

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HOUSE BILL 2558

AN ACT

AMENDING SECTIONS 33-1314, 33-1321, 33-1368 AND 33-1431, ARIZONA REVISED STATUTES; RELATING TO LANDLORD AND TENANT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 33-1314, Arizona Revised Statutes, is amended to
3 read:
4 33-1314. Terms and conditions of rental agreement
5 A. The landlord and tenant may include in a rental agreement terms and
6 conditions not prohibited by this chapter or any other rule of law including
7 rent, term of the agreement and other provisions governing the rights and
8 obligations of the parties.
9 B. In the absence of a rental agreement, the tenant shall pay as rent
10 the fair rental value for the use and occupancy of the dwelling unit.
11 C. Rent shall be payable without demand or notice at the time and
12 place agreed ~~upon~~ ON by the parties. Unless otherwise agreed, rent is
13 payable at the dwelling unit and periodic rent is payable at the beginning of
14 any term of one month or less and otherwise in equal monthly installments at
15 the beginning of each month. Unless otherwise agreed, rent shall be
16 uniformly apportionable from day-to-day.
17 D. Unless the rental agreement fixes a definite term, the tenancy
18 shall be week-to-week in case of a roomer who pays weekly rent, and in all
19 other cases month-to-month.
20 E. If a municipality that levies a transaction privilege tax on
21 residential rent changes the percentage of that tax, the landlord on ~~thirty~~
22 FIFTEEN days' written notice to the tenant may adjust the amount of rent due
23 to equal the difference caused by the new percentage amount of the tax. The
24 adjustment to rent shall not occur before the date ~~upon~~ ON which the new tax
25 is effective. In order for a landlord to adjust rent pursuant to this
26 subsection, the landlord's right to adjust rent pursuant to this subsection
27 shall be disclosed in the rental agreement.
28 F. Notwithstanding section 14-3911, the landlord may request and the
29 tenant may provide and routinely update the name and contact information of a
30 person who is authorized by the tenant to enter the tenant's dwelling unit to
31 retrieve and store the tenant's property if the tenant dies. If the landlord
32 is unable to contact the authorized person at the address and telephone
33 number provided to the landlord by the tenant or the authorized person fails
34 to respond to the landlord's request within ten days of initial written
35 contact, the landlord may dispose of the property as prescribed in section
36 33-1370. Before removing any of the tenant's personal property, the
37 authorized person shall present to the landlord a valid government issued
38 identification that confirms the identity of the authorized person. The
39 authorized person shall have twenty days from the date of initial written
40 contact by the landlord or the last date for which rent is paid, whichever is
41 longer, to remove items from the rental property and return keys to the
42 landlord during regular business hours. If the landlord allows an authorized
43 person to enter the property to remove the tenant's personal possessions as
44 prescribed by this subsection, the landlord has no further liability to the
45 tenant, the tenant's estate or the tenant's heirs for lost, damaged or stolen

1 items. If the tenant's personal property is not entirely removed from the
2 rental unit by an authorized person, the landlord may dispose of the property
3 as prescribed in section 33-1370. This subsection ~~shall~~ only ~~apply~~ APPLIES
4 if the periodic rent is unpaid and outstanding for at least five days.

5 Sec. 2. Section 33-1321, Arizona Revised Statutes, is amended to read:
6 33-1321. Security deposits

7 A. A landlord shall not demand or receive security, however
8 denominated, including, but not limited to, prepaid rent in an amount or
9 value in excess of one and one-half month's rent, EXCEPT THAT IN A
10 JURISDICTION THAT REQUIRES THE PROPERTY OWNER TO PAY A DEPOSIT TO THAT
11 JURISDICTION'S UTILITY PROVIDER, THE LANDLORD MAY REQUIRE SECURITY IN THE
12 AMOUNT OF ONE AND ONE-HALF MONTH'S RENT PLUS THE FULL AMOUNT OF THE TENANT'S
13 SHARE OF THE UTILITY DEPOSIT REQUIRED BY THE UTILITY PROVIDER, OR TWO MONTHS'
14 RENT, WHICHEVER AMOUNT IS GREATER. This subsection does not prohibit a
15 tenant from voluntarily paying more than one and one-half month's rent in
16 advance.

17 B. The purpose of all nonrefundable fees or deposits shall be stated
18 in writing by the landlord. Any fee or deposit not designated as
19 nonrefundable shall be refundable.

