

REFERENCE TITLE: justices of the peace; jurisdiction

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

## **HB 2472**

Introduced by  
Representatives Pearce: Crump, Senators Gray C, Gray L

AN ACT

AMENDING SECTIONS 22-201 AND 33-1408, ARIZONA REVISED STATUTES; RELATING TO JUSTICES OF THE PEACE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 22-201, Arizona Revised Statutes, is amended to  
3 read:

4 22-201. Jurisdiction of civil actions

5 A. Justices of the peace have jurisdiction only as affirmatively  
6 conferred on them by law.

7 B. Justices of the peace have exclusive original jurisdiction of all  
8 civil actions when the amount involved, exclusive of interest, costs and  
9 awarded attorney fees when authorized by law, is ~~five~~ TEN thousand dollars or  
10 less.

11 ~~C. Justices of the peace have concurrent original jurisdiction with~~  
12 ~~the superior court in cases when the amount involved, exclusive of interest,~~  
13 ~~costs and awarded attorney fees when authorized by law, is more than five~~  
14 ~~thousand dollars and less than ten thousand dollars.~~

15 ~~D.~~ C. Justices of the peace have jurisdiction concurrent with the  
16 superior court in cases of forcible entry and detainer when the amount  
17 involved, exclusive of interest, costs and awarded attorney fees when  
18 authorized by law, is ten thousand dollars or less.

19 ~~E.~~ D. Justices of the peace have jurisdiction to try the right to  
20 possession of real property when title or ownership is not a subject of  
21 inquiry in the action. If in any such action the title or ownership of real  
22 property becomes an issue, the justice shall so certify in the docket, at  
23 once stop further proceedings in the action and forward all papers, together  
24 with a certified copy of the docket entries in the action, to the superior  
25 court, where the action shall be docketed and determined as though originally  
26 brought in the superior court.

27 ~~F.~~ E. In actions between landlord and tenant for possession of leased  
28 premises the title to the property leased shall not be raised nor made an  
29 issue.

30 ~~G.~~ F. If in any action before a justice of the peace a party files a  
31 verified pleading ~~which~~ THAT states as a counterclaim a claim in which the  
32 amount involved, exclusive of interest and costs, is more than ten thousand  
33 dollars, the justice of the peace shall certify this in the docket, at once  
34 stop further proceedings in the action and forward all papers, together with  
35 a certified copy of the docket entries in the action, to the superior court,  
36 where the action shall be docketed and determined as though originally  
37 brought in the superior court. The party shall pay to the clerk of the  
38 superior court the same fees required to be paid by a defendant, and no other  
39 party in the action before the justice of the peace shall be required to pay  
40 any sum. If the party is finally adjudged to be entitled to recover on the  
41 counterclaim, exclusive of interest and costs, ten thousand dollars or less,  
42 the superior court may deny costs to the party and ~~may~~, in addition, MAY  
43 impose costs, including reasonable attorney fees, on the party. The superior  
44 court shall have original jurisdiction of the action, but it may at any time  
45 in furtherance of convenience or to avoid prejudice, or if it appears that

1 the amount involved in the counterclaim, exclusive of interest and costs, is  
2 ten thousand dollars or less, remand the action, or any claim or counterclaim  
3 of which the justice court has jurisdiction, to the justice court and may  
4 order costs.

5 ~~H.~~ G. The justice of the peace may require arbitration or other  
6 dispute resolution methods that are approved by the supreme court in all  
7 civil actions, except forcible entry or detainer actions.

8 Sec. 2. Section 33-1408, Arizona Revised Statutes, is amended to read:

9 33-1408. Jurisdiction and service of process; recovery of  
10 attorney fees; treble damages

11 A. The appropriate court of this state may exercise jurisdiction over  
12 any landlord or tenant with respect to any conduct in this state governed by  
13 this chapter or with respect to any claim arising from a transaction subject  
14 to this chapter. In addition to any other method provided by rule or by  
15 statute, personal jurisdiction over a landlord may be acquired in a civil  
16 action or proceeding instituted in the appropriate court by the service of  
17 process in the manner provided by this section.

18 B. If a landlord is not a resident of this state or is a legal entity  
19 not authorized to do business in this state and engages in any conduct in  
20 this state governed by this chapter, or engages in a transaction subject to  
21 this chapter, the landlord shall designate an agent upon whom service of  
22 process may be made in this state. The agent shall be a resident of this  
23 state or a legal entity authorized to do business in this state. The  
24 designation shall be in writing and filed with the secretary of state. If no  
25 designation is made and filed or if process cannot be served in this state  
26 upon the designated agent, process may be served upon the secretary of state,  
27 but the plaintiff or petitioner shall forthwith mail a copy of this process  
28 and pleading by certified mail to the defendant or respondent at his last  
29 reasonably ascertained address. If there is no last reasonably ascertainable  
30 address and if the defendant or respondent has not complied with section  
31 33-1432, subsections A and B, service upon the secretary of state shall be  
32 sufficient service of process without the mailing of copies to the defendant  
33 or respondent. Service of process shall be deemed complete and the time  
34 shall begin to run for the purposes of this section at the time of service  
35 ~~upon~~ ON the secretary of state. The defendant shall appear and answer within  
36 thirty days after completion thereof in the manner and under the same penalty  
37 as if he had been personally served with the summons. An affidavit of  
38 compliance with this section shall be filed with the clerk of the court on or  
39 before the return day of the process, if any, or within any further time the  
40 court allows. Where applicable, the affidavit shall contain a statement that  
41 the defendant or respondent has not complied with section 33-1432,  
42 subsections A and B or the affiant could not ascertain compliance by inquiry  
43 directed to the secretary of state.

44 C. In any contested action arising out of an agreement entered into  
45 pursuant to this chapter or for violation of ~~any provisions of~~ this chapter,

1 the court may award the successful party reasonable ~~attorney's~~ ATTORNEY fees.  
2 The award of reasonable ~~attorney's~~ ATTORNEY fees shall be made to mitigate  
3 the burden of the expense of litigation to establish a just claim or a just  
4 defense. The award need not equal or relate to the ~~attorney's~~ ATTORNEY fees  
5 actually paid or contracted and may not exceed the amount paid or agreed to  
6 be paid. Reasonable ~~attorney's~~ ATTORNEY fees shall be awarded by the court  
7 ~~upon~~ ON clear and convincing evidence that the claim or defense constitutes  
8 harassment, is groundless and is not made in good faith. In making such  
9 award, the court may consider such evidence as it deems appropriate and shall  
10 receive such evidence during trial on the merits of the cause, or separately,  
11 regarding the amount of such fees as it deems in the best interest of the  
12 parties.

13 D. Treble damages may be awarded by the court in any contested action  
14 arising under this chapter ~~upon~~ ON clear and convincing evidence that the  
15 claim or defense constitutes harassment, is groundless and is not made in  
16 good faith. In making such award, the court may consider such evidence as it  
17 deems appropriate and shall receive this evidence during trial on the merits  
18 of the case, or separately. If the action is brought in justice court and a  
19 party intends to request treble damages, the party shall file with the  
20 justice court a pleading stating that treble damages are sought and that the  
21 justice court may lawfully award treble damages within the court's  
22 jurisdiction of civil actions. In the absence of such pleading, the justice  
23 of the peace may not award treble damages. If an opposing party files a  
24 verified pleading alleging that with treble damages the amount involved is  
25 potentially in excess of the justice court's jurisdiction of civil actions,  
26 ~~the provisions of~~ section 22-201, subsection ~~G shall apply~~ F APPLIES.