

REFERENCE TITLE: forcible entry; detainer; prohibited rules

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

HB 2237

Introduced by
Representative Farnsworth E

AN ACT

AMENDING SECTIONS 12-1175, 33-361, 33-1305, 33-1404 AND 33-2101, ARIZONA
REVISED STATUTES; RELATING TO FORCIBLE ENTRY AND DETAINER ACTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 12-1175, Arizona Revised Statutes, is amended to
3 read:

4 12-1175. Complaint and answer; service and return; prohibited
5 notice and pleading requirements

6 A. When a party aggrieved files a complaint of forcible entry or
7 forcible detainer, in writing and under oath, with the clerk of the
8 superior court or a justice of the peace, summons shall issue no later
9 than the next judicial day.

10 B. The complaint shall contain a description of the premises of
11 which possession is claimed in sufficient detail to identify them and
12 shall also state the facts ~~which~~ THAT entitle the plaintiff to possession
13 and authorize the action.

14 C. The summons shall be served at least two days before the return
15 day, and return made thereof on the day assigned for trial.

16 D. NOTWITHSTANDING ANY OTHER LAW, AN AGENCY OF THIS STATE AND AN
17 INDIVIDUAL COURT MAY NOT ADOPT OR ENFORCE A RULE OR POLICY THAT REQUIRES A
18 MANDATORY OR TECHNICAL FORM FOR PROVIDING NOTICE OR FOR PLEADINGS IN AN
19 ACTION FOR FORCIBLE ENTRY OR FORCIBLE OR SPECIAL DETAINER. THE FORM OF
20 ANY NOTICE OR PLEADING THAT MEETS STATUTORY REQUIREMENTS FOR CONTENT AND
21 FORMATTING OF A NOTICE OR PLEADING IS SUFFICIENT TO PROVIDE NOTICE AND TO
22 PURSUE AN ACTION FOR FORCIBLE ENTRY OR FORCIBLE OR SPECIAL DETAINER.

23 Sec. 2. Section 33-361, Arizona Revised Statutes, is amended to
24 read:

25 33-361. Violation of lease by tenant; right of landlord to
26 reenter; summary action for recovery of premises;
27 appeal; lien for unpaid rent; enforcement;
28 prohibited notice and pleading requirements

29 A. When a tenant neglects or refuses to pay rent when due and in
30 arrears for five days, or when a tenant violates any provision of the
31 lease, the landlord or person to whom the rent is due, or the agent of the
32 landlord or person to whom the rent is due, may reenter and take
33 possession, ~~or~~ or, without formal demand or reentry, commence an action for
34 recovery of possession of the premises.

35 B. The action shall be commenced, conducted and governed as
36 provided for actions for forcible entry or detainer and shall be tried not
37 less than five nor more than thirty days after its commencement. In
38 addition to determining the right to actual possession, the court may
39 assess damages, attorney fees and costs pursuant to section 12-1178.

40 C. If judgment is given for the plaintiff, the defendant, in order
41 to perfect an appeal, shall file a bond with the court in an amount fixed
42 and approved by the court and payable to the clerk of the superior court,
43 conditioned that the appellant will prosecute the appeal to effect and
44 will pay the rental value of the premises pending the appeal and all
45 damages, attorney fees, costs and rent adjudged against the appellant.

1 D. If the tenant refuses or fails to pay rent owing and due, the
2 landlord shall have a lien ~~against~~ ON and may seize as much personal property
3 of the tenant located on the premises and not exempted by law as is
4 necessary to secure payment of the rent. If the rent is not paid and
5 satisfied within sixty days after seizure as provided for in this section,
6 the landlord may sell the seized personal property in the manner provided
7 by section 33-1023.

8 E. When premises are sublet or the lease is assigned, the landlord
9 shall have a like lien against the sublessee or assignee as the landlord
10 has against the tenant and may enforce it in the same manner.

11 F. NOTWITHSTANDING ANY OTHER LAW, AN AGENCY OF THIS STATE AND AN
12 INDIVIDUAL COURT MAY NOT ADOPT OR ENFORCE A RULE OR POLICY THAT REQUIRES A
13 MANDATORY OR TECHNICAL FORM FOR PROVIDING NOTICE OR FOR PLEADINGS IN AN
14 ACTION FOR FORCIBLE ENTRY OR FORCIBLE OR SPECIAL DETAINER. THE FORM OF
15 ANY NOTICE OR PLEADING THAT MEETS STATUTORY REQUIREMENTS FOR CONTENT AND
16 FORMATTING OF A NOTICE OR PLEADING IS SUFFICIENT TO PROVIDE NOTICE AND TO
17 PURSUE AN ACTION FOR FORCIBLE ENTRY OR FORCIBLE OR SPECIAL DETAINER.

