'T OF HOMELAND SEC.: READY (Feb. 20, 2026), https://www.ready.gov/heat [https://perma.cc/5ZC4-V3TY].

[2] Jasmine Laws, *Map Shows 'Extreme Heat' Warnings for Eastern US Amid 115F Forecasts*, NEWSWEEK (July 28, 2025, at 08:23 ET), https://www.newsweek.com/map-shows-extreme-heat-warnings-eastern-us-amid-115f-forecasts-2104903 [https://perma.cc/2EDU-ZGTL].

[3] *WMO Confirms 2024 as Warmest Year on Record at About 1.55°C Above Pre-Industrial Level*, WORLD METEOROLOGICAL ORG. (Jan. 10, 2025), https://wmo.int/news/media-centre/wmo-confirms-2024-warmest-year-record-about-155degc-above-pre-industrial-level [https://perma.cc/8E8D-HS5F].

[4] JULIE ARRIGHI ET AL., CLIMATE CHANGE AND THE ESCALATION OF GLOBAL EXTREME HEAT: ASSESSING AND ADDRESSING THE RISKS 2 (2024), https://www.climatecentral.org/report/climate-change-and-the-escalation-of-global-extreme-heat [https://perma.cc/EJ2B-XLNU].

[5] *Id.*

[6] *Global Temperature - Earth Indicator*, NAT'L AERONAUTICS & SPACE ADMIN. (Jan. 21, 2026), https://science.nasa.gov/earth/explore/earth-indicators/global-temperature/ [https://perma.cc/TCG4-SQTW].

[7] *Extreme Heat*, U.S. ENV'T PROT. AGENCY (Aug. 22, 2025), https://www.epa.gov/climatechange-science/extreme-heat [https://perma.cc/V47J-F8AZ].

These higher average temperatures in turn lead to more extremely hot days, more severe heat waves, and hotter nights.[8] The world has gotten 0.54°F (0.3°C) warmer since the signing of the Paris Agreement in 2015 and now experiences an average of eleven additional hot days per year due to that increase in global temperature.[9] If current emissions pledges pursuant to that Agreement are implemented, the total warming this century will be 4.68°F (2.6°C), which will add a further fifty-seven hot days compared to now.[10]

Moreover, there is no guarantee that those emissions pledges will be met. Total energy-related carbon dioxide emissions increased by 0.8% in 2024, hitting an all-time high of 37.8 gigatons.[11] Accordingly, the latest forecasts predict that the next five years will likely continue breaking temperature records as more carbon dioxide accumulates in the atmosphere.[12]

B. The Hotter World Is Leading to More Extreme Heat.

Due to the climate crisis, over the course of 2024, four billion people (49% of the global population) experienced at least thirty more days of extreme heat than in 2023.[13] Extreme heat days are also increasing rapidly in the United States. A recent study found an increase in extremely hot days since 1970 in 88% of the 247 major U.S. cities analyzed, with an average increase of about six extremely hot days each year with a strong climate change footprint, compared to zero such days in 1970.[14] Seven of the top ten cities with the largest increases in extreme heat days were in the South, mainly in Texas.[15] The data showed seven cities in Texas experiencing an increase of over fifteen days of extreme heat due to climate change since 1970, and increases of over ten days of extreme heat due to climate change in three cities in Florida, and in three cities in Arizona.[16]

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[8] *Id.*

[9] JULIE ARRIGHI ET AL., TEN YEARS OF THE PARIS AGREEMENT: THE PRESENT AND FUTURE OF EXTREME HEAT 6 (2025), https://www.climatecentral.org/report/10th-anniversary-paris-agreement [https://perma.cc/5YUC-7KW7].

[10] *Id.* at 7.

[11] INT'L ENERGY AGENCY, GLOBAL ENERGY REVIEW 2025, at 31 (2025).

[12] *Global Climate Predictions Show Temperatures Expected to Remain at or Near Record Levels in Coming 5 Years*, WORLD METEOROLOGICAL ORG. (May 28, 2025), https://wmo.int/news/media-centre/global-climate-predictions-show-temperatures-expected-remain-or-near-record-levels-coming-5-years [https://perma.cc/6N98-WCE6].

[13] YCC Team, *4 Billion People Experienced a Whole Extra Month of Extreme Heat in the Past Year*, YALE CLIMATE CONNECTIONS (Aug. 5, 2025), https://yaleclimateconnections.org/2025/08/4-billion-people-experienced-a-whole-extra-month-of-extreme-heat-in-the-past-year/ [https://perma.cc/F3SC-YHHC].

[14] *Climate Change Driving 55-Year Rise in Extremely Hot Summer Days*, CLIMATE CENT. (June 4, 2025), https://www.climatecentral.org/climate-matters/extremely-hot-summer-days-2025 [https://perma.cc/PAR7-LUV4].

[15] *Id.*

[16] *Id.*

Focusing on major metropolitan areas in the extreme-heat states of Florida, Arizona, and Texas, Miami now officially recognizes a "heat season" from May 1 to October 31, during which the city predicts that 130 days will reach or exceed 90°F.[17] In 2023, Miami experienced its hottest year ever, with forty-two days recording a heat index of 105°F or higher,[18] and forty-six consecutive days with a heat index exceeding 100°F.[19] On May 18, 2024, the Miami heat index hit 112°F, smashing prior records.[20] By 2053, Miami-Dade County is projected to have the greatest increase in extreme heat days, with a heat index greater than 100°F, more than any other county in the country.[21]

Moving to the West, Phoenix experienced its hottest summer ever in 2024, with over seventy days exceeding 110°F, far outpacing the previous record of fifty-five days set in 2023.[22] The scorching summer of 2024 included twenty-one straight days of record high temperatures in Phoenix, a new national record,[23] and June of that year was the hottest month ever in the city.[24]

Turning to Texas, 2025 brought record-breaking heat, making the state hotter in May than Death Valley, the hottest place on Earth.[25] Temperatures throughout central and eastern Texas exceeded 100°F for multiple days, with Del Rio, Texas, hitting 110°F.[26] Climate change made San Antonio's high temperatures about five times more likely than they would have been without fossil fuel pollution.[27] Even more, in Texas, the

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[17] CITY OF MIAMI, HEAT SEASON PLAN 1 (2024).

[18] *Extreme Heat in 2023*, MIAMI-DADE CNTY., https://www.miamidade.gov/environment/library/2023-heat-summary.pdf [https://perma.cc/79P9-6PMZ] (last visited Apr. 13, 2026). Heat index "is a measure of how hot it really feels when relative humidity is factored in with the actual air temperature." *Heat Forecast Tools*, NAT'L WEATHER SERV., https://www.weather.gov/safety/heat-tools [https://perma.cc/9B83-NRQV] (last visited Feb. 25, 2026).

[19] CITY OF MIAMI, *supra* note 17, at 1.

[20] Ric Kearbey, *Miami Smashes Daily Heat Index Record*, CLIMATE ADAPTATION CTR. (May 18, 2024), https://www.theclimateadaptationcenter.org/2024/05/18/miami-smashes-all-time-daily-heat-index-record/ [https://perma.cc/YAN2-PG3R].

[21] MIKE AMODEO ET AL., FIRST STREET FOUND., THE 6TH NATIONAL RISK ASSESSMENT: HAZARDOUS HEAT 10, 18, 40 (2022).

[22] Andrew Freedman, *Phoenix Shatters Extreme Heat Records Into Fall*, AXIOS (Oct. 17, 2024), https://www.axios.com/2024/10/17/phoenix-shatters-heat-records-fall [https://perma.cc/9ZL5-RRT5].

[23] *Id.*

[24] *See* Nina Lakhani, *Heat-Related Deaths in Phoenix, Arizona Have Nearly Doubled This Year*, THE GUARDIAN (July 6, 2024, at 08:00 ET), https://www.theguardian.com/us-news/article/2024/jul/06/phoenix-arizona-extreme-heat-deaths [https://perma.cc/6EYX-W6MF].

[25] Marina Dunbar, *Texas Swelters as Record-Breaking Heatwave Sweeps Across State*, THE GUARDIAN (May 15, 2025, at 13:59 ET), https://www.theguardian.com/us-news/2025/may/15/texas-record-heat [https://perma.cc/Q2ZX-XXK3].

