

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

SENATE BILL 1376

AN ACT

AMENDING SECTIONS 33-1368 AND 33-1370, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA RESIDENTIAL LANDLORD AND TENANT ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 33-1368, Arizona Revised Statutes, is amended to
3 read:

4 33-1368. Noncompliance with rental agreement by tenant;
5 failure to pay rent; utility discontinuation;
6 liability for guests; definition

7 A. Except as provided in this chapter, if there is a material
8 noncompliance by the tenant with the rental agreement, including material
9 falsification of the information provided on the rental application, the
10 landlord may deliver a written notice to the tenant specifying the acts
11 and omissions constituting the breach and that the rental agreement will
12 terminate ~~upon~~ ON a date not less than ten days after receipt of the
13 notice if the breach is not remedied in ten days. For the purposes of
14 this section, material falsification ~~shall include~~ INCLUDES the following
15 untrue or misleading information about the:

16 1. Number of occupants in the dwelling unit, pets, income of THE
17 prospective tenant, social security number and current employment listed
18 on the application or lease agreement.

19 2. Tenant's criminal records, prior eviction record and current
20 criminal activity. Material falsification of information in this
21 paragraph is not curable under this section.

22 If there is a noncompliance by the tenant with section 33-1341 materially
23 affecting health and safety, the landlord may deliver a written notice to
24 the tenant specifying the acts and omissions constituting the breach and
25 that the rental agreement will terminate ~~upon~~ ON a date not less than five
26 days after receipt of the notice if the breach is not remedied in five
27 days. However, if the breach is remediable by repair or the payment of
28 damages or otherwise, and the tenant adequately remedies the breach before
29 the date specified in the notice, the rental agreement will not terminate.
30 If there is an additional act of these types of noncompliance of the same
31 or a similar nature during the term of the lease after the previous remedy
32 of noncompliance, the landlord may institute a special detainer action
33 pursuant to section 33-1377 ten days after delivery of a written notice
34 advising the tenant that a second noncompliance of the same or a similar
35 nature has occurred. If there is a breach that is both material and
36 irreparable and that occurs on the premises, ~~including but not limited to~~
37 WHICH MAY INCLUDE an illegal discharge of a weapon, homicide as ~~defined~~
38 PRESCRIBED in sections 13-1102, ~~through~~ 13-1103, 13-1104 AND 13-1105,
39 prostitution as defined in section 13-3211, criminal street gang activity
40 as prescribed in section 13-105, activity as prohibited in section
41 13-2308, the unlawful manufacturing, selling, transferring, possessing,
42 using or storing of a controlled substance as defined in section 13-3451,
43 threatening or intimidating as prohibited in section 13-1202, assault as
44 prohibited in section 13-1203, acts that have been found to constitute a
45 nuisance pursuant to section 12-991 or a breach of the lease agreement

1 that otherwise jeopardizes the health, safety and welfare of the landlord,
2 the landlord's agent or another tenant or involving imminent or actual
3 serious property damage, the landlord may deliver a written notice for
4 immediate termination of the rental agreement and shall proceed under
5 section 33-1377. **THE FOREGOING LIST OF ACTIONS WHICH MAY CONSTITUTE A**
6 **MATERIAL AND IRREPARABLE BREACH OF A TENANT'S LEASE IS NOT EXHAUSTIVE.**

7 B. A tenant may not withhold rent for any reason not authorized by
8 this chapter. If rent is unpaid when due and the tenant fails to pay rent
9 within five days after written notice by the landlord of nonpayment and
10 the landlord's intention to terminate the rental agreement if the rent is
11 not paid within that period of time, the landlord may terminate the rental
12 agreement by filing a special detainer action pursuant to section 33-1377.
13 Before the filing of a special detainer action the rental agreement shall
14 be reinstated if the tenant tenders all past due and unpaid periodic rent
15 and a reasonable late fee set forth in a written rental agreement. After
16 a special detainer action is filed the rental agreement is reinstated only
17 if the tenant pays all past due rent, reasonable late fees set forth in a
18 written rental agreement, attorney fees and court costs. After a judgment
19 has been entered in a special detainer action in favor of the landlord,
20 any reinstatement of the rental agreement is solely in the discretion of
21 the landlord.

