

REFERENCE TITLE: unlawful occupants; property; removal; documents

State of Arizona
Senate
Fifty-seventh Legislature
First Regular Session
2025

SB 1726

Introduced by
Senator Rogers

AN ACT

AMENDING SECTION 33-420, ARIZONA REVISED STATUTES; AMENDING TITLE 33,
CHAPTER 23, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION
33-2502; RELATING TO REAL PROPERTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 33-420, Arizona Revised Statutes, is amended to read:

33-420. False documents; liability; special action; damages; violation; classification

A. A person purporting to claim an interest in, or a lien or encumbrance against, real property, who causes a document asserting such claim to be recorded in the office of the county recorder, knowing or having reason to know that the document is forged, ~~OR~~ groundless, contains a material misstatement or false claim or is otherwise invalid is liable to the owner or beneficial title holder of the real property for the sum of ~~not less than five thousand dollars,~~ AT LEAST \$5,000 or for treble the actual damages caused by the recording, whichever is greater, and reasonable attorney fees and costs of the action.

B. The owner or beneficial title holder of the real property may bring an action pursuant to this section in the superior court in the county in which the real property is located for such relief as is required to immediately clear title to the real property as provided for in the rules of procedure for special actions. This special action may be brought based on the ground that the lien is forged, ~~OR~~ groundless, contains a material misstatement or false claim or is otherwise invalid. The owner or beneficial title holder may bring a separate special action to clear title to the real property or join such action with an action for damages as described in this section. In either case, the owner or beneficial title holder may recover reasonable attorney fees and costs of the action if ~~he~~ THE OWNER OR BENEFICIAL TITLE HOLDER prevails.

C. A person who is named in a document ~~which~~ THAT purports to create an interest in, or a lien or encumbrance against, real property and who knows that the document is forged, ~~OR~~ groundless, contains a material misstatement or false claim or is otherwise invalid shall be liable to the owner or BENEFICIAL title holder for the sum of ~~not less than one thousand dollars,~~ AT LEAST \$1,000 or for treble actual damages, whichever is greater, and reasonable attorney fees and costs as provided in this section, if ~~he~~ THE PERSON wilfully refuses to release or correct such document of record within twenty days ~~from~~ AFTER the date of a written request from the owner or beneficial title holder of the real property.

D. A document purporting to create an interest in, or a lien or encumbrance against, real property not authorized by statute, judgment or other specific legal authority is presumed to be groundless and invalid.

E. A person purporting to claim an interest in, or a lien or encumbrance against, real property, who causes a document asserting such claim to be recorded in the office of the county recorder, INCLUDING A DOCUMENT THAT PURPORTS TO CONVEY AN OWNERSHIP OR LEASEHOLD INTEREST IN REAL PROPERTY, knowing or having reason to know that the document is

1 forged, ~~OR~~ OR groundless, contains a material misstatement or false claim or
2 is otherwise invalid, is guilty of a class 1 misdemeanor.

3 Sec. 2. Title 33, chapter 23, article 1, Arizona Revised Statutes,
4 is amended by adding section 33-2502, to read:

5 33-2502. Unlawful occupants; affidavit of complaint; removal;
6 wrongful removal; remedies; violation;
7 classification

8 A. A PROPERTY OWNER OF RESIDENTIAL REAL PROPERTY OR THE OWNER'S
9 AUTHORIZED AGENT MAY REQUEST THAT THE COUNTY SHERIFF OR CITY OR TOWN CHIEF
10 OF POLICE, AS APPLICABLE, IMMEDIATELY REMOVE A PERSON WHO IS UNLAWFULLY
11 OCCUPYING THE RESIDENTIAL DWELLING IF ALL OF THE FOLLOWING APPLY:

12 1. THE REQUESTING PERSON IS THE PROPERTY OWNER OR THE OWNER'S
13 AUTHORIZED AGENT.

14 2. THE PROPERTY INCLUDES A RESIDENTIAL DWELLING OR IS BEING USED
15 FOR RESIDENTIAL PURPOSES.

16 3. AN UNAUTHORIZED PERSON IS UNLAWFULLY OCCUPYING THE PROPERTY.

17 4. THE PROPERTY OWNER HAS DIRECTED THE UNAUTHORIZED PERSON TO
18 LEAVE.

19 5. THE PROPERTY WAS NOT OPEN TO THE PUBLIC AT THE TIME THE
20 UNAUTHORIZED PERSON ENTERED THE PROPERTY.

21 6. THE UNAUTHORIZED PERSON IS NOT A CURRENT OR FORMER TENANT AT
22 THAT PROPERTY.

23 7. THE UNAUTHORIZED PERSON DID NOT HAVE A PRIOR VERBAL OR WRITTEN
24 AGREEMENT TO COHABITATE WITH THE PROPERTY OWNER IN THAT RESIDENTIAL
25 DWELLING.

26 8. THE UNAUTHORIZED PERSON IS NOT AN IMMEDIATE FAMILY MEMBER OF THE
27 PROPERTY OWNER.

28 9. THERE IS NO LITIGATION PENDING BETWEEN THE PROPERTY OWNER AND
29 THE UNAUTHORIZED PERSON.