[26] Andrew Freedman & Mary Gilbert, *Texas is Feeling an Early Heat Wave. It's a Sign of a Long, Hot Summer to Come*, CNN (May 13, 2025), https://www.cnn.com/2025/05/13/weather/texas-heat-wave-may-2025-summer-climate [https://perma.cc/T4VX-EMXF].

[27] *Id.*

heat index is rising faster than the temperature: a recent study found that while Texas has warmed by 3°F since the preindustrial era, on the hottest summer days the heat index has increased by 11°F due to climate change.[28]

C. Extreme Heat Is Killing More People Every Year.

The physiology of heat-induced exhaustion and death begins with the body's internal temperature reaching 104 °F, when thermoreceptors trigger emergency responses, directing blood to the skin, straining the heart, creating an oxygen debt, and causing dizziness and fatigue. Muscle cells break down, clogging the kidneys with excess proteins. Blood vessels become inflamed and damaged, leading to a full systemic inflammatory response. Eventually, the brain, liver, heart, and kidneys cease functioning in a literal death spiral.[29]

Extreme heat is killing more people in the United States every year through this horrific cascade of systemic collapse. 2023 set a record for heat-related deaths, with at least 2,325 fatalities recorded on death certificates that year.[30] The actual number of heat-related deaths likely is much higher: a study of excess deaths during periods of high heat estimated that 11,000 heat-related deaths occurred in the U.S. in 2023.[31] One climate scientist described the people most vulnerable to heat as "people that live the hot life . . . [p]eople who work outside, people that can't air-condition their house."[32]

Many of these deaths occur in the extreme heat states of Florida, Arizona, and Texas. One study of excess deaths estimated that up to 600 heat-related deaths occur every year in Miami-Dade County, Florida.[33] Maricopa County, Arizona, suffered a record 645 heat deaths in 2023, a

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[28] *In Texas, the Heat Index is Rising Faster Than the Temperature*, YALE ENV'T 360 DIGEST (Mar. 22, 2024), https://e360.yale.edu/digest/heat-index-climate-change [https://perma.cc/EM93-N5WX].

[29] Alisha McDarris, *Brain Shutdown, Muscle Breakdown: What Heat Stroke Really Does to Your Body*, BACKPACKER (Aug. 26, 2025), https://www.backpacker.com/survival/physiology-of-heat-stroke-how-to-avoid-it/ [https://perma.cc/72HE-ECM6]; *see also* Maria Godoy, *How Heat Kills: What Happens to the Body in Extreme Temperatures*, NPR (July 23, 2023, at 11:57 ET), https://www.npr.org/sections/health-shots/2023/07/23/1189506023/heres-what-happens-to-the-body-in-extreme-temperatures-and-how-heat-becomes-dead [https://perma.cc/77AQ-ZHZ3].

[30] Jeffrey T. Howard et al., *Trends of Heat-Related Deaths in the US, 1999–2023*, 332 JAMA 1203, 1203 (2024).

[31] Seth Borenstein, Mary Katherine Wildeman & Anita Snow, *2023 Set a Record for U.S. Heat Deaths. Why 2024 Could Be Even Deadlier*, PBS NEWS (May 31, 2024, at 13:04 ET), https://www.pbs.org/newshour/nation/2023-set-a-record-for-u-s-heat-deaths-why-2024-could-be-even-deadlier [https://perma.cc/VR8S-CM4X].

[32] *Id.*

[33] *Extreme Heat*, MIAMI-DADE CNTY., https://www.miamidade.gov/global/environment/heat/home.page [https://perma.cc/YZ2W-4BAB] (last visited Feb. 25, 2026).

300% rise over the average of the previous nine years, and the county lost another 608 residents to heat in 2024.[34] Texas recorded 563 heat-related deaths in 2023, with heat deaths growing dramatically every year since 2020.[35]

Throughout the United States, heat kills more people annually than any other weather-related cause, including floods, hurricanes, and tornadoes.[36] As dire as the statistics on heat-related deaths are, the actual numbers are underreported due to restrictive classification criteria, inconsistent reporting standards, and the exclusion of cases where heat exacerbates preexisting conditions.[37] According to one researcher, the existing heat-related death toll is "not only an underestimation — it's a gross underestimation."[38]

D. Extreme Heat Worsens Existing Illnesses and Chronic Health Conditions, Especially in Vulnerable Populations.

Beyond direct deaths from heat stroke and exhaustion, thousands more perish every year from chronic illnesses or other conditions that are aggravated by heat. Cardiovascular disease is a prime example, as heat stress requires increased cardiac output that can lead to heart failure, blood clots, and electrolyte imbalances.[39] Heat can cause flare-ups in an array of other chronic health conditions, including lupus, pulmonary disease, asthma, kidney disease, hypertension, and migraines.[40] Moreover, longer-term exposure to heat can cause corresponding long-term damage to the body, increasing the likelihood of developing kidney

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[34] MELANIE RUBIO, MEAGHAN BATCHELOR & AARON GETTEL, MARICOPA CNTY. DEP'T OF PUB. HEALTH, 2024 HEAT-RELATED DEATHS REPORT 6 (2025), https://www.maricopa.gov/ArchiveCenter/ViewFile/Item/5934 [https://perma.cc/4RJ5-64ZV].

[35] Greg Hartman, *Heat-Related Deaths Keep Piling Up in Texas Even as Candidates Shy From Climate*, SAN ANTONIO CURRENT (Sep. 15, 2024), https://www.sacurrent.com/news/heat-related-deaths-keep-piling-up-in-texas-even-as-candidates-shy-from-climate-35578656/ [https://perma.cc/RJ2T-KJAW].

[36] U.S. ENV'T PROT. AGENCY, CLIMATE CHANGE INDICATORS IN THE UNITED STATES: HEAT-RELATED DEATHS 1 (2016), https://www.epa.gov/sites/default/files/2016-08/documents/print_heat-deaths-2016.pdf [https://perma.cc/MH8J-SUUY]; Denise Chow, *The Deadliest Extreme Weather Event Isn't What You Think It Is*, NBC NEWS (July 24, 2025, at 07:49 PT), https://www.nbcnews.com/weather/heat/deadliest-extreme-weather-event-not-think-rcna219702 [https://perma.cc/FL55-P46B].

[37] CHRISTOPHER K. UEJIO & YOONJUNG AHN, MIAMI-DADE EXTREME HEAT AND MORTALITY REPORT 9 (2022).

[38] Ariel Wittenberg & Chelsea Harvey, *U.S. Deaths From Heat Are Dangerously Undercounted*, SCI. AM. (Sep. 7, 2024), https://www.scientificamerican.com/article/u-s-deaths-from-heat-are-dangerously-undercounted/ [https://perma.cc/9EY4-TEER].

[39] *See* sources cited *supra* note 29; Wittenberg & Harvey, *supra* note 38.

[40] Isabella Cueto, *It's Not Just Heat Stroke. Extreme Temperatures Pose Special Risk to People with Chronic Illness (And That's a Lot of Us)*, STAT. NEWS (July 19, 2022), https://www.statnews.com/2022/07/19/heat-waves-risk-to-people-with-chronic-illness/ [https://perma.cc/2683-J7MC].

or pulmonary disease.[41] Mortality from all causes, heat-related emergency room visits, and hospital admissions all increase with higher temperatures.[42]

For example, heat can worsen heart failure and precipitate acute coronary syndrome, acute myocardial infarction, arrhythmias, and stroke.[43] Renal, metabolic, and febrile illnesses exacerbate the risk of dehydration and heat-related complications, while chronic diseases that impair sweat gland function, such as cystic fibrosis, significantly increase susceptibility to hyperthermia and heat stroke.[44] Limits on the ability of bedridden individuals and others with impaired mobility to move or take other compensating actions further increase their likelihood of heat-related worsening of their condition or death.[45] Not surprisingly, higher heat indices have been correlated with an increased risk of cardiovascular, respiratory, renal, and dehydration emergency department visits and hospitalizations.[46]

Extreme heat also causes substantial mental health impacts, including increased mental fatigue, aggression, and even suicide.[47] A 2022 study of over two million medical records found about 8% more emergency department visits involving mental health concerns on the hottest days of summer, including visits for attempted self-harm, substance abuse, and anxiety and schizophrenia disorders.[48] Other studies suggest that heat triggers relapses in people with bipolar disorder.[49]

Older adults face significantly higher rates of heat-related mortality and morbidity as aging reduces heat tolerance through physiologic changes like delayed thirst response and diminished sweating capacity, which impair the body's ability to regulate temperature.[50] Age-related declines in cardiovascular stability further limit the ability to dissipate

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[41] *Id.*

[42] L. A. Parsons et al., *Higher Temperatures in Socially Vulnerable US Communities Increasingly Limit Safe Use of Electric Fans for Cooling*, GEOHEALTH, Aug. 2023, at 1.