22 C. The landlord may recover all reasonable damages, ~~resulting from~~ resulting from
23 noncompliance by the tenant with the rental agreement or section 33-1341
24 or occupancy of the dwelling unit, court costs, reasonable attorney fees
25 and all quantifiable damage caused by the tenant to the premises.

26 D. The landlord may discontinue utility services provided by the
27 landlord on the day following the day that a writ of restitution or
28 execution is executed pursuant to section 12-1181. Disconnections shall
29 be performed only by a person authorized by the utility whose service is
30 being discontinued. ~~Nothing in~~ This section ~~shall~~ **DOES NOT** supersede
31 standard tariff and operational procedures that apply to any public
32 service corporation, municipal corporation or special districts providing
33 utility services in this state.

34 ~~E. The landlord shall hold the tenant's personal property for a~~
35 ~~period of twenty-one days beginning on the first day after a writ of~~
36 ~~restitution or writ of execution is executed as prescribed in section~~
37 ~~12-1181. The landlord shall use reasonable care in moving and holding the~~
38 ~~tenant's property and may store the tenant's property in an unoccupied~~
39 ~~dwelling unit owned by the landlord, the unoccupied dwelling unit formerly~~
40 ~~occupied by the tenant or off the premises if an unoccupied dwelling unit~~
41 ~~is not available. If the tenant's former dwelling unit is used to store~~
42 ~~the property, the landlord may change the locks on that unit at the~~
43 ~~landlord's discretion. The landlord shall prepare an inventory and~~
44 ~~promptly notify the tenant of the location and cost of storage of the~~
45 ~~personal property by sending a notice by certified mail, return receipt~~

1 requested, addressed to the tenant's last known address and to any of the
2 tenant's alternative addresses known to the landlord. To reclaim the
3 personal property, the tenant shall pay the landlord only for the cost of
4 removal and storage for the time the property is held by the landlord.
5 Within five days after a written offer by the tenant to pay these charges
6 the landlord must surrender possession of the personal property in the
7 landlord's possession to the tenant upon the tenant's tender of payment.
8 If the landlord fails to surrender possession of the personal property to
9 the tenant, the tenant may recover the possessions or an amount equal to
10 the damages determined by the court if the landlord has destroyed or
11 disposed of the possessions before the twenty-one days specified in this
12 section or after the tenant's offer to pay. The tenant shall pay all
13 removal and storage costs accrued through the fifth day after the tenant's
14 offer to pay is received by the landlord or the date of delivery or
15 surrender of the property, whichever is sooner. Payment by the tenant
16 relieves the landlord of any further responsibility for the tenant's
17 possessions.

18 F. A tenant does not have any right of access to that property
19 until all payments specified in subsection E of this section have been
20 made in full, except that the tenant may obtain clothing and the tools,
21 apparatus and books of a trade or profession and identification or
22 financial documents including all those related to the tenant's
23 immigration status, employment status, public assistance or medical care.
24 If the landlord holds the property for the twenty-one day period and the
25 tenant does not make a reasonable effort to recover it, the landlord, upon
26 the expiration of twenty-one days as provided in this subsection, may
27 administer the personal property as provided in section 33-1370,
28 subsection E. The landlord shall hold personal property after a writ of
29 restitution or writ of execution is executed for not more than twenty-one
30 days after such an execution. Nothing in this subsection shall preclude
31 the landlord and tenant from making an agreement providing that the
32 landlord will hold the personal property for a period longer than
33 twenty-one days.

34 E. ON THE DAY FOLLOWING THE DAY THAT A WRIT OF RESTITUTION OR
35 EXECUTION IS EXECUTED PURSUANT TO SECTION 12-1181, THE LANDLORD SHALL
36 COMPLY WITH SECTION 33-1370, SUBSECTIONS D, E, F, G, H AND I REGARDING THE
37 TENANT'S PERSONAL PROPERTY.