30 B. THE PERSON ENTITLED TO POSSESSION OF THE RESIDENTIAL REAL
31 PROPERTY SHALL SUBMIT AN AFFIDAVIT OF COMPLAINT TO THE COUNTY SHERIFF OR
32 CITY OR TOWN CHIEF OF POLICE, AS APPLICABLE, TO REQUEST THE IMMEDIATE
33 REMOVAL OF THE UNAUTHORIZED PERSON. THE AFFIDAVIT OF COMPLAINT SHALL BE
34 THE SWORN STATEMENT OF THE PROPERTY OWNER OR THE OWNER'S AUTHORIZED AGENT
35 REGARDING ALL OF THE FACTORS PRESCRIBED BY SUBSECTION A OF THIS SECTION.

36 C. ON RECEIPT OF THE AFFIDAVIT OF COMPLAINT, THE LAW ENFORCEMENT
37 AGENCY THAT RECEIVES THE COMPLAINT SHALL CONDUCT A PRELIMINARY
38 FACT-FINDING, WHICH MAY INCLUDE REVIEWING ANY ALLEGED LEASE AGREEMENT,
39 INTERVIEWING THE NEIGHBORS OF THE PROPERTY IN QUESTION AND OTHER RELEVANT
40 INQUIRIES TO DETERMINE THE VALIDITY OF THE COMPLAINT. IF THE LAW
41 ENFORCEMENT AGENCY FINDS PROBABLE CAUSE THAT THE CONDITIONS PRESCRIBED IN
42 SUBSECTION A OF THIS SECTION ARE MET, THE LAW ENFORCEMENT AGENCY SHALL
43 SERVE ON THE UNLAWFUL OCCUPANT A NOTICE TO IMMEDIATELY VACATE THE PROPERTY
44 AND PUT THE PROPERTY OWNER INTO POSSESSION OF THE REAL PROPERTY.

D. THE LAW ENFORCEMENT AGENCY MAY CHARGE A FEE FOR THE SERVICES PRESCRIBED BY THIS SECTION. THE PROPERTY OWNER MAY REQUEST THE LAW ENFORCEMENT AGENCY TO STAND BY WHILE CHANGING THE LOCKS AND REMOVING THE UNLAWFUL OCCUPANT'S PERSONAL PROPERTY.

E. THE OWNER OF THE PROPERTY OR THE PROPERTY OWNER'S AUTHORIZED AGENT MAY PRESUME THAT THE UNLAWFUL OCCUPANT HAS ABANDONED ANY PERSONAL BELONGINGS THAT REMAIN AT THE RESIDENTIAL DWELLING AFTER THE UNLAWFUL OCCUPANT SURRENDERS OCCUPANCY OF THE RESIDENTIAL DWELLING OR IS REMOVED FROM THE RESIDENTIAL DWELLING.

F. A PERSON WHO IS WRONGFULLY REMOVED FROM A PREMISES PURSUANT TO THIS SECTION MAY FILE AN ACTION AGAINST THE PERSON WHO CLAIMS THE RIGHT TO POSSESSION OF THE REAL PROPERTY AND MAY BE RESTORED TO POSSESSION OF THE REAL PROPERTY AND RECOVER ACTUAL COSTS AND DAMAGES INCURRED, STATUTORY DAMAGES EQUAL TO THREE TIMES THE FAIR MARKET RENT OF THE RESIDENTIAL DWELLING, COURT COSTS AND REASONABLE ATTORNEY FEES. THE COURT SHALL ADVANCE THE CAUSE ON THE CALENDAR. A PERSON WHO IS WRONGFULLY REMOVED PURSUANT TO THIS SECTION DOES NOT HAVE A CAUSE OF ACTION AGAINST THE LAW ENFORCEMENT OFFICER OR THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE LAW ENFORCEMENT OFFICER ABSENT A SHOWING OF BAD FAITH BY THE LAW ENFORCEMENT OFFICER.

G. THIS SECTION DOES NOT:

1. PRECLUDE OR OTHERWISE LIMIT OTHER PROPERTY OWNER RIGHTS OR LAW ENFORCEMENT ACTIONS.

2. PRECLUDE A SUBSEQUENT CIVIL ACTION FOR WRONGFUL REMOVAL, WHICH MAY INCLUDE REMEDIES THAT RESTORE POSSESSION AND PAY ACTUAL COSTS, DAMAGES AND ATTORNEY FEES.

H. A PERSON WHO UNLAWFULLY OCCUPIES A RESIDENTIAL DWELLING AS PRESCRIBED BY THIS SECTION, INTENTIONALLY DAMAGES THE DWELLING AND:

1. CAUSES LESS THAN \$1,000 IN DAMAGE IS GUILTY OF A CLASS 1 MISDEMEANOR.

2. CAUSES \$1,000 OR MORE IN DAMAGE IS GUILTY OF A CLASS 6 FELONY.

I. A PERSON WHO KNOWINGLY LISTS OR ADVERTISES FOR SALE OR FOR RENT A RESIDENTIAL REAL PROPERTY WITHOUT LEGAL TITLE OR OTHER AUTHORITY TO DO SO IS GUILTY OF A CLASS 6 FELONY.

Sec. 3. Legislative intent

The right to exclude others from entering and the right to direct others to immediately vacate residential real property are the most important real property rights. Existing laws in this state fail to adequately protect the rights of property owners amidst the rampant increase of unauthorized persons occupying residential real property and fail to adequately discourage theft and vandalism. The legislature intends to quickly restore possession of residential real property to the lawful owner of the property when the property is being unlawfully occupied and to thereby preserve property rights while limiting the opportunity for criminal activity.