[43] *Clinical Overview of Heat and Cardiovascular Disease*, U.S. CTRS. FOR DISEASE CONTROL & PREVENTION (Sep. 18, 2025), https://www.cdc.gov/heat-health/hcp/clinical-overview/heat-and-people-with-cardiovascular-disease.html [https://perma.cc/BZV3-H55U]; *see also* Yash Desai, Haitham Khraishah & Barrak Alahmad, *Heat and the Heart*, 96 YALE J. BIOLOGY & MED. 197, 200 (2023).

[44] Virginia A. Schad, *Prolonged Heat Exposure in Cystic Fibrosis Can Lead to Metabolic Alkalosis*, PULMONOLOGY ADVISOR (July 7, 2020), https://www.pulmonologyadvisor.com/news/prolonged-heat-exposure-in-cystic-fibrosis-can-lead-to-metabolic-alkalosis/ [https://perma.cc/48PE-CB9W].

[45] World Health Org. [WHO] Reg'l Off. for Eur., Heat-Health Action Plans: Guidance, at 5, EUR/07/5067942 (2008) [hereinafter Heat-Health Action Plans].

[46] UEJIO & AHN, *supra* note 37, at 3.

[47] *Understanding Heat Exposure in Miami-Dade County*, MIAMI-DADE CNTY., https://storymaps.arcgis.com/stories/6f1e91cf8a8e4d5d9bd67525575c042e [https://perma.cc/UKA2-G7KY] (last visited Feb. 25, 2026).

[48] *Id.*

[49] *Id.*

[50] R. Sari Kovats & Shakoor Hajat, *Heat Stress and Public Health: A Critical Review*, 29 ANN. REV. PUB. HEALTH 41, 46–47 (2008).

heat and maintain adequate blood circulation.[51] Accordingly, this population faces substantially higher risks of heatstroke, cardiovascular complications, and kidney damage, especially in individuals with chronic illnesses such as cardiovascular disease and diabetes.[52] Heat-related deaths among those over sixty-five increased by approximately 85% between the 1991–2000 and 2013–2022 periods.[53]

At the other end of the age spectrum, children also are especially vulnerable to extreme heat due to their unique physiology and dependence on caregivers to protect them from the heat and ensure sufficient hydration.[54] Infants and children have higher metabolic rates than adults and a reduced ability to regulate body temperature, rendering them more susceptible to heat-related illnesses.[55] Studies have demonstrated a spike in pediatric emergency room visits during extreme heat events, as children fall victim to dehydration, electrolyte imbalances, and bacterial infections.[56] Additionally, extreme heat exposure during pregnancy is linked to adverse birth outcomes, including preterm birth, premature membrane rupture, and low birth weight, all of which carry negative long-term health consequences.[57]

E. Extreme Heat Disproportionately Impacts Historically Segregated and Marginalized Communities.

Across more than 100 cities, temperatures in formerly segregated and redlined Black neighborhoods have been found to be 5°F hotter in summer, on average, compared to areas once favored for housing loans, with some cities seeing temperature gaps as large as 13.6°F.[58] The EPA has acknowledged the link between exposure to extreme heat and historic redlining, noting that communities with higher populations of people of

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[51] Robert D. Meade et al., *Physiological Factors Characterizing Heat-Vulnerable Older Adults: A Narrative Review*, ENV'T INT'L, Nov. 2020, at 1, 2.

[52] *Id.* at 1.

[53] Marina Romanello et al., *The 2023 Report of the* Lancet *Countdown on Health and Climate Change: The Imperative for a Health-Centered Response in a World Facing Irreversible Harms*, 402 THE LANCET 2346, 2360 (2023).

[54] Heat-Health Action Plans, *supra* note 45, at 4.

[55] EARLY CHILDHOOD SCI. COUNCIL ON EQUITY & THE ENV'T, *Extreme Heat Affects Early Childhood Development and Health* 5 (Harv. Univ. Ctr. on the Developing Child, Working Paper No. 1, 2023), https://developingchild.harvard.edu/wp-content/uploads/2024/10/ECSCEE-Heat-Paper.pdf [https://perma.cc/D935-K6GZ].

[56] Laura H. Schapiro et al., *Impact of Extreme Heat and Heatwaves on Children's Health: A Scoping Review*, J. CLIMATE CHANGE & HEALTH, Aug. 2024, at 2, 4.

[57] *Id.* at 2.

[58] Jeremy Hoffman, Vivek Shandas & Nicholas Pendleton, *The Effects of Historical Housing Policies on Resident Exposure to Intra-Urban Heat: A Study of 108 US Urban Areas*, CLIMATE, Jan. 2020, at 1, 4, 9; Bev Wilson, *Urban Heat Management and the Legacy of Redlining*, 86 J. AM. PLAN. ASS'N 443, 452 (2020) (finding that redlined areas in Baltimore, Dallas, and Kansas City have higher mean land surface temperatures); Brad Plumer & Nadja Popovich, *How Decades of Racist Housing Policy Left Neighborhoods Sweltering*, N.Y. TIMES (Aug. 24, 2020), https://www.nytimes.com/interactive/2020/08/24/climate/racism-redlining-cities-global-warming.html [https://perma.cc/7GP8-M54V].

color and lower incomes that were segregated in the past now experience significantly higher temperatures than adjacent neighborhoods.[59]

Heightened exposure to and impacts from extreme heat result primarily from the urban heat island effect, in which areas with more heat-absorbing surfaces like concrete and asphalt and fewer green spaces experience higher temperatures than surrounding areas with less pavement and more greenery.[60] Reinforcing the EPA's conclusions, a study of nearly 500 urban areas found disparities in urban cooling benefits across both race and income, with Black populations and other racially marginalized groups, as well as lower-income populations, generally receiving fewer cooling benefits than non-Hispanic White and higher-income populations.[61]

Moreover, a study analyzing air conditioning access across 115 U.S. metropolitan areas found that census tracts with a lower prevalence of air conditioning tend to be located in densely populated urban cores that also experience higher urban heat island effects.[62] Thus, the areas most in need of cooling—those facing the highest exposure to extreme heat amplification—are usually the very areas with the least access to air conditioning.[63] Moreover, a study of thirty-five metro areas found that air conditioning, especially central air conditioning, was far less prevalent among renters than among homeowners.[64] In Florida specifically, one study found that people living in historically Black neighborhoods disproportionately lack air conditioning and that rental households also are associated with a lack of cooling.[65]

Lastly, Black renters experience greater energy insecurity and often must choose between deadly extreme heat or foregoing other necessities such as food and medicine.[66] For all these reasons, the EPA has determined that Black people are forty percent more likely than non-

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[59] *Heat Islands and Equity*, U.S. ENV'T PROT. AGENCY (Jan. 19, 2021), https://19january2021snapshot.epa.gov/heatislands/heat-islands-and-equity_.html [https://perma.cc/JR8C-ARCU].

[60] *Understanding Heat Exposure in Miami-Dade County*, *supra* note 47.

[61] Yan Lu et al., *Amplified Cooling Benefit Disparities Among Racial and Income Groups in U.S. Cities*, SUSTAINABLE CITIES AND SOCIETY, Oct. 2025, art. no. 106881, at 5, 6.

[62] Yasmin Romitti et al., *Inequality in the Availability of Residential Air Conditioning Across 115 US Metropolitan Areas*, PNAS NEXUS, Sep. 2022, at 1, 2, 5.

[63] *Id.*

[64] Rebecca Mann & Jenny Schuetz, *As Extreme Heat Grips the Globe, Access to Air Conditioning is an Urgent Public Health Issue*, BROOKINGS (July 25, 2022), https://www.brookings.edu/articles/as-extreme-heat-grips-the-globe-access-to-air-conditioning-is-an-urgent-public-health-issue/ [https://perma.cc/4B2G-HK72].

[65] Yoonjung Ahn et al., *Spatial Disparities in Air Conditioning Ownership in Florida, United States*, J. MAPS, Sep. 2023, at 1, 7.