38 F. For the purposes of this chapter, the tenant shall be held
39 responsible for the actions of the tenant's guests that violate the lease
40 agreement or rules or regulations of the landlord if the tenant could
41 reasonably be expected to be aware that such actions might occur and did
42 not attempt to prevent those actions to the best of the tenant's ability.

43 G. For THE purposes of this section, "days" means calendar
44 days.

1 Sec. 2. Section 33-1370, Arizona Revised Statutes, is amended to
2 read:

3 33-1370. ~~Abandonment; notice; remedies; personal property;~~
4 definition

5 A. If a dwelling unit is abandoned after the time prescribed in
6 subsection ~~H~~ J of this section, the landlord shall send the tenant a
7 notice of abandonment by certified mail, return receipt requested,
8 addressed to the tenant's last known address and to any of the tenant's
9 alternate addresses known to the landlord. The landlord shall also post a
10 notice of abandonment on the door to the dwelling unit or any other
11 conspicuous place on the property for five days.

12 B. Five days after ~~THE~~ notice of abandonment has been both posted
13 and mailed, the landlord may retake the dwelling unit and rerent the
14 dwelling unit at a fair rental value if no personal property remains in
15 the dwelling unit. After the landlord retakes the dwelling unit, money
16 held by the landlord as a security deposit is forfeited and shall be
17 applied to the payment of any accrued rent and other reasonable costs
18 incurred by the landlord by reason of the tenant's abandonment.

19 C. If the tenant abandons the dwelling unit, the landlord shall
20 make reasonable efforts to rent ~~it~~ ~~THE DWELLING UNIT~~ at a fair rental. If
21 the landlord rents the dwelling unit for a term beginning ~~prior to~~ BEFORE
22 the expiration of the rental agreement, ~~it~~ ~~THE RENTAL AGREEMENT~~ is deemed
23 to be terminated as of the date the new tenancy begins. If the landlord
24 fails to use reasonable efforts to rent the dwelling unit at a fair rental
25 or if the landlord accepts the abandonment as a surrender, the rental
26 agreement is deemed to be terminated by the landlord as of the date the
27 landlord has notice of the abandonment. If the tenancy is from month to
28 month or week to week, the term of the rental agreement for this purpose
29 shall be deemed to be a month or a week, as the case may be.

30 D. ~~AFTER THE LANDLORD RETAKES POSSESSION OF THE DWELLING UNIT, AND~~
31 ~~IF THE TENANT'S PERSONAL PROPERTY REMAINS IN THE DWELLING UNIT, THE~~
32 ~~LANDLORD SHALL PREPARE AN INVENTORY AND NOTIFY THE TENANT OF THE LOCATION~~
33 ~~AND COST OF STORAGE OF THE PERSONAL PROPERTY IN THE SAME MANNER PRESCRIBED~~
34 ~~IN SUBSECTION A OF THIS SECTION.~~

35 ~~E. After the landlord ~~has retaken~~ RETAKES possession of the~~
36 ~~dwelling unit, the landlord may store the tenant's personal possessions in~~
37 ~~the unoccupied dwelling unit that was abandoned by the tenant, ~~in~~ any~~
38 ~~other available unit or any storage space owned by the landlord or off the~~
39 ~~premises if a dwelling unit or storage space is not available. The~~
40 ~~landlord shall notify the tenant of the location of the personal property~~
41 ~~in the same manner prescribed in subsection A of this section. THE~~
42 ~~LANDLORD IS NOT REQUIRED TO STORE THE TENANT'S PERISHABLE ITEMS, PLANTS~~
43 ~~AND ANIMALS ON BEHALF OF THE TENANT. THE LANDLORD MAY REMOVE OR DISPOSE~~
44 ~~OF, AS APPROPRIATE, THE PERISHABLE ITEMS, INCLUDING PLANTS. AT THE~~
45 ~~LANDLORD'S DISCRETION, THE LANDLORD MAY REMOVE AND DISPOSE OF ANY PERSONAL~~