20 C. With respect to tenants who first occupy the premises or enter into
21 a new written rental agreement after January 1, 1996, ~~upon~~ ON move in a
22 landlord shall furnish the tenant with a signed copy of the lease, a move-in
23 form for specifying any existing damages to the dwelling unit and written
24 notification to the tenant that the tenant may be present at the move-out
25 inspection. ~~Upon~~ ON request by the tenant, the landlord shall notify the
26 tenant when the landlord's move-out inspection will occur. If the tenant is
27 being evicted for a material and irreparable breach and the landlord has
28 reasonable cause to fear violence or intimidation on the part of the tenant,
29 the landlord has no obligation to conduct a joint move-out inspection with
30 the tenant.

31 D. ~~Upon~~ ON termination of the tenancy, property or money held by the
32 landlord as prepaid rent and security may be applied to the payment of all
33 rent, and subject to a landlord's duty to mitigate, all charges as specified
34 in the signed lease agreement, INCLUDING ANY UNPAID UTILITIES, or as provided
35 in this chapter, including the amount of damages ~~which~~ THAT the landlord has
36 suffered by reason of the tenant's noncompliance with section 33-1341.
37 Within fourteen days, excluding Saturdays, Sundays or other legal holidays,
38 after termination of the tenancy and delivery of possession and demand by the
39 tenant the landlord shall provide the tenant an itemized list of all
40 deductions together with the amount due and payable to the tenant, if any,
41 UNLESS UTILITY BILLS OWED BY THE TENANT REMAIN UNPAID, IN WHICH CASE, THE
42 LANDLORD SHALL STATE THE AMOUNT AS UNPAID OR UNDETERMINED, OR BOTH. WITHIN
43 THIRTY DAYS AFTER DELIVERY OF THE ITEMIZED LIST, THE LANDLORD SHALL PROVIDE
44 THE TENANT WITH A REVISED LIST TO REFLECT ANY FINAL DEDUCTIONS FOR UTILITIES
45 AND SHALL PAY ANY AMOUNT DUE AND PAYABLE TO THE TENANT. Unless other

1 arrangements are made in writing by the tenant, the landlord shall mail the
2 itemized list and any amount due, by first class mail, to the tenant's last
3 known place of residence.

4 E. If the landlord fails to comply with subsection D of this section
5 the tenant may recover the property and money due the tenant together with
6 damages in an amount equal to twice the amount wrongfully withheld.

7 F. This section does not preclude the landlord or tenant from
8 recovering other damages to which the landlord or tenant may be entitled
9 under this chapter.

10 G. During the term of tenancy the landlord may use refundable security
11 deposits or other refundable deposits in accordance with any applicable
12 provisions of the property management agreement. At the end of tenancy, all
13 refundable deposits shall be refunded to the tenant pursuant to this section.

14 H. The holder of the landlord's interest in the premises at the time
15 of the termination of the tenancy is bound by this section.

16 Sec. 3. Section 33-1368, Arizona Revised Statutes, is amended to read:
17 33-1368. Noncompliance with rental agreement by tenant; failure
18 to pay rent; utility discontinuation; liability for
19 quests; definition

20 A. Except as provided in this chapter, if there is a material
21 noncompliance by the tenant with the rental agreement, including material
22 falsification of the information provided on the rental application, the
23 landlord may deliver a written notice to the tenant specifying the acts and
24 omissions constituting the breach and that the rental agreement will
25 terminate ~~upon~~ ON a date not less than ten days after receipt of the notice
26 if the breach is not remedied in ten days. For the purposes of this section,
27 material falsification shall include the following untrue or misleading
28 information about the:

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

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

35 If there is a noncompliance by the tenant with section 33-1341 materially
36 affecting health and safety, the landlord may deliver a written notice to the
37 tenant specifying the acts and omissions constituting the breach and that the
38 rental agreement will terminate ~~upon~~ ON a date not less than five days after
39 receipt of the notice if the breach is not remedied in five days. However,
40 if the breach is remediable by repair or the payment of damages or otherwise,
41 and the tenant adequately remedies the breach before the date specified in
42 the notice, the rental agreement will not terminate. If there is an
43 additional act of these types of noncompliance of the same or a similar
44 nature during the term of the lease after the previous remedy of
45 noncompliance, the landlord may institute a special detainer action pursuant