[66] Hannah Stephens, Manann Donoghoe & Andre M. Perry, *How Extreme Heat Threatens Black Renters and What Policymakers Can Do to Fix It*, BROOKINGS (Sep. 6, 2023), https://www.brookings.edu/articles/how-extreme-heat-threatens-black-renters-and-what-policymakers-can-do-to-fix-it/ [https://perma.cc/G59H-RUMY].

Black people to live in areas with the highest projected increase in mortality due to extreme heat.[67]

III. BRIEF OVERVIEW OF IMPLIED AND STATUTORY WARRANTIES OF HABITABILITY

For decades, American courts mechanically followed the property doctrine of *caveat lessee*, even as the landlord-tenant relationship evolved far from its medieval roots and appalling conditions became the norm in much of the nation's rental housing. In 1970, the D.C. Circuit Court of Appeals broke this logjam in *Javins v. First National Realty Corp*.[68] Reflecting a belief that "leases of urban dwelling units should be interpreted and construed like any other contract," *Javins* held that "the common law itself must recognize the landlord's obligation to keep his premises in a habitable condition" through an implied warranty of habitability.[69] *Javins* defined this implied warranty through the Housing Regulations of the District of Columbia, further holding that the standards set by these regulations were implied into the leases of all housing they covered.[70]

In the years following *Javins*, most state courts adopted some form of the implied warranty of habitability.[71] Alternatively, in 1972, the Uniform Residential Landlord-Tenant Act was amended to include protections similar to those provided by the implied warranty, and many state legislatures adopted some form of these amendments, thereby creating a statutory warranty of habitability.[72] Among other provisions, the Uniform Residential Landlord-Tenant Act requires that the landlord supply "reasonable heat" between October 1 and May 1, but does not require reasonable cooling.[73] In multiple states, including Florida, courts imposed an implied warranty of habitability through the common law, and the legislature also adopted a statutory warranty.[74] In cases where the issue has been considered, courts have commonly held that legislative adoption of a statutory warranty does not supersede the common law implied warranty of habitability.[75]

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[67] U.S. ENV'T PROT. AGENCY, CLIMATE CHANGE AND SOCIAL VULNERABILITY IN THE UNITED STATES: A FOCUS ON SIX IMPACTS 6 (2021).

[68] Javins v. First Nat'l Realty Corp., 428 F.2d 1071, 1077–78 (D.C. Cir. 1970).

[69] *Id.* at 1075, 1077, 1080.

[70] *Id.* at 1082.

[71] Serge Martinez, *Revitalizing the Implied Warranty of Habitability*, 34 NOTRE DAME J.L., ETHICS & PUB. POL'Y 239, 251 (2020).

[72] *Id.*

[73] UNIF. RESIDENTIAL LANDLORD-TENANT ACT § 2.104(a)(6) (UNIF. L. COMM'N 1974).

[74] *See, e.g.*, Mansur v. Eubanks, 401 So. 2d 1328, 1330 (Fla. 1981) (holding a "landlord has a continuing duty to exercise reasonable care to repair dangerous defective conditions upon notice of their existence"); FLA. STAT. § 83.51 (2025); Kamarath v. Bennett, 568 S.W.2d 658, 661 (Tex. 1978); TEX. PROP. CODE ANN. § 92 (West 2025).

[75] Donald E. Campbell, *Forty (Plus) Years After the Revolution: Observations on the Implied Warranty of Habitability*, 35 U. ARK. LITTLE ROCK L. REV. 793, 822–23 (2013).

Safety and health undergird these warranties of habitability: they require landlords to maintain safe and sanitary housing and protect against conditions that materially affect the health and safety of tenants.[76] These warranties generally include an initial duty to transfer a reasonably safe dwelling and a continuing duty to repair dangerous conditions after the tenancy begins.[77] Although the *Javins* case did not directly impose a safety requirement, it noted that safety was a primary purpose of the Housing Regulations that it did impose, and emphasized that pursuant to those regulations, landlords have a duty to maintain reasonably safe premises.[78] *Javins* also relied on a case from the District of Columbia Court of Appeals that had held that a lease was void because the premises did not comply with a regulation that required "decent living accommodations" for the purpose of making a "premises or neighborhood healthy and safe."[79]

Whether framed by common law or statute, habitability doctrine traditionally treated heating as an essential landlord-maintained service, while generally not imposing a comparable obligation to provide cooling.[80] Even in Florida, one of the warmest states, the statutory warranty requires the landlord to make reasonable provision for "functioning facilities for heat during winter," but contains no comparable requirement for cooling during summer.[81] Perhaps this dichotomy was understandable in the 1970s, when the implied and statutory warranties first were adopted and average summer temperatures were much lower than today.[82] But, given the increase in extreme heat days and the predictions of even worse conditions in the future, including cooling in implied and statutory warranties of habitability for rental dwellings has become a matter of life and death, especially in extreme heat states like Florida, Arizona, and Texas.

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[76] 49 AM. JUR. 2D *Landlord and Tenant* § 444 (2025).

[77] *Id.* § 449.

[78] *Javins*, 428 F.2d 1071, 1077 n.28 (D.C. Cir. 1970).

[79] *Id.* at 1080–81 (citing Brown v. Southall Realty Co., 237 A.2d 834, 836 (D.C. Cir. 1968)).

[80] *See, e.g.*, UNIF. RESIDENTIAL LANDLORD-TENANT ACT § 2.104(a)(6) (UNIF. L. COMM'N 1974); Ann O'Connell, *What is the Implied Warranty of Habitability*, NOLO (Nov. 6, 2025), www.nolo.com/legal-encyclopedia/what-the-implied-warranty-habitability.html [https://perma.cc/B69W-Y8DK]; *Javins*, 428 F.2d at 1074 (shelter includes "a well-known package of goods and services" that includes heat).

[81] FLA. STAT. § 83.51(2)(a)(5) (2025).

[82] *Extreme Heat*, *supra* note 7.

IV. THE WARRANTIES OF HABITABILITY IN FLORIDA, ARIZONA, AND TEXAS

A. Florida Law

1. Florida Common Law Implied Warranty of Habitability

In 1981, eleven years after *Javins*, the Florida Supreme Court adopted a more extensive implied warranty of habitability in *Mansur v. Eubanks*.[83] *Mansur* involved a negligence claim brought by a tenant's invitee against a landlord for a gas explosion that occurred when the tenant and invitee attempted to light a hot water heater.[84] The trial court and court of appeals granted summary judgment to the landlord under the doctrine of *caveat lessee*. The Florida Supreme Court reversed these rulings with the following recasting of the common law:

> We hold that the owner of a residential dwelling unit, who leases it to a tenant for residential purposes, has a duty to reasonably inspect the premises before allowing the tenant to take possession, and to make the repairs necessary to transfer a reasonably safe dwelling unit to the tenant.[85]

Significantly, this holding went beyond *Javins* by imposing a pre-possession duty to make the dwelling reasonably safe.[86] *Mansur* further held that, after the tenant takes possession, the landlord has a continuing duty to exercise reasonable care to repair dangerous conditions upon notice of their existence from the tenant, and that this "latter duty" corresponds to the statutory warranty of habitability found in Florida Statutes section 83.51.[87]

Four years later, a three-judge Florida court of appeals panel held that a landlord's violations of the duties in Florida Statutes section 83.51 to provide locks and keys and safe common areas also could constitute a breach of the common law implied warranty of habitability recognized in *Mansur*.[88] More recently, another Florida appellate court affirmed that *Mansur* imposed both pre-possession duties (inspection and a reasonably safe dwelling unit) and post-possession duties (compliance with Florida Statutes section 83.51), further supporting that these two duties and/or warranties are distinct.[89]

Moreover, in *Bosket v. Broward County Housing Authority*,[90] a Florida court of appeals held that the pre-possession duty to transfer a

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[83] Mansur v. Eubanks, 401 So. 2d 1328, 1329 (Fla. 1981).

[84] *Id.* at 1329.

[85] *Id.* at 1329–30.

[86] *Cf. Javins*, 428 F.2d 1071, 1077–82 (D.C. Cir. 1970) (having no discussion of a landlord's pre-possession duties).

[87] *Mansur*, 401 So. 2d at 1330.

[88] Paterson v. Deeb, 472 So. 2d 1210, 1216–17, 1220 (Fla. Dist. Ct. App. 1985).

[89] Perez v. Belmont at Ryals Chase Condo. Ass'n, 393 So. 3d 859, 861 (Fla. Dist. Ct. App. 2024).