1 PROPERTY IN THE DWELLING UNIT THAT IS CONTAMINATED OR MAY BE CONSIDERED A
2 BIOHAZARD OR POSES A HEALTH AND SAFETY RISK. AT THE LANDLORD'S
3 DISCRETION, THE TENANT'S ABANDONED ANIMALS MAY BE IMMEDIATELY REMOVED AND
4 RELEASED TO A SHELTER OR BOARDING FACILITY. THE LANDLORD SHALL KEEP A
5 RECORD OF THE NAME AND LOCATION OF THE SHELTER OR BOARDING FACILITY TO
6 WHICH THE ANIMAL WAS RELEASED. IF THE LANDLORD DOES NOT IMMEDIATELY
7 REMOVE AND RELEASE THE ABANDONED ANIMALS TO A SHELTER OR BOARDING
8 FACILITY, THE LANDLORD SHALL PROVIDE REASONABLE CARE FOR THE ABANDONED
9 ANIMALS FOR THE PERIOD PRESCRIBED BY SUBSECTION F OF THIS SECTION. IF THE
10 LANDLORD IS UNABLE OR UNWILLING TO PROVIDE REASONABLE CARE TO THE
11 ABANDONED ANIMALS, THE LANDLORD SHALL NOTIFY THE COUNTY ENFORCEMENT AGENT
12 AS DEFINED IN SECTION 11-1001 OR AN ANIMAL CONTROL OFFICER AS PRESCRIBED
13 IN SECTION 9-499.04 OF THE PRESENCE OF THE TENANT'S ABANDONED ANIMALS ON
14 THE PROPERTY TO BE SEIZED PURSUANT TO SECTION 13-4281. THE LANDLORD IS NOT
15 LIABLE FOR ANY ACTIONS TAKEN IN GOOD FAITH RELATED TO THE REMOVAL,
16 RELEASE, SEIZURE OR CARE OF THE ABANDONED ANIMALS PURSUANT TO THIS
17 SECTION.

18 ~~F.~~ F. The landlord shall hold the tenant's personal property for a
19 period of ~~ten~~ FOURTEEN CALENDAR days after the ~~landlord's declaration of~~
20 ~~abandonment~~ LANDLORD RETAKES POSSESSION OF THE DWELLING UNIT. The
21 landlord shall use reasonable care in MOVING AND holding the tenant's
22 personal property. If the landlord holds the property for this period and
23 the tenant makes no reasonable effort to recover it, the landlord may
24 DONATE THE PERSONAL PROPERTY TO A QUALIFYING CHARITABLE ORGANIZATION AS
25 DEFINED IN SECTION 43-1088 OR OTHERWISE RECOGNIZED CHARITY OR sell the
26 property. ~~IF THE LANDLORDS SELLS THE PROPERTY, THE LANDLORD SHALL~~
27 retain the proceeds and apply them toward the tenant's outstanding rent or
28 other costs ~~which~~ THAT are covered in the lease agreement or otherwise
29 provided for in ~~title 33, chapter 10~~ THIS CHAPTER or title 12, chapter 8
30 and THAT have been incurred by the landlord, ~~due to the tenant's~~
31 ~~abandonment.~~ Any AND excess proceeds shall be mailed to the tenant at the
32 tenant's last known address. A tenant does not have any right of access
33 to that property until the actual removal and storage costs have been paid
34 in full, except that the tenant may obtain clothing and the tools,
35 apparatus and books of a trade or profession and any identification or
36 financial documents, including all those related to the tenant's
37 immigration status, employment status, public assistance or medical care.
38 ~~If provided by a written rental agreement,~~ The landlord may destroy or
39 otherwise dispose of some or all of the property if the landlord
40 reasonably determines that the value of the property is so low that the
41 cost of moving, storage and conducting a public sale exceeds the amount
42 that would be realized from the sale. ANY TAX BENEFIT ASSOCIATED WITH THE
43 DONATION OF THE PERSONAL PROPERTY BELONGS TO THE TENANT. A LANDLORD THAT
44 COMPLIES WITH THIS SECTION IS NOT LIABLE FOR ANY LOSS TO THE TENANT OR ANY

