



ARIZONA STATE SENATE
Fifty-Sixth Legislature, Second Regular Session

FACT SHEET FOR S.B. 1129

transient occupants; property; removal

Purpose

Stipulates that a transient occupant of a residential dwelling is an unlawful occupant of the property after receiving a written direction to leave the premises from the person who is entitled to possession of the property. Subjects a transient occupant to removal from the property by a law enforcement officer or by an order of a court in a forcible detainer action for a violation and deems that a person who fails or refuses to surrender possession of the property as directed by a law enforcement officer is committing *trespass*.

Background

A person commits *criminal trespass in the third degree* by knowingly entering or remaining unlawfully on any real property after a reasonable request to leave by a law enforcement officer, the owner, any other person having lawful control over such property or a reasonable notice prohibiting entry. *Criminal trespass in the third degree* is classified as a class 3 misdemeanor and carries a maximum imprisonment sentence of 30 days and a maximum civil penalty of \$500 (A.R.S. §§ [13-707](#), [13-802](#) and [13-1502](#)).

Forcible detainer occurs if a tenant, at will or by sufferance, retains possession after the tenancy has been terminated or after the tenant receives written demand of possession by the landlord ([A.R.S. § 12-1173](#)). An aggrieved party may file a complaint of forcible entry or forcible detainer, in writing and under oath, with the clerk of the superior court or a Justice of the Peace, and the summons must issue no later than the next judicial day. The complaint must contain a description of the premises of which possession is claimed in sufficient detail to identify them and must also state the facts that entitle the plaintiff to possession and authorize the action ([A.R.S. § 12-1175](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Stipulates that a transient occupant of a residential dwelling is an unlawful occupant of the property after receiving a written direction to leave the premises from the person who is entitled to possession of the property.
2. Subjects a transient occupant to removal from the property by a law enforcement officer or by an order of a court in a forcible detainer action for a violation.
3. Deems that a person who fails or refuses to surrender possession of the property as directed by a law enforcement officer is committing *trespass*.

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4. Allows a person who is entitled to possession of the property that is occupied by a transient occupant to submit a sworn affidavit to a law enforcement officer that states the following:
 - a) the transient occupant has been directed to leave the premises by a written demand provided to the transient occupant on a specified date;
 - b) the transient occupant unlawfully continues to occupy the premises; and
 - c) the transient occupant:
 - i. does not pay rent for the premises;
 - ii. does not have any prior right to occupy the property; and
 - iii. did not have any prior right to occupy the property.
5. Allows a law enforcement officer, on receipt of the sworn affidavit that states the outlined factors, to direct the transient occupant to surrender possession of the residential property.
6. Allows a person who is wrongfully removed from a premises to file an action and recover damages for forcible entry and detainer against the person who claims the right to possession of the property.
7. Defines *transient occupant* as a person who occupies a residential property and who meets all of the following requirements:
 - a) does not pay rent for the premises;
 - b) does not have an ownership interest, financial interest or lease interest in the property; and
 - c) did not have any prior right to occupy the property.
8. Exempts a tenant under the Arizona Residential Landlord and Tenant Act from the definition of *transient occupant*.
9. Becomes effective on the general effective date.

Prepared by Senate Research

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ZD/SB/cs