1 to section 33-1377 ten days after delivery of a written notice advising the
2 tenant that a second noncompliance of the same or a similar nature has
3 occurred. If there is a breach that is both material and irreparable and
4 that occurs on the premises, including but not limited to an illegal
5 discharge of a weapon, homicide as ~~defined~~ PRESCRIBED in sections 13-1102
6 through 13-1105, prostitution as ~~defined~~ PRESCRIBED in section 13-3211,
7 criminal street gang activity as prescribed in section 13-105, activity as
8 prohibited in section 13-2308, the unlawful manufacturing, selling,
9 transferring, possessing, using or storing of a controlled substance as
10 ~~defined~~ PRESCRIBED in section 13-3451, threatening or intimidating as
11 prohibited in section 13-1202, assault as prohibited in section 13-1203, acts
12 that have been found to constitute a nuisance pursuant to section 12-991 or a
13 breach of the lease agreement that otherwise jeopardizes the health, safety
14 and welfare of the landlord, the landlord's agent or another tenant or
15 involving imminent or actual serious property damage, the landlord may
16 deliver a written notice for immediate termination of the rental agreement
17 and shall proceed under section 33-1377.

18 B. A tenant may not withhold rent, INCLUDING UTILITIES AS AGREED TO IN
19 ANY WRITTEN RENTAL AGREEMENT, for any reason not authorized by this chapter.
20 If rent, INCLUDING UTILITIES AS AGREED TO IN ANY WRITTEN RENTAL AGREEMENT, is
21 unpaid when due and the tenant fails to pay ~~rent~~ within five days after
22 written notice by the landlord of nonpayment and the landlord's intention to
23 terminate the rental agreement if the rent, INCLUDING UTILITIES AS AGREED TO
24 IN ANY WRITTEN RENTAL AGREEMENT, is not paid within that period of time, the
25 landlord may terminate the rental agreement by filing a special detainer
26 action pursuant to section 33-1377. Before the filing of a special detainer
27 action, the rental agreement shall be reinstated if the tenant tenders all
28 past due and unpaid periodic rent, INCLUDING ANY UTILITIES AS PROVIDED IN THE
29 RENTAL AGREEMENT, and a reasonable late fee set forth in a written rental
30 agreement. After a special detainer action is filed, the rental agreement is
31 reinstated only if the tenant pays all past due rent, INCLUDING UTILITIES AS
32 AGREED TO IN ANY WRITTEN RENTAL AGREEMENT, reasonable late fees set forth in
33 a written rental agreement, attorney fees and court costs. After a judgment
34 has been entered in a special detainer action in favor of the landlord, any
35 reinstatement of the rental agreement is solely in the discretion of the
36 landlord.

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

41 D. The landlord may discontinue utility services provided by the
42 landlord on the day following the day that a writ of restitution or execution
43 is executed pursuant to section 12-1181. Disconnections shall be performed
44 only by a person authorized by the utility whose service is being
45 discontinued. Nothing in this section shall supersede standard tariff and

1 operational procedures that apply to any public service corporation,
2 municipal corporation or special districts providing utility services in this
3 state.

4 E. The landlord shall hold the tenant's personal property for a period
5 of twenty-one days beginning on the first day after a writ of restitution or
6 writ of execution is executed as prescribed in section 12-1181. The landlord
7 shall use reasonable care in moving and holding the tenant's property and may
8 store the tenant's property in an unoccupied dwelling unit owned by the
9 landlord, the unoccupied dwelling unit formerly occupied by the tenant or off
10 the premises if an unoccupied dwelling unit is not available. If the
11 tenant's former dwelling unit is used to store the property, the landlord may
12 change the locks on that unit at the landlord's discretion. The landlord
13 shall prepare an inventory and promptly notify the tenant of the location and
14 cost of storage of the personal property by sending a notice by certified
15 mail, return receipt requested, addressed to the tenant's last known address
16 and to any of the tenant's alternative addresses known to the landlord. To
17 reclaim the personal property, the tenant shall pay the landlord only for the
18 cost of removal and storage for the time the property is held by the
19 landlord. Within five days after a written offer by the tenant to pay these
20 charges, the landlord must surrender possession of the personal property in
21 the landlord's possession to the tenant ~~upon~~ ON the tenant's tender of
22 payment. If the landlord fails to surrender possession of the personal
23 property to the tenant, the tenant may recover the possessions or an amount
24 equal to the damages determined by the court if the landlord has destroyed or
25 disposed of the possessions before the twenty-one days specified in this
26 section or after the tenant's offer to pay. The tenant shall pay all removal
27 and storage costs accrued through the fifth day after the tenant's offer to
28 pay is received by the landlord or the date of delivery or surrender of the
29 property, whichever is sooner. Payment by the tenant relieves the landlord
30 of any further responsibility for the tenant's possessions.