18 Sec. 3. Section 33-1305, Arizona Revised Statutes, is amended to
19 read:

20 33-1305. Administration of remedies; enforcement; prohibited
21 notice and pleading requirements

22 A. The remedies provided by this chapter shall be so administered
23 that the aggrieved party may recover appropriate damages. The aggrieved
24 party has a duty to mitigate damages.

25 B. Any right or obligation declared by this chapter is enforceable
26 by action unless the provision declaring it specifies a different and
27 limited effect.

28 C. NOTWITHSTANDING ANY OTHER LAW, AN AGENCY OF THIS STATE AND AN
29 INDIVIDUAL COURT MAY NOT ADOPT OR ENFORCE A RULE OR POLICY THAT REQUIRES A
30 MANDATORY OR TECHNICAL FORM FOR PROVIDING NOTICE OR FOR PLEADINGS IN AN
31 ACTION FOR FORCIBLE ENTRY OR FORCIBLE OR SPECIAL DETAINER. THE FORM OF
32 ANY NOTICE OR PLEADING THAT MEETS STATUTORY REQUIREMENTS FOR CONTENT AND
33 FORMATTING OF A NOTICE OR PLEADING IS SUFFICIENT TO PROVIDE NOTICE AND TO
34 PURSUE AN ACTION FOR FORCIBLE ENTRY OR FORCIBLE OR SPECIAL DETAINER.

35 Sec. 4. Section 33-1404, Arizona Revised Statutes, is amended to
36 read:

37 33-1404. Administration of remedies; enforcement; prohibited
38 notice and pleading requirements

39 A. The remedies provided by this chapter shall be so administered
40 that the aggrieved party may recover appropriate damages. The aggrieved
41 party has a duty to mitigate damages.

42 B. Any right or obligation declared by this chapter is enforceable
43 by action unless the provision declaring it specifies a different and
44 limited effect.

1 C. ~~Nothing in~~ This chapter ~~affects~~ DOES NOT AFFECT any rights under
2 ~~title 33,~~ chapter 8, article 1 OF THIS TITLE.

3 D. NOTWITHSTANDING ANY OTHER LAW, AN AGENCY OF THIS STATE AND AN
4 INDIVIDUAL COURT MAY NOT ADOPT OR ENFORCE A RULE OR POLICY THAT REQUIRES A
5 MANDATORY OR TECHNICAL FORM FOR PROVIDING NOTICE OR FOR PLEADINGS IN AN
6 ACTION FOR FORCIBLE ENTRY OR FORCIBLE OR SPECIAL DETAINER. THE FORM OF
7 ANY NOTICE OR PLEADING THAT MEETS STATUTORY REQUIREMENTS FOR CONTENT AND
8 FORMATTING OF A NOTICE OR PLEADING IS SUFFICIENT TO PROVIDE NOTICE AND TO
9 PURSUE AN ACTION FOR FORCIBLE ENTRY OR FORCIBLE OR SPECIAL DETAINER.

10 Sec. 5. Section 33-2101, Arizona Revised Statutes, is amended to
11 read:

12 33-2101. Application; duration of stay; exclusions; prohibited
13 notice and pleading requirements

14 A. This chapter applies to, regulates and determines rights,
15 obligations and remedies for a recreational vehicle space rented in a
16 recreational vehicle park or mobile home park by the same tenant under a
17 rental agreement for more than one hundred eighty consecutive days.

18 B. This chapter does not apply to mobile homes, manufactured homes
19 and factory-built buildings or to a property with one or two recreational
20 vehicle rental spaces.

21 C. NOTWITHSTANDING ANY OTHER LAW, AN AGENCY OF THIS STATE AND AN
22 INDIVIDUAL COURT MAY NOT ADOPT OR ENFORCE A RULE OR POLICY THAT REQUIRES A
23 MANDATORY OR TECHNICAL FORM FOR PROVIDING NOTICE OR FOR PLEADINGS IN AN
24 ACTION FOR FORCIBLE ENTRY OR FORCIBLE OR SPECIAL DETAINER. THE FORM OF
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