[90] 676 So. 2d 72 (Fla. Dist. Ct. App. 1996).

reasonably safe dwelling could include appliances and parts that are not mentioned in the statutory warranty.[91] *Bosket* involved worn and defective stove knobs that the tenant mistakenly believed had been turned off, leading to a kitchen fire.[92] Citing the *Mansur* duty to transfer a reasonably safe dwelling to the tenant, the *Bosket* court held that this would "encompass a duty to provide readable stove knobs."[93]

In Florida's extreme heat, the *Mansur* and *Bosket* focus on the safety of the rental unit tends to support the inclusion of cooling in the implied warranty of habitability.

2. Florida's Statutory Warranty of Habitability

The primary requirement of Florida's statutory warranty of habitability is that the landlord must comply with applicable building, housing, and health codes.[94] In the absence of building codes, the landlord must maintain all structural components and plumbing and must ensure that all screens are in reasonable condition.[95]

In addition to these basic requirements, the landlord must exterminate pests, provide locks and keys, clean and safe common areas and garbage removal, and provide running and hot water.[96] The landlord also must make reasonable provisions for "functioning facilities for heat during winter."[97]

The Florida legislature adopted the initial version of this statutory warranty in 1973 as part of the widespread adoption of some form of the Uniform Residential Landlord-Tenant Act. Consistent with that Act, the Florida statutory warranty requires heating in the winter, but not cooling in the summer. While perhaps adequate in the 1970s, this omission has become deadly in the 2020s.

B. Arizona Law

1. Arizona Common Law

The Arizona Supreme Court has not adopted a common law implied warranty of habitability as part of the state's landlord-tenant law.[98] However, that Court has adopted the implied warranty's basic duty to provide a safe rental unit under the state's common law of torts.[99]

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[91] *Id.* at 73–74.
[92] *Id.* at 73.
[93] *Id.* at 73–74.
[94] FLA. STAT. § 83.51(1)(a) (2025).
[95] *Id.* § 83.51(1)(b).
[96] *Id.* § 83.51(2)(a).
[97] *Id.*
[98] Presson v. Mountain States Props., Inc., 501 P.2d 17, 20 (Ariz. Ct. App. 1972) (considering the implied warranty of habitability but ultimately rejecting it).
[99] Cummings v. Prater, 95 Ariz. 20, 26 (1963).

Seven years prior to *Javins*, in *Cummings v. Prater*,[100] the Arizona Supreme Court rejected the doctrine of *caveat lessee* and held that a landlord is under a duty to inspect the dwelling at the beginning of the tenancy and either correct defects or warn the tenant of their existence.[101] In *Cummings*, which involved a negligence claim over uneven and jagged paving stones, the court ruled that the landlord's duties of inspection and correction are consistent with the general negligence duty to take such precautions for the safety of the tenant as would be taken by a reasonably prudent person under the circumstances.[102]

The Arizona Court of Appeals further addressed a landlord's duties under tort law in *Presson v. Mountain States Properties, Inc.,* which also explicitly considered whether a landlord has a duty to make the leased premises fit for habitation.[103] Despite this warranty-like phrasing of the issue and citations to *Javins* and other implied warranty cases, the court resolved the case under negligence law, holding that the landlord's duty of care is to maintain the premises free from unreasonably dangerous instrumentalities that potentially could cause injury.[104] The court directly stated that "the proper disposition of this appeal does not require a determination of whether an implied warranty of habitability exists in Arizona."[105]

Last, the Court cited *Javins* and other implied warranty cases in defining the term "habitable" as used in the Arizona Residential Landlord Tenant Act.[106] This treatment of *Javins* indicates that, in Arizona, the warranty of habitability is a matter of statutory law. Nonetheless, the Arizona Supreme Court has adopted the safety duties of the implied warranty of habitability under the state's common law of torts.[107]

2. Arizona's Statutory Warranty of Habitability

Arizona's statutory warranty of habitability is more extensive than Florida's.[108] It requires compliance with "applicable building codes materially affecting health and safety" and explicitly requires landlords to "keep the premises in a fit and habitable condition."[109]

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100 *Id.* at 20.
101 *Id.* at 23, 26.
102 *Id.* at 22, 24–25.
103 *Presson*, 501 P.2d at 18.
104 *Id.* at 19.
105 *Id.* at 20.
106 Schaefer v. Murphy, 640 P.2d 857, 860 n. 2 (Ariz. 1982).
107 Likewise, the more recent case of *Sack v. Tate* addressed the habitability of a rental unit entirely as a matter of statutory law rather than common law. No. 2 CA-CV 2016-0078, 2017 WL 1381263, at *1–2 (Ariz. Ct. App. Apr. 18, 2017).
108 *Compare* ARIZ. REV. STAT. ANN. § 33-1324 (2026) (requiring maintenance of structure as well as electrical, plumbing, heating, ventilation, air conditioning and other facilities and appliances), *with* FLA. STAT. § 83.51 (2025) (requiring only maintenance of structure, plumbing, and heating during winter).
109 ARIZ. REV. STAT. ANN. § 33-1324(A)(1), (A)(2) (2026).

In addition, Arizona landlords must maintain in good working order all electrical, plumbing, heating, air-conditioning, and other facilities "supplied or required to be supplied by him."[110] Moreover, the landlord must supply running and hot water, and "reasonable heat and reasonable air-conditioning or cooling where such units are installed and offered."[111] Although one recent unreported case read these provisions to require that a landlord must provide cooling,[112] the statutory language tends to support a reading that air conditioning or cooling is required to be maintained only where it is installed, offered, or supplied by the landlord.

Moreover, the Arizona statute provides that a landlord may not deliberately or negligently fail to supply "reasonable amounts of hot water or heat, air-conditioning or cooling, where such units are installed and offered, or essential services."[113] The Arizona Attorney General has interpreted "essential services" to include air-conditioning during the extreme heat of summer months, stating that "landlords must provide a rental unit that has fully operating cooling systems and other appliances that make it safe to occupy."[114] This interpretation is eminently sensible and seems to be widely accepted across Arizona, but it could be changed by a future attorney general.[115]

Finally, Title 9 of the Arizona statutes, which governs the housing inspection powers of local governments, confers on cities and towns the power to cite and require immediate repair of violations that threaten the health and safety of the occupants.[116] A further section includes "lack of adequate heating and cooling" on a list of conditions that materially affect the health and safety of the occupants of residential rental dwellings.[117]

Arizona's straightforward statutory recognition that a lack of adequate cooling is a condition that puts tenants' health and safety at risk encapsulates the basis for including cooling in warranties of habitability in the increasing number of extreme heat states.

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110 *Id.* § (A)(4).

111 *Id.* § (A)(6).

112 Harrington v. Rodriguez, No. 1 CA-CV 21-0652, 2022 WL 4376476, at *2 (Ariz. Ct. App. Sep. 22, 2022).

113 ARIZ. REV. STAT. ANN. § 33-1364(A) (2026).

114 *Attorney General Mayes Warns Landlords About Obligations Under Arizona Landlord Tenant Act as Temperatures Rise*, ARIZ. ATT'Y GEN. (May 27, 2025), https://www.azag.gov/press-release/attorney-general-mayes-warns-landlords-about-obligations-under-arizona-landlord [https://perma.cc/S8RT-2LXH].

115 *See* Christopher Walker, *Arizona's Essential Service Laws: Air Conditioning*, ARIZ. MULTIHOUSING ASS'N (June 5, 2025), https://www.azmultihousing.org/news/arizonas-essential-service-laws-air-conditioning [https://perma.cc/2DJC-TGUD] (detailing landlord obligations to provide cooling across different cities in Arizona).

116 ARIZ. REV. STAT. ANN. § 9-1305(C) (2026).

117 *Id.* § 9-1303(1)(d).

