

REFERENCE TITLE: landlord; tenant; fee disclosure; waiver

State of Arizona
House of Representatives
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2022

HB 2794

Introduced by
Representatives Powers Hannley: Abraham, Andrade, Butler, Cano, DeGrazia,
Epstein, Fernandez B, Hernandez M, Liguori, Mathis, Pawlik, Quiñonez,
Schwiebert, Solorio

AN ACT

AMENDING SECTION 33-1322, ARIZONA REVISED STATUTES; AMENDING TITLE 33,
CHAPTER 10, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION
33-1322.01; AMENDING SECTIONS 33-1368 AND 33-1371, 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 33-1322, Arizona Revised Statutes, is amended to
3 read:

4 33-1322. Disclosure and tender of written rental agreement;
5 fees

6 A. The landlord or any person authorized to enter into a rental
7 agreement on ~~his~~ THE LANDLORD'S behalf shall disclose to the tenant in
8 writing at or before the commencement of the tenancy the name and address
9 of each of the following:

10 1. The person authorized to manage the premises.

11 2. An owner of the premises or a person authorized to act for and
12 on behalf of the owner for the purpose of service of process and for the
13 purpose of receiving and receipting for notices and demands.

14 B. At or before the commencement of the tenancy, the landlord shall
15 inform the tenant in writing that the Arizona residential landlord and
16 tenant act is available on the Arizona department of housing's website.

17 C. The information required to be furnished by this section shall
18 be kept current and refurnished to a tenant ~~upon~~ ON the tenant's
19 request. This section extends to and is enforceable against any successor
20 landlord, owner or manager.

21 D. A person who fails to comply with subsections A, B and C OF THIS
22 SECTION becomes an agent of each person who is a landlord for the
23 following purposes:

24 1. Service of process and receiving and receipting for notices and
25 demands.

26 2. Performing the obligations of the landlord under this chapter
27 and under the rental agreement and expending or making available for the
28 purpose all rent collected from the premises.

29 E. AT OR BEFORE THE COMMENCEMENT OF THE TENANCY, THE LANDLORD SHALL
30 DISCLOSE TO THE TENANT:

31 1. THE EXACT AMOUNT OF THE RENT AND THE DUE DATE FOR THE RENT.

32 2. ANY ADDITIONAL FEES OR COSTS THAT MAY BE CHARGEABLE TO THE
33 TENANT AND THAT ARE NOT INCLUDED IN THE PERIODIC RENTAL RATE, INCLUDING
34 CHARGES FOR TRASH VALET OR FOR UPGRADES TO THE RENTAL PREMISES NECESSARY
35 TO USE SMART DEVICES, SERVICE FEES TO SUBMIT PAYMENTS ONLINE AND ANY OTHER
36 ADDITIONAL FEES OR COSTS, INCLUDING TAXES. THE LANDLORD SHALL INCLUDE THE
37 SAME DISCLOSURES IN ANY ADVERTISEMENT OR OTHER PROMOTIONAL MATERIAL THAT
38 STATES THE PERIODIC RENTAL RATE AND SHALL INCLUDE THOSE DISCLOSURES IN ANY
39 WEB-BASED PROMOTIONAL MATERIALS, INCLUDING THE WEBSITE FOR THE RENTAL
40 PREMISES.

41 3. WHETHER THE LANDLORD OR ANY OF ITS VENDORS COLLECT OR SELL THE
42 TENANT'S PERSONAL DATA AS A RESULT OF USING FACILITIES OR SERVICES ON THE
43 RENTAL PREMISES.

44 ~~E.~~ F. If there is a written rental agreement, the landlord must
45 tender and deliver a signed copy of the rental agreement to the tenant and

1 the tenant must sign and deliver to the landlord one fully executed copy
2 of such rental agreement within a reasonable time after the agreement is
3 executed. A written rental agreement shall have all blank spaces
4 completed. Noncompliance with this subsection shall be deemed a material
5 noncompliance by the landlord or the tenant, as the case may be, of the
6 rental agreement.

7 Sec. 2. Title 33, chapter 10, article 2, Arizona Revised Statutes,
8 is amended by adding section 33-1322.01, to read:

9 33-1322.01. Rental agreement provisions; additional services;
10 payment

11 A. A LANDLORD OR ANY PERSON AUTHORIZED TO ENTER INTO A RENTAL
12 AGREEMENT ON THE LANDLORD'S BEHALF SHALL:

13 1. ALLOW A TENANT TO CHOOSE NOT TO RECEIVE AND PAY FOR ANY
14 NONESSENTIAL SERVICES, INCLUDING VALET SERVICES RELATED TO TRASH OR
15 RECYCLING, SMART HOME FEES OR FEES FOR SIMILAR DEVICES OR SERVICES.

