

REFERENCE TITLE: landlord tenant; security deposits

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

HB 2651

Introduced by
Representative Toma (with permission of Committee on Rules)

AN ACT

AMENDING SECTION 33-1318 AND 33-1321, 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 33-1318, Arizona Revised Statutes, is amended to
3 read:

4 33-1318. Early termination by tenant; domestic violence;
5 sexual assault; requirements; lock replacement;
6 access refusal; treble damages; immunity

7 A. A tenant may terminate a rental agreement pursuant to this
8 section if the tenant provides to the landlord written notice pursuant to
9 this section that the tenant is the victim of domestic violence as defined
10 in section 13-3601 **OR WAS THE VICTIM, IN THE TENANT'S DWELLING, OF SEXUAL**
11 **ASSAULT PURSUANT TO SECTION 13-1406.** The tenant's rights and obligations
12 under the rental agreement are terminated and the tenant shall vacate the
13 dwelling and avoid liability for future rent and shall not incur early
14 termination penalties or fees if the tenant provides to the landlord a
15 written notice requesting release from the rental agreement with a
16 mutually agreed on release date within the next thirty days, accompanied
17 by any one of the following:

18 1. A copy of any protective order issued pursuant to section
19 13-3602 to a tenant who is a victim of domestic violence **OR SEXUAL**
20 **ASSAULT.** A landlord may also request a receipt or signed statement that
21 the order of protection has been submitted to an authorized officer of a
22 court for service.

23 2. A copy of a written departmental report from a law enforcement
24 agency that states that the tenant notified the law enforcement agency
25 that the tenant was a victim of domestic violence **OR SEXUAL ASSAULT.**

26 B. A landlord may request from the victim the name and address of
27 the person named in an order of protection or a departmental report
28 pursuant to subsection A of this section, in writing, if known by the
29 victim.

30 C. The tenant may terminate the rental agreement pursuant to this
31 section only if the actions, events or circumstances that resulted in the
32 tenant being a victim of domestic violence as defined in section 13-3601
33 **OR SEXUAL ASSAULT PURSUANT TO SECTION 13-1406** occurred within the ~~thirty~~
34 ~~day~~ **THIRTY-DAY** period immediately preceding the written notice of
35 termination to the landlord, unless waived by the landlord.

36 D. If the tenant terminates the rental agreement as prescribed by
37 this section and if the tenant is solely or jointly liable on the rental
38 agreement, the tenant is liable only for rent owed or paid through the
39 date of the lease termination plus any previous obligations outstanding on
40 that date. The amount due from the tenant shall be paid to the landlord
41 on or before the date the tenant vacates the dwelling. If the tenant has
42 prepaid rent that would apply for the month in which the lease is
43 terminated, the landlord may retain the prepaid rent and no refund is due
44 to the tenant. If the tenant has paid a security deposit pursuant to
45 section 33-1321, the **LANDLORD SHALL NOT WITHHOLD THE** security deposit

1 ~~shall not be withheld~~ for the early termination of the lease if the tenant
2 meets the requirements prescribed by subsection A of this section, but may
3 ~~be withheld~~ WITHHOLD THE SECURITY DEPOSIT for payment of damages ~~which~~
4 THAT the landlord ~~has~~ suffered by reason of the tenant's noncompliance
5 with section 33-1341.

6 E. A tenant who is a victim of domestic violence OR SEXUAL ASSAULT
7 may require the landlord to install a new lock to the tenant's dwelling if
8 the tenant pays for the cost of installing the new lock. A landlord may
9 comply with this requirement by doing either of the following:

10 1. Rekeying the lock if the lock is in good working condition.

11 2. Replacing the entire locking mechanism with a locking mechanism
12 of equal or better quality than the lock being replaced.

13 F. A landlord who installs a new lock at the tenant's request may
14 retain a copy of the key that opens the new lock. Notwithstanding any
15 provision in the rental agreement, the landlord may refuse to provide a
16 key that opens the new lock to the person named in an order of protection
17 or a departmental report pursuant to subsection A of this section.

18 G. A landlord shall refuse to provide access to the dwelling to
19 reclaim property to any tenant if the tenant is the person named in an
20 order of protection or a departmental report pursuant to subsection A of
21 this section who has been served with an order of protection naming that
22 tenant as the defendant and the landlord has received a copy of the order
23 of protection, unless a law enforcement officer escorts the tenant into
24 and out of the dwelling.