C. Texas Law

1. Common Law Implied Warranty of Habitability

In 1978, the Texas Supreme Court adopted a common law implied warranty of habitability in *Kamarath v. Bennett*.[118] Citing *Javins*, the Court noted that the agrarian concept of landlord-tenant law had lost its credence, that tenants wanted habitable dwellings, and that landlords had better knowledge of the dwelling's condition and were in a better position to meet building codes.[119] Accordingly, the court imposed an implied warranty of habitability on landlords to make all apartments "habitable and fit for living."[120] Breaches of this implied warranty occurred through defects that rendered the dwelling unsafe, unsanitary, or otherwise unfit for living.[121]

In 1979, shortly after the *Kamarath* decision, the Texas legislature enacted superseding legislation that abrogated the implied warranty of habitability and created a limited landlord duty to repair.[122] This legislation, now embodied in the Texas Property Code,[123] provided that:

> [t]he duties of a landlord and the remedies of a tenant under this subchapter are in lieu of existing common law and other statutory law warranties and duties of landlords for maintenance, repair, security, habitability, and nonretaliation, and remedies of tenants for a violation of those warranties and duties.[124]

2. Texas's Statutory Warranty of Habitability

The Texas Property Code provides a notably limited warranty of habitability. It requires "[a] landlord [to] make a diligent effort to repair or remedy a condition if" the tenant gives notice of the condition, if the tenant is not delinquent in rent, and if the condition "materially affects the physical health or safety of an ordinary tenant."[125] The Code also requires the landlord to provide and maintain a hot water device.[126] These provisions are the extent of Texas's statutory warranty of habitability.

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118 568 S.W.2d 658, 661 (Tex. 1978).
119 *Id.* at 660.
120 *Id.* at 661.
121 *Id.*
122 *See* Philadelphia Indem. Ins. Co. v. White, 490 S.W.3d 468, 479–80 (Tex. 2016).
123 TEX. PROP. CODE ANN. § 92 (West 2025).
124 *Id.* § 92.061.
125 *Id.* § 92.052(a)(3)(A).
126 *Id. §* 92.052(a)(3)(B).

V. INCLUSION OF COOLING IN WARRANTIES OF HABITABILITY IN EXTREME HEAT STATES IS OVERDUE BECAUSE COOLING PROVIDES THE MOST EFFECTIVE MEANS OF MAKING THE DWELLING SAFE BY REDUCING DEATHS AND ILLNESSES DURING PERIODS OF EXTREME HEAT

Part II of this Article summarized the overwhelming evidence that exposure to extreme heat is unsafe and unhealthy, making cooling essential for a safe and healthy dwelling, especially in extreme heat states that are getting hotter every year.[127]

Among multiple measures for responding to extreme heat, air conditioning stands out as the most effective strategy for protecting against heat-related fatalities and health impacts.[128] A 2021 article reported that during an extreme heat event, air conditioning reduces the risk of mortality in hospital wards by 40%.[129] Another nationwide study concluded that air conditioning usage has decreased heat-related deaths by nearly 75% since 1960.[130] Many other studies have demonstrated that air conditioning reduces vulnerability to extreme heat:

- A 2020 study in Detroit showed that residents without air conditioning were 3.78 times more likely to experience heat exhaustion than those with central air conditioning;[131]

- An analysis of the 1995 Chicago heat wave demonstrated that access to working air conditioning, even in an air-conditioned lobby, greatly reduced the risk of heat-related death;[132]

- During a 2021 heat wave in Portland, Oregon, where 79% of households are air-conditioned, of the 68 people who died indoors, only 15% had air conditioning;[133]

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127 *See supra* Part II.

128 Ollie Jay et al., *Reducing the Health Effects of Hot Weather and Heat Extremes: From Personal Cooling Strategies to Green Cities*, 398 THE LANCET 709, 710 (2021).

129 *Id.*

130 ALAN BARRECA ET AL., ADAPTING TO CLIMATE CHANGE: THE REMARKABLE DECLINE IN THE U.S. TEMPERATURE-MORTALITY RELATIONSHIP OVER THE 20TH CENTURY 2–3 (2015), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2192245# [https://perma.cc/GZU8-LAXA].

131 Jacqueline E. Cardoza et al., *Heat-Related Illness is Associated with Lack of Air Conditioning and Pre-Existing Health Problems in Detroit, Michigan, USA: A Community-Based Participatory Co-Analysis of Survey Data*, INT'L J. ENV'T RSCH. & PUB. HEALTH, Aug. 2020, art. no. 5704, at 1, 5.

132 JESSICA ABBINETT ET AL., CTRS. FOR DISEASE CONTROL & PREVENTION: CLIMATE & HEALTH PROGRAM, HEAT RESPONSE PLANS: SUMMARY OF EVIDENCE AND STRATEGIES FOR COLLABORATION AND IMPLEMENTATION 14 (2020).

133 Thomas Frank, *They Died with the AC Off: Why the Government Pays for Heating but Not Cooling*, POLITICO (Sep. 15, 2024, at 07:00 ET), https://www.politico.com/news/2024/09/15/extreme-heat-deaths-government-agencies-00176697 [https://perma.cc/MRH3-YKW9].

- In Maricopa County, 72% of indoor heat-related deaths occurred in residences that were equipped with air conditioning, but the systems were either broken or turned off.[134]

A recent study in Miami-Dade County found that many households with air conditioning still experienced unsafe indoor temperatures due to broken or ineffective systems, demonstrating not only that cooling should be required in rentals, but that adequate maintenance of these systems also must be required, as with the other systems that already are covered by warranties of habitability.[135] Many households also faced compound energy burdens, where the cost of energy combines with the inefficiency or inoperability of the cooling system to worsen the risk of heat-related illness and death.[136]

Research has shown that only systemic cooling adequately lowers household temperatures to a safe level during extreme heat. According to the Centers for Disease Control and Prevention, fans become ineffective at temperatures above 90°F and can actually increase body temperature rather than providing relief.[137] Although other sources set the upper range of safe temperatures for fan use from 98°F to 102°F, there is no doubt that many locations in the United States regularly exceed even these higher ranges for safe use of fans.[138] Accordingly, the Centers for Disease Control and Prevention recommends the use of air conditioning during periods of extreme heat.[139]

All of this evidence reinforces the common-sense conclusion that, just as heating is required to keep dwellings safe and healthy during periods of cold weather, cooling is essential for keeping dwellings safe and healthy during periods of extreme heat.[140]

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[134] *Id.*

[135] Lynée L. Turek-Hankins et al., *Interactions Between Indoor Heat and Energy Affordability Amplify Household Risks in Hot-Humid U.S. Climate Zones*, ONE EARTH, Mar. 2025, at 1, 3, 9.

[136] *Id.*

[137] *About Heat and Your Health*, U.S. CTRS. FOR DISEASE CONTROL & PREVENTION (July 25, 2025), https://www.cdc.gov/heat-health/about/index.html [https://perma.cc/YQA8-RW58].

[138] Parsons et al., *supra* note 42, at 5; Matt Fuchs, *How to Properly Cool Your Home With a Fan*, TIME (June 5, 2024, at 05:00 PT), https://time.com/6985139/how-to-use-fan-air-conditioning/ [https://perma.cc/TYK3-L5YW].

[139] *About Heat and Your Health*, *supra* note 137.

[140] Obviously, expanding access to cooling will increase household electricity use and may also increase associated carbon pollution and waste heat in the outdoor environment. *See Use of Energy Explained*, U.S. ENERGY INFO. ADMIN. (Mar. 18, 2023), https://www.eia.gov/energyexplained/use-of-energy/electricity-use-in-homes.php [https://perma.cc/R4TP-XNW5] (reporting that, in 2020, air conditioning accounted for 19% and space heating for 12% of residential site electricity consumption); *What Are Heat Islands?*, U.S. ENV'T PROT. AGENCY (Sep. 2, 2025), https://www.epa.gov/heatislands/what-are-heat-islands [https://perma.cc/82UB-KGLJ] (explaining that air conditioning increases electricity demand and emits waste heat, and associated electricity generation can increase greenhouse-gas emissions). Most extreme heat states also have abundant sun and wind and should aggressively promote renewable power. *See Florida: Analysis,* U.S. ENERGY INFO.

VI. EXTREME HEAT STATES SHOULD EXPAND THEIR IMPLIED AND STATUTORY WARRANTIES OF HABITABILITY TO INCLUDE COOLING

Courts and the legislatures in states experiencing extreme heat should expand their implied and statutory warranties of habitability for rental dwellings to include cooling that keeps the dwelling at a safe temperature during periods of extreme heat. Several localities that have already done so provide instructive examples.