1 THIRD PARTY THAT RESULTS FROM MOVING, STORING OR DONATING ANY PERSONAL
2 PROPERTY LEFT IN THE DWELLING UNIT.

3 ~~F.~~ G. For a period of twelve months after the sale, the landlord
4 shall:

5 1. Keep adequate records of the outstanding and unpaid rent and the
6 sale of the tenant's personal property.

7 2. Hold FOR THE BENEFIT OF THE TENANT any excess proceeds which
8 THAT have been returned as undeliverable ~~for the benefit of the tenant~~.

9 ~~G.~~ H. If the tenant notifies the landlord in writing on or before
10 the date the landlord sells or otherwise disposes of the personal property
11 that the tenant intends to remove the personal property from the dwelling
12 unit or the place of safekeeping, the tenant has five days to reclaim the
13 personal property. To reclaim the personal property the tenant must only
14 pay ~~the landlord~~ for the ~~cost of~~ COSTS ASSOCIATED WITH removal and storage
15 for the period the tenant's personal property ~~remained in the landlord's~~
16 ~~safekeeping~~ WAS STORED. EXCEPT AS PROVIDED IN SUBSECTIONS E OR I OF THIS
17 SECTION FOR PERSONAL PROPERTY EXEMPT FROM STORAGE REQUIREMENTS, WITHIN
18 FIVE DAYS AFTER A WRITTEN OFFER BY THE TENANT TO PAY THE APPLICABLE
19 STORAGE OR REMOVAL COSTS THE LANDLORD MUST SURRENDER POSSESSION OF THE
20 PERSONAL PROPERTY IN THE LANDLORD'S POSSESSION TO THE TENANT UPON THE
21 TENANT'S TENDER OF PAYMENT. IF THE LANDLORD FAILS TO SURRENDER POSSESSION
22 OF THE PERSONAL PROPERTY TO THE TENANT, THE TENANT MAY RECOVER THE
23 POSSESSIONS OR AN AMOUNT EQUAL TO THE DAMAGES DETERMINED BY THE COURT IF
24 THE LANDLORD HAS DESTROYED OR DISPOSED OF THE POSSESSIONS BEFORE THE
25 FOURTEEN DAYS SPECIFIED IN THIS SECTION OR AFTER THE TENANT'S OFFER TO
26 PAY.

27 I. NOTWITHSTANDING SUBSECTIONS D, E, F AND G OF THIS SECTION, IF
28 THE TENANT RETURNS TO THE LANDLORD THE KEYS TO THE DWELLING UNIT AND THERE
29 IS PERSONAL PROPERTY REMAINING IN THE DWELLING UNIT, THE LANDLORD MAY
30 IMMEDIATELY REMOVE AND DISPOSE OF THE PERSONAL PROPERTY WITHOUT LIABILITY
31 TO THE TENANT OR A THIRD PARTY UNLESS THE LANDLORD AND TENANT HAVE AGREED
32 IN WRITING TO SOME OTHER TREATMENT OF THE PROPERTY.

33 ~~H.~~ J. ~~In~~ FOR THE PURPOSES OF this section "abandonment" means
34 either the absence of the tenant from the dwelling unit, without notice to
35 the landlord for at least seven days, if rent for the dwelling unit is
36 outstanding and unpaid for ten days and there is no reasonable evidence
37 other than the presence of the tenant's personal property that the tenant
38 is occupying the residence or the absence of the tenant for at least five
39 days, if the rent for the dwelling unit is outstanding and unpaid for five
40 days and none of the tenant's personal property is in the dwelling unit.