16 2. ALLOW A TENANT TO PAY RENT AND ANY OTHER AMOUNTS DUE, INCLUDING
17 MOVE-IN COSTS, WITH ANY LEGAL TENDER, INCLUDING CASH IN UNITED STATES
18 DOLLARS, PERSONAL CHECKS, CASHIER'S CHECKS, DEBIT OR CREDIT CARDS, BANK OR
19 OTHER FINANCIAL INSTITUTION WEBSITES OR ANY ONLINE PAYMENT CENTER OR
20 SYSTEM THAT IS PROVIDED BY THE LANDLORD.

21 3. ASSESS ANY PROPERLY CHARGED ADDITIONAL FEES OR COSTS ONLY ON THE
22 SAME DATE THAT THE RENTAL PAYMENT IS DUE.

23 B. A LANDLORD OR ANY PERSON AUTHORIZED TO ENTER INTO A RENTAL
24 AGREEMENT ON THE LANDLORD'S BEHALF MAY NOT CHARGE ADDITIONAL FEES FOR
25 ACCEPTING AN ONLINE PAYMENT THROUGH THE LANDLORD'S WEBSITE OR OTHER SYSTEM
26 THAT IS PROVIDED BY THE LANDLORD.

27 Sec. 3. Section 33-1368, Arizona Revised Statutes, is amended to
28 read:

29 33-1368. Noncompliance with rental agreement by tenant;
30 failure to pay rent; utility discontinuation;
31 liability for quests; definition

32 A. Except as provided in this chapter, if there is a material
33 noncompliance by the tenant with the rental agreement, including material
34 falsification of the information provided on the rental application, the
35 landlord may deliver a written notice to the tenant specifying the acts
36 and omissions constituting the breach and that the rental agreement will
37 terminate on a date not less than ten days after receipt of the notice if
38 the breach is not remedied in ten days. For the purposes of this section,
39 material falsification includes the following untrue or misleading
40 information about the:

41 1. Number of occupants in the dwelling unit, pets, income of the
42 prospective tenant, social security number and current employment listed
43 on the application or lease agreement.

1 2. Tenant's criminal records, prior eviction record and current
2 criminal activity. Material falsification of information in this
3 paragraph is not curable under this section.
4 If there is a noncompliance by the tenant with section 33-1341 materially
5 affecting health and safety, the landlord may deliver a written notice to
6 the tenant specifying the acts and omissions constituting the breach and
7 that the rental agreement will terminate on a date not less than five days
8 after receipt of the notice if the breach is not remedied in five days.
9 ~~However,~~ If the breach is remediable by repair or the payment of damages
10 or otherwise, and the tenant adequately remedies the breach before the
11 date specified in the notice, the rental agreement will not terminate. If
12 there is an additional act of these types of noncompliance of the same or
13 a similar nature during the term of the lease after the previous remedy of
14 noncompliance, the landlord may institute a special detainer action
15 pursuant to section 33-1377 ten days after delivery of a written notice
16 advising the tenant that a second noncompliance of the same or a similar
17 nature has occurred. If there is a breach that is both material and
18 irreparable and that occurs on the premises, which may include an illegal
19 discharge of a weapon, homicide as prescribed in sections 13-1102,
20 13-1103, 13-1104 and 13-1105, prostitution as defined in section 13-3211,
21 criminal street gang activity as prescribed in section 13-105, activity as
22 prohibited in section 13-2308, the unlawful manufacturing, selling,
23 transferring, possessing, using or storing of a controlled substance as
24 defined in section 13-3451, threatening or intimidating as prohibited in
25 section 13-1202, assault as prohibited in section 13-1203, acts that have
26 been found to constitute a nuisance pursuant to section 12-991 or a breach
27 of the lease agreement that otherwise jeopardizes the health, safety and
28 welfare of the landlord, the landlord's agent or another tenant or
29 involving imminent or actual serious property damage, the landlord may
30 deliver a written notice for immediate termination of the rental agreement
31 and shall proceed under section 33-1377. The foregoing list of actions,
32 which may constitute a material and irreparable breach of a tenant's
33 lease, is not exhaustive.