A. The Examples of Montgomery County, Maryland, Dallas, Texas, and Tempe, Arizona

Montgomery County, Maryland, has long required that each landlord must reasonably provide for "the maintenance of the health, safety, and welfare of all tenants."[141] Since June 1, 2020, this general duty in the county code has included a specific requirement that landlords provide and maintain air conditioning from June 1 to September 30 every year.[142] The air conditioning system must be capable of maintaining the temperature at 80°F or below at three feet above floor level in each habitable space.[143]

Similarly, Dallas requires that all landlords provide and maintain refrigerated air equipment capable of maintaining a temperature in each habitable room of at least 15°F cooler than the outside temperature, but in no event higher than 85°F.[144] This spring, Austin adopted the same requirement.[145]

ADMIN. (Mar. 20, 2025), https://www.eia.gov/states/FL/analysis [https://perma.cc/7FXC-FEDP] (noting that Florida has "significant solar energy potential"); *Arizona: Analysis,* U.S. ENERGY INFO. ADMIN. (July 17, 2025), https://www.eia.gov/states/AZ/analysis [https://perma.cc/8A7W-N8SS] (noting that Arizona ranks among the top five states in total solar-powered generating capacity and among the top five states with the best wind-energy potential); *Texas: Analysis,* U.S. ENERGY INFO. ADMIN. (Aug. 21, 2025), https://www.eia.gov/states/TX/analysis [https://perma.cc/H62W-KSVJ] (noting that Texas leads the nation in wind-electricity generation and was the country's second-largest producer of solar power in 2024). Even absent political leadership, the favorable economics of renewable power have made Texas a leader in renewable power generation. *See Texas Leads U.S. Renewable Energy Growth*, TEX. ECON. DEV. CORP. (Apr. 30, 2025), https://businessintexas.com/blog/texas-leads-us-renewable-energy-growth [https://perma.cc/9FMU-RDKC].

141 MONTGOMERY CNTY. CODE § 29-30(a) (2025).

142 *Id.* §§ 29-30(a)(9), 26-7(f)(2).

143 *Id.* § 26-7(f)(2).

144 DALLAS CITY CODE § 27-11(e)(1) (2025).

145 *Austin is Making Air Conditioning a Requirement for Rental Households. The State of Texas Can and Should Soon Follow*, TEXAS HOUSERS (Apr. 2, 2025), https://texashousers.org/2025/04/02/austin-is-making-air-conditioning-a-requirment-for-renters-the-state-of-texas-can-and-should-soon-follow/ [https://perma.cc/G5A6-LMSF]; Hannah Garcia, *Austin AC Mandate in Effect July 10th: What Property Owners and Managers Need to Know*, AUSTIN APARTMENT ASS'N (July 3, 2025), https://www.austinaptassoc.com/news/austin-ac-mandate-in-effect-july-10th-heres-what-you-need-to-know [https://perma.cc/ZB72-27FU].

Tempe's City Code[146] generally requires that every rental housing unit "contain safe heating and cooling facilities which are properly installed and maintained in sound condition."[147] Specifically, every rental must have cooling under the tenant's control and capable of cooling all habitable rooms to a temperature of 88°F, if cooled by evaporative cooling, or to a temperature of 82°F, if cooled by air conditioning, with temperature measurements taken three feet above floor level in the center of the room.[148] The Code further cautions that "[a] common violation for this code is when a rental property does not have a working cooling system."[149]

These local examples are notable for at least four reasons. First, they expressly tie a landlord's duty to provide cooling to the landlord's general duty to provide for the safety and health of their tenants. Second, they set precise requirements for the temperature that the cooling systems must achieve in all habitable rooms, ranging from 80°F to 88°F.[150] Third, they require landlords to maintain the cooling system. Fourth, and perhaps most significant, along with the requirement for landlord-provided cooling set by the Arizona Attorney General, they demonstrate that it is feasible to require landlords to provide cooling systems, just as they are required to provide heating systems.

B. Florida, Arizona, Texas, and Other Extreme Heat States Should Follow These Local Examples

Florida, Arizona, Texas, and other extreme heat states must recognize the obvious truth that a lack of adequate cooling materially affects the health and safety of tenants, especially under today's extreme heat conditions, and incorporate cooling into their statutory warranties of habitability.[151] Alternatively, the courts in these states must include the provision of adequate cooling in the duties they impose on landlords, especially in Florida, which has a well-established implied warranty of habitability grounded in a landlord's duty to provide a reasonably safe dwelling.[152]

Florida's legislature must recognize that a lack of adequate cooling renders a rental dwelling unsafe and add adequate cooling to the state's statutory warranty. The simplest way to do this would be to add

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146 TEMPE CITY CODE § 21-34 (2026).

147 *Id.* § 21-34(a).

148 *Id.* § 21-34(c). The City of Phoenix requires cooling systems to maintain habitable rooms at 82°F if cooled by air conditioning, but only where such systems already are installed. *See* PHOENIX CITY CODE § 39-5(B)(1)(b) (2025).

149 TEMPE CITY CODE § 21-34 (2026).

150 *See supra* Part VI.A. The Examples of Montgomery County, Maryland, Dallas, Texas, and Tempe, Arizona. Although the required maximum temperatures vary slightly, all are below the 90°F threshold for extreme heat set by the federal government. *See supra* note 1 and accompanying text.

151 *See, e.g.*, ARIZ. REV. STAT. ANN. § 9-1303(1)(d) (2026).

152 *See Mansur*, 401 So. 2d 1328, 1330 (Fla. 1981).

"functioning facilities for cooling during heat season" to the existing statutory provision that requires functioning facilities for heat during winter.[153] However, such a provision, while an improvement, still would leave tenants vulnerable to unsafe conditions due to the vagueness of the term "functioning." Accordingly, Florida should set the maximum allowable temperature to be maintained by a cooling system within each habitable space, as has every locality that has required cooling in rental housing. Since 2021, legislators from South Florida have introduced bills to add cooling to the statutory warranty, but these bills have gone nowhere.[154]

Arizona's statutory warranties already go considerably further than Florida's, and extending these provisions explicitly to include cooling would be a relatively simple matter, especially since the state's Attorney General and cities like Tempe already have imposed a cooling requirement in rental dwellings. Specifically, the Arizona legislature needs to remove the qualifier "where such units are installed and offered" from existing statutory language, thereby imposing a requirement that landlords provide "reasonable heat and reasonable air-conditioning or cooling."[155] Following Tempe's example, however, Arizona should go further and specify that "reasonable cooling" means a system that cools all habitable rooms to at least 82°F, measured at three feet above floor level in the center of each room.

Texas's statutory warranty is the most limited, but its requirement that landlords remedy a condition that materially affects the health or safety of tenants should provide the basis for requiring cooling during the extreme heat months. This requirement could be imposed through judicial interpretation of the statute or through action from the state attorney general, much as has occurred in Arizona. Alternatively, the legislature could amend the statute to follow the examples of the Dallas and Austin city ordinances.[156]

If the state legislatures refuse to act, it may be up to the courts in Florida and Arizona to step up and provide common-sense protections to renters from the dangers of extreme heat. There is a particularly strong argument for this in Florida, where the Supreme Court long ago centered its implied warranty of habitability on a landlord's duty to provide a reasonably safe dwelling,[157] and the appellate courts have applied this duty to appliances that are not mentioned in the statutory warranty.[158] Although the Arizona Supreme Court has not imposed an implied warranty of habitability, it has imposed a similar duty on landlords to

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153 FLA. STAT. § 83.51(2)(a) (2025).

154 *See* H.B. 819, 2022 Gen. Assemb., Reg. Sess. (Fla. 2022) (dying in the Civil Justice & Property Rights Subcommittee); S.B. 1134, 2022 Gen. Assemb., Reg. Sess. (Fla. 2022) (dying in Judiciary).

155 ARIZ. REV. STAT. ANN. § 33-1324(A)(6) (2026).

156 DALLAS CITY CODE § 27-11(e)(1) (2025); AUSTIN CITY CODE § 25-12-213-603.7 (2025).

157 *Mansur*, 401 So. 2d at 1329–30.

158 Bosket v. Broward Cnty. Hous. Auth., 676 So. 2d 72 (Fla. Dist. Ct. App. 1996).

provide a safe dwelling pursuant to the state's common law of negligence.[159] This duty readily could be extended to require adequate cooling in Arizona's extreme heat. Similar action from the Texas Supreme Court is unlikely in light of the Texas legislature's abrogation of that Court's common law implied warranty of habitability.[160]

Fundamentally, the legislatures and courts in extreme heat states must recognize and act on the reality that a lack of adequate cooling materially affects the safety and health of tenants in rental dwellings, much as they long have recognized and acted on the reality that a lack of heating is a safety issue.[161]

VII. INCLUSION OF COOLING IN WARRANTIES OF HABITABILITY SHOULD BE ACCOMPANIED BY MEASURES THAT HELP TENANTS KEEP THE POWER ON

The evidence is incontrovertible that lack of cooling in rental dwellings is a fundamental safety and health issue, especially in extreme heat states, and that including cooling in warranties of habitability is the first and necessary step toward addressing this issue. If we truly do not want renters dying or getting sicker or more incapacitated from extreme heat in their dwellings, however, an expanded warranty of habitability should be accompanied by measures to help tenants keep the power on during periods of extreme heat, because cooling won't save anyone if the system isn't running because the power has been cut off.