25 H. A tenant who terminates a lease pursuant to this section and who
26 is convicted of falsely filing a departmental report or order ~~or~~ OF
27 protection for domestic violence OR SEXUAL ASSAULT is liable to the
28 landlord for treble damages for premature termination of the lease.

29 I. A person named in an order of protection or a departmental
30 report pursuant to subsection A of this section who provokes an early
31 lease termination under this section is deemed to have interfered with the
32 residential rental agreement between the landlord and tenant regardless of
33 whether the person named in an order of protection or a departmental
34 report pursuant to subsection A of this section is a party to the rental
35 agreement, and the person named in an order of protection or a
36 departmental report pursuant to subsection A of this section may be
37 civilly liable for all economic losses incurred by a landlord for the
38 domestic violence OR SEXUAL ASSAULT early lease termination. This civil
39 liability includes unpaid rent, early lease termination fees, costs to
40 repair damage to the premises and any reductions or waivers of rent
41 previously granted to the tenant who was the victim of domestic violence
42 OR SEXUAL ASSAULT.

43 J. If there are multiple tenants who are parties to a rental
44 agreement that has been terminated under this section, the tenancy for
45 those tenants also terminates. The tenants who are not the victims of

1 domestic violence OR SEXUAL ASSAULT, excluding the person named in an
2 order of protection or a departmental report pursuant to subsection A of
3 this section that caused the termination of the lease pursuant to this
4 section, may be released from any financial obligations due under the
5 previously existing rental agreement and the remaining tenants may be
6 ~~permitted~~ ALLOWED to enter into a new lease with the landlord if the
7 tenants meet all current application requirements.

8 K. An emergency order of protection or a protective order that is
9 issued to a resident of a rental property automatically applies to the
10 entire residential rental property in which the tenant has a rental
11 agreement.

12 L. This section ~~shall not be construed to~~ DOES NOT limit a
13 landlord's right to terminate a lease pursuant to section 33-1368 against
14 the victim for actions unrelated to the act of domestic violence OR SEXUAL
15 ASSAULT.

16 M. A landlord is not liable for any actions taken in good faith
17 pursuant to this section.

18 Sec. 2. Section 33-1321, Arizona Revised Statutes, is amended to
19 read:

20 33-1321. Security deposits

21 A. A landlord shall not demand or receive security, however
22 denominated, including, ~~but not limited to,~~ prepaid rent in an amount or
23 value ~~in excess~~ of MORE THAN one and one-half month's rent. This
24 subsection does not prohibit a tenant from voluntarily paying more than
25 one and one-half month's rent in advance.

26 B. The purpose of all nonrefundable fees or deposits shall be
27 stated in writing by the landlord. Any fee or deposit not designated as
28 nonrefundable ~~shall be~~ IS refundable.

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

40 D. ~~Upon~~ ON termination of the tenancy, property or money held by
41 the landlord as prepaid rent and security may be applied to the payment of
42 all rent, and subject to a landlord's duty to mitigate, all charges as
43 specified in the signed lease agreement, or as provided in this chapter,
44 including the amount of damages which the landlord has suffered by reason
45 of the tenant's noncompliance with section 33-1341. Within fourteen days,

1 excluding Saturdays, Sundays or other legal holidays, after termination of
2 the tenancy and delivery of possession and demand by the tenant the
3 landlord shall provide the tenant an itemized list of all deductions
4 together with the amount due and payable to the tenant, if any. Unless
5 other arrangements are made in writing by the tenant, the landlord shall
6 mail the itemized list and any amount due, by first class mail, to the
7 tenant's last known place of residence. IF THE TENANT DOES NOT DISPUTE
8 THE DEDUCTIONS OR THE AMOUNT DUE AND PAYABLE TO THE TENANT WITHIN SIXTY
9 DAYS AFTER THE ITEMIZED LIST AND AMOUNT DUE ARE MAILED AS PRESCRIBED BY
10 THIS SUBSECTION, THE AMOUNT DUE TO THE TENANT AS SET FORTH IN THE ITEMIZED
11 LIST WITH ANY AMOUNT DUE IS DEEMED VALID AND FINAL AND ANY FURTHER CLAIMS
12 OF THE TENANT ARE WAIVED.

13 E. If the landlord fails to comply with subsection D of this
14 section, the tenant may recover the property and money due the tenant
15 together with damages in an amount equal to twice the amount wrongfully
16 withheld.

17 F. This section does not preclude the landlord or tenant from
18 recovering other damages to which the landlord or tenant may be entitled
19 under this chapter.

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

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