31 F. A tenant does not have any right of access to that property until
32 all payments specified in subsection E of this section have been made in
33 full, except that the tenant may obtain clothing and the tools, apparatus and
34 books of a trade or profession and identification or financial documents
35 including all those related to the tenant's immigration status, employment
36 status, public assistance or medical care. If the landlord holds the
37 property for the twenty-one day period and the tenant does not make a
38 reasonable effort to recover it, the landlord, ~~upon~~ ON the expiration of
39 twenty-one days as provided in this subsection, may administer the personal
40 property as provided in section 33-1370, subsection E. The landlord shall
41 hold personal property after a writ of restitution or writ of execution is
42 executed for not more than twenty-one days after such an execution. Nothing
43 in this subsection shall preclude the landlord and tenant from making an
44 agreement providing that the landlord will hold the personal property for a
45 period longer than twenty-one days.

1 G. For the purposes of this chapter, the tenant shall be held
2 responsible for the actions of the tenant's guests that violate the lease
3 agreement or rules or regulations of the landlord if the tenant could
4 reasonably be expected to be aware that such actions might occur and did not
5 attempt to prevent those actions to the best of the tenant's ability.

6 H. For THE purposes of this section, "days" means calendar days.

7 Sec. 4. Section 33-1431, Arizona Revised Statutes, is amended to read:
8 33-1431. Security deposits

9 A. A landlord shall not demand or receive as security, however
10 denominated, prepaid rent in an amount or value in excess of two months'
11 rent, EXCEPT THAT IN A JURISDICTION THAT REQUIRES THE PROPERTY OWNER TO PAY A
12 DEPOSIT TO THAT JURISDICTION'S UTILITY PROVIDER, THE LANDLORD MAY REQUIRE
13 SECURITY IN THE AMOUNT OF TWO MONTHS' RENT PLUS THE FULL AMOUNT OF THE
14 TENANT'S SHARE OF THE UTILITY DEPOSIT REQUIRED BY THE UTILITY PROVIDER, OR
15 TWO AND ONE-HALF MONTHS' RENT, WHICHEVER AMOUNT IS GREATER. This subsection
16 does not prohibit a tenant from voluntarily paying more than two months' rent
17 in advance.

18 B. The landlord shall pay not less than five per cent annual interest
19 on any damage, security, cleaning or landscaping deposit required by a
20 landlord of a tenant EXCEPT SECURITY REQUIRED BY A LANDLORD FOR A UTILITY
21 DEPOSIT. The landlord shall either pay the interest annually or compound the
22 interest annually.

23 C. ~~Upon~~ ON termination of the tenancy, any security deposit, less any
24 accrued rent and damages, if applicable, shall be returned to the tenant
25 within fourteen days. The security deposit may be applied to the payment of
26 accrued rent, UNPAID UTILITIES and the amount of damages which the landlord
27 has suffered by reason of the tenant's noncompliance with section 33-1451 if
28 it is itemized by the landlord in a written notice delivered to the tenant
29 together with the amount due within fourteen days of termination of the
30 tenancy and delivery of possession by the tenant UNLESS UTILITY BILLS OWED BY
31 THE TENANT REMAIN UNPAID, IN WHICH CASE, THE LANDLORD SHALL STATE THE AMOUNT
32 AS UNPAID OR UNDETERMINED, OR BOTH. WITHIN THIRTY DAYS AFTER DELIVERY OF THE
33 ITEMIZED LIST, THE LANDLORD SHALL PROVIDE THE TENANT WITH A REVISED LIST TO
34 REFLECT ANY FINAL DEDUCTIONS FOR UTILITIES AND SHALL PAY ANY AMOUNT DUE AND
35 PAYABLE TO THE TENANT.

36 D. If the landlord fails to comply with subsections B and C of this
37 section the tenant may recover the property and money due the tenant together
38 with damages in an amount equal to twice the amount wrongfully withheld.

39 E. This section does not preclude the landlord or tenant from
40 recovering other damages to which he may be entitled under this chapter.

41 F. The holder of the landlord's interest in the premises at the time
42 of the termination of the tenancy is bound by this section.

43 G. The amount of any security deposit shall not be changed after the
44 tenant executes the initial rental agreement.