34 B. A tenant may not withhold rent for any reason not authorized by
35 this chapter. **NOTWITHSTANDING ANY PROVISION IN THE RENTAL AGREEMENT, IF
36 RENT IS UNPAID WHEN DUE, THE LANDLORD MAY NOT CHARGE A LATE FEE IF THE
37 RENT IS PAID IN FULL WITHIN FIVE DAYS AFTER THE DUE DATE.** If rent is
38 unpaid when due and the tenant fails to pay rent within five days after
39 written notice by the landlord of nonpayment and the landlord's intention
40 to terminate the rental agreement if the rent is not paid within that
41 period of time, the landlord may terminate the rental agreement by filing
42 a special detainer action pursuant to section 33-1377. Before the filing
43 of a special detainer action, the rental agreement shall be reinstated if
44 the tenant tenders all past due and unpaid periodic rent and a reasonable
45 late fee set forth in a written rental agreement, **EXCEPT THAT,**

1 NOTWITHSTANDING ANY PROVISION IN A RENTAL AGREEMENT, THE LANDLORD MAY NOT
2 CHARGE A LATE FEE IF THE RENT IS PAID IN FULL WITHIN THE FIVE-DAY PERIOD
3 AFTER RECEIVING THE WRITTEN NOTICE OF NONPAYMENT FROM THE LANDLORD. ~~After~~
4 IF a special detainer action is filed, the rental agreement is reinstated
5 only if the tenant pays all past due rent, reasonable late fees set forth
6 in a written rental agreement, attorney fees and court costs. After a
7 judgment has been entered in a special detainer action in favor of the
8 landlord, any reinstatement of the rental agreement is solely in the
9 discretion of the landlord.

10 C. The landlord may recover all reasonable damages resulting from
11 noncompliance by the tenant with the rental agreement or section 33-1341
12 or occupancy of the dwelling unit, court costs, reasonable attorney fees
13 and all quantifiable damage caused by the tenant to the premises.

14 D. The landlord may discontinue utility services provided by the
15 landlord on the day following the day that a writ of restitution or
16 execution is executed pursuant to section 12-1181. Disconnections shall
17 be performed only by a person authorized by the utility whose service is
18 being discontinued. This section does not supersede standard tariff and
19 operational procedures that apply to any public service corporation,
20 municipal corporation or special districts providing utility services in
21 this state.

22 E. On the day following the day that a writ of restitution or
23 execution is executed pursuant to section 12-1181, the landlord shall
24 comply with section 33-1370, subsections D, E, F, G, H and I regarding the
25 tenant's personal property.

26 F. For the purposes of this chapter, the tenant shall be held
27 responsible for the actions of the tenant's guests that violate the lease
28 agreement or rules or regulations of the landlord if the tenant could
29 reasonably be expected to be aware that such actions might occur and did
30 not attempt to prevent those actions to the best of the tenant's ability.

31 G. For the purposes of this section, "days" means calendar days.

32 Sec. 4. Section 33-1371, Arizona Revised Statutes, is amended to
33 read:

34 33-1371. Acceptance of partial payments; waiver of right to
35 terminate; exception

36 A. A landlord is not required to accept a partial payment of rent
37 or other charges. A landlord accepting a partial payment of rent or other
38 charges ~~retains the right to~~ MAY NOT proceed against a tenant ~~only if the~~
39 ~~tenant agrees in a contemporaneous writing to the terms and conditions of~~
40 ~~the partial payment with regard to continuation of the tenancy. The~~
41 ~~written agreement shall contain a date on which the balance of the rent is~~
42 ~~due~~ FOR FAILURE TO PAY RENT AND WAIVES THE RIGHT TO TERMINATE THE RENTAL
43 AGREEMENT FOR FAILURE TO PAY RENT. The landlord may proceed as provided
44 in this article and in title 12, chapter 8 against a tenant ~~in breach of~~
45 ~~this agreement or any other breach of the original rental agreement. If~~

1 ONLY IF THE TENANT FAILS TO PAY THE NEXT REGULARLY SCHEDULED PERIODIC RENT
2 WHEN DUE AND ONLY AFTER the landlord has provided the tenant with a notice
3 of failure to pay rent as specified in section 33-1368, subsection B
4 ~~before the completion of the agreement for partial payment, no additional~~
5 ~~notice under section 33-1368, subsection B is required in case of a breach~~
6 ~~of the partial payment agreement.~~

7 B. For the purposes of this section, a landlord's acceptance of a
8 housing assistance payment ~~does not constitute~~ CONSTITUTES an acceptance
9 of a partial payment of rent ~~or~~ AND a waiver of a landlord's right to
10 terminate the rental agreement for ~~any breach by the tenant~~ FAILURE TO PAY
11 RENT.

12 C. Except as specified in ~~subsections~~ SUBSECTION A ~~and B~~ of this
13 section, acceptance of rent, or any portion of rent, with knowledge of a
14 default by the tenant or acceptance of performance by the tenant that
15 varied from the terms of the rental agreement or rules or regulations
16 subsequently adopted by the landlord constitutes a waiver of the right to
17 terminate the rental agreement for that breach.

18 Sec. 5. Short title

19 This act shall be known as the "Truth in Renting Act".