

REFERENCE TITLE: transient occupants; property; removal

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1129

Introduced by
Senators Rogers: Farnsworth, Kavanagh, Kern, Shope, Wadsack;
Representative Gillette

AN ACT

AMENDING TITLE 12, CHAPTER 8, ARTICLE 4, ARIZONA REVISED STATUTES, BY
ADDING SECTION 12-1173.02; 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. Title 12, chapter 8, article 4, Arizona Revised
3 Statutes, is amended by adding section 12-1173.02, to read:

4 12-1173.02. Remedy for unlawful possession by transient
5 occupant; affidavit; exception; definition

6 A. A TRANSIENT OCCUPANT OF A RESIDENTIAL DWELLING IS AN UNLAWFUL
7 OCCUPANT OF THE PROPERTY AFTER RECEIVING A WRITTEN DIRECTION TO LEAVE THE
8 PREMISES FROM THE PERSON WHO IS ENTITLED TO POSSESSION OF THE PROPERTY.
9 IF THE TRANSIENT OCCUPANT FAILS TO LEAVE THE PREMISES AFTER RECEIVING
10 WRITTEN DIRECTION, THE TRANSIENT OCCUPANT IS SUBJECT TO REMOVAL BY A LAW
11 ENFORCEMENT OFFICER AS PRESCRIBED BY SUBSECTION B OF THIS SECTION OR BY AN
12 ORDER OF A COURT IN A FORCIBLE DETAINER ACTION PURSUANT TO THIS ARTICLE.

13 B. A PERSON WHO IS ENTITLED TO POSSESSION OF THE PROPERTY THAT IS
14 OCCUPIED BY A TRANSIENT OCCUPANT MAY SUBMIT A SWORN AFFIDAVIT TO A LAW
15 ENFORCEMENT OFFICER THAT STATES THE FOLLOWING:

16 1. THE TRANSIENT OCCUPANT HAS BEEN DIRECTED TO LEAVE THE PREMISES
17 BY A WRITTEN DEMAND PROVIDED TO THE TRANSIENT OCCUPANT ON (DATE).

18 2. THE TRANSIENT OCCUPANT UNLAWFULLY CONTINUES TO OCCUPY THE
19 PREMISES.

20 3. THE TRANSIENT OCCUPANT:

21 (a) DOES NOT PAY RENT FOR THE PREMISES.

22 (b) DOES NOT HAVE AN OWNERSHIP INTEREST, FINANCIAL INTEREST OR
23 LEASE INTEREST IN THE PROPERTY.

24 (c) DID NOT HAVE ANY PRIOR RIGHT TO OCCUPY THE PROPERTY.

25 C. ON RECEIPT OF THE SWORN AFFIDAVIT THAT STATES THE FACTORS
26 PRESCRIBED BY SUBSECTION B OF THIS SECTION, THE LAW ENFORCEMENT OFFICER
27 MAY DIRECT THE TRANSIENT OCCUPANT TO SURRENDER POSSESSION OF THE
28 RESIDENTIAL PROPERTY.

29 D. A PERSON WHO FAILS OR REFUSES TO SURRENDER POSSESSION OF THE
30 PROPERTY AS DIRECTED BY A LAW ENFORCEMENT OFFICER PURSUANT TO THIS SECTION
31 IS COMMITTING TRESPASS.

32 E. A PERSON WHO IS WRONGFULLY REMOVED FROM A PREMISES MAY FILE AN
33 ACTION AND RECOVER DAMAGES FOR FORCIBLE ENTRY AND DETAINER AGAINST THE
34 PERSON WHO CLAIMS THE RIGHT TO POSSESSION OF THE PROPERTY.

35 F. FOR THE PURPOSES OF THIS SECTION, "TRANSIENT OCCUPANT":

36 1. MEANS A PERSON WHO OCCUPIES A RESIDENTIAL PROPERTY AND WHO MEETS
37 ALL OF THE FOLLOWING REQUIREMENTS:

38 (a) DOES NOT PAY RENT FOR THE PREMISES.

39 (b) DOES NOT HAVE AN OWNERSHIP INTEREST, FINANCIAL INTEREST OR
40 LEASE INTEREST IN THE PROPERTY.

41 (c) DID NOT HAVE ANY PRIOR RIGHT TO OCCUPY THE PROPERTY.

42 2. DOES NOT INCLUDE A TENANT UNDER TITLE 33, CHAPTER 10.