There is little doubt that "poverty equals vulnerability" to extreme heat.[162] Study after study has shown that air conditioning is less prevalent in lower-income communities.[163] Moreover, lower-income renters spend a greater percentage of their earnings on energy, leading to high rates of energy insecurity.[164] Lastly, low-income, previously-segregated urban neighborhoods also tend to be the hottest, often reaching temperatures that are 5–15°F higher than in wealthier neighborhoods.[165] Accordingly, expanding the warranty of habitability to

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159 *Presson*, 501 P.2d 17, 19–20 (Ariz. Ct. App. 1972).

160 *See supra* notes 122–124 and accompanying text.

161 The Arizona legislature has already acknowledged this reality. ARIZ. REV. STAT. ANN. § 9-1303(1)(d) (2026).

162 Jeff Goodell, *Human Adaptation to Heat Can't Keep Up With Human-Caused Climate Change*, TIME (July 6, 2023, at 12:48 PT), https://time.com/6292615/human-adaptation-to-heat-climate-change/ [https://perma.cc/JQ9P-YU78].

163 *See, e.g.*, Romitti et al., *supra* note 62, at 5; Mann & Schuetz, *supra* note 64; Ahn et al., *supra* note 65, at 7.

164 *Energy Insecurity Is Underappreciated Social and Environmental Determinant of Health*, COLUM. UNIV. MAILMAN SCH. OF PUB. HEALTH (June 29, 2023), https://www.publichealth.columbia.edu/news/energy-insecurity-underappreciated-social-environmental-determinant-health [https://perma.cc/S25A-5BYK]; Stephens, Donoghoe & Perry, *supra* note 66.

165 Plumer & Popovich, *supra* note 58; *Heat Islands and Equity*, *supra* note 59; Dan Mathis, *Cool It Now: Renters Deserve a Right to Cooling*, THE NEXT 100: CLIMATE (Feb. 16, 2023), https://thenext100.org/cool-it-now-renters-deserve-a-right-to-cooling/ [https://perma.cc/H57K-DQ9C].

include cooling must be accompanied by measures to help low-income tenants keep the power on during the heat season.

The first additional step needed is to increase, rather than cut, the federal Low Income Home Energy Assistance Program (LIHEAP), the primary program that aids low-income renters with their power bills. Currently funded at about $4.1 billion per year, LIHEAP annually helps six million households pay their utility bills.[166] This is a mere 17% of eligible households, so plainly there is a need for additional funding.[167] Yet, although the program historically has enjoyed bipartisan support, the Trump Administration's fiscal year 2026 budget has proposed eliminating it entirely. The Administration has already fired the entire LIHEAP staff at the Department of Health and Human Services.[168]

Second, assuming that some LIHEAP funding survives, the government needs to balance dollars allocated for cooling in hot states with allocations for heating in cold states. Since 2001, LIHEAP has spent only about 7% of its assistance on air conditioning-related expenses, including repairs and purchases, while it has allocated about 60% of its budget to heating.[169] From 2012 to 2023, only about 6% of eligible Florida residents received LIHEAP aid, compared to about 31% in Vermont or about 22% in Maine.[170] Similarly, from 2014 to 2022, only 2.44% of eligible Arizona residents on average received LIHEAP aid for cooling, whereas 39.66% of eligible Vermont residents on average received LIHEAP aid for heating.[171] This inequitable distribution of federal funds has left extreme

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166 Jessica Kutz, *This Program Helps 6 Million Families Pay Their Energy Bills. Here's What's at Risk if It's Cut*, THE 19TH NEWS (May 27, 2025, at 03:00 PT), https://19thnews.org/2025/05/liheap-energy-electricity-funding-low-income-families/ [https://perma.cc/A6SM-MSGC].

167 *Id.*

168 *President's FY 2026 Budget Eliminates Federal Funding for LIHEAP*, NAT'L ENERGY ASSISTANCE DIRS. ASS'N (May 2, 2025), https://neada.org/wp-content/uploads/2025/05/Presidents-FY-26-Budget-LIHEAP-1-1.pdf [https://perma.cc/5NHQ-MEJK]; *LIHEAP Still Here, But Threats Loom*, NAT'L ENERGY ASSISTANCE DIRS. ASS'N, https://neada.org/press/liheap-under-threat/ [https://perma.cc/V3SZ-R3Z7] (last visited Feb. 25, 2026).

169 *Custom Reports*, LIHEAP: PERFORMANCE MGMT., https://liheappm.acf.gov/datawarehouse/custom_reports [https://perma.cc/7MP6-R7GL] (last visited Mar. 20, 2026) (choose "LIHEAP Funding"; then choose "Allocation of Funds"; then click "Percent of Assistance Funds Allocated to Heating Assistance" and "Percent of Assistance Funds Allocated to Cooling Assistance"; then select "All Grant Recipients"; then click "Select All" fiscal years; then select "Multiple bars"; then click "Create Your Data Report").

170 *Id.* (choose "Percent served by LIHEAP"; then choose "Total (Any Type of Assistance)"; then select "Percent of Income-Eligible Households Served By Any Type of LIHEAP Assistance"; then click "Florida"; then click "Maine"; then click "Vermont"; then select "2012–2023"; then select "Multiple bars"; then click "Create Your Data Report").

171 *Id.* (choose "Percent served by LIHEAP"; then choose "Cooling Assistance"; then choose "Arizona"; then choose the years 2014 – 2022; then click "Create Your Data Report." Run a second report by choosing "Percent served by LIHEAP"; then choose "Heating Assistance"; then choose "Vermont"; then choose the years 2014 – 2022; then click "Create Your Data Report.").

heat states like Florida and Arizona underfunded and unable to sufficiently support low-income households in cooling their homes.[172]

A third step needed to ensure the effectiveness of including cooling in warranties of habitability is for states to prohibit power disconnections during the heat season. Unfortunately, available data indicate that "disconnection rates soar during the summer months and are typically highest in the Southeast."[173] Only twenty-three states restrict summer shut-offs, including Arizona, while twenty-seven do not, including Florida.[174] Arizona restricts shut-offs from June 1 through October 15, and on any other day that the temperature exceeds 95°F.[175] Florida and other extreme heat states should adopt similar protections from power disconnection during the heat season.

VIII. CONCLUSION

As the climate crisis drives ever more extreme heat, it is past time for implied and statutory warranties of habitability to include cooling as well as heating, especially in extreme heat states like Florida, Arizona, and Texas. In these states, cooling is required for the safety and health of renters, much as heat always has been required for safety and health in colder climates. Florida's implied warranty of habitability is grounded in safety, and the courts should be willing to expand this warranty to include cooling. Arizona has no implied warranty of habitability, but its courts could impose a similar duty on landlords to provide cooling under tort law. The Texas legislature abrogated that state's implied warranty of habitability and adopted a limited statutory provision that nonetheless is grounded in the safety and health of tenants. These and other extreme heat states should amend their statutory warranties of habitability following the models provided by Montgomery County, Maryland, Dallas, Texas, and Tempe, Arizona. To ensure these warranties improve human health outcomes and reverse the upward trend in heat-related mortality, especially in poor communities, the government should fully fund the LIHEAP program, allocate funds evenly between cooling and heating subsidies, and protect renters from having their power cut off during the heat season.

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172 *See* Frank, *supra* note 133.

173 Sanya Carley & David Konisky, *27 States Let Utilities Shut Off Electricity for Nonpayment During Heat Waves*, TRUTHOUT (July 21, 2024), https://truthout.org/articles/27-states-let-utilities-shut-off-electricity-for-nonpayment-during-heat-waves/ [https://perma.cc/WA4C-SS25].

174 *Id.*

175 *Disconnect Policies: Arizona*, LIHEAP: CLEARINGHOUSE (Sep. 2025), https://liheapch.acf.gov/Disconnect/disconnect.htm#Arizona [https://perma.cc/UFV2-A8SZ].