

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: Representative Argue**

# A Bill

**HOUSE BILL**

## **For An Act To Be Entitled**

8 "AN ACT TO AMEND ARKANSAS CODE § 18-60-307 RELATING TO  
9 ACTIONS FOR UNLAWFUL DETAINER TO PROVIDE FOR A EXPEDITED  
10 HEARING FOR LANDLORDS SEEKING WRITS OF POSSESSION; AND FOR  
11 OTHER PURPOSES."

12  
13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

14  
15 SECTION 1. Arkansas Code § 18-60-307 is hereby amended to read as  
16 follows:

17 "18-60-307. Proceedings in court.

18 (a) When any person to whom any cause of action shall accrue under this  
19 subchapter shall file in the office of the clerk of the circuit court of the  
20 county in which the offense shall be committed a complaint signed by him, his  
21 agent or attorney, specifying the lands, tenements, or other possessions so  
22 forcibly entered and detained, or so unlawfully detained over, and by whom and  
23 when done, and shall also file the affidavit of himself or some other credible  
24 person for him, stating that the plaintiff is lawfully entitled to the  
25 possession of the lands, tenements, or other possessions mentioned in the  
26 complaint and that the defendant forcibly entered upon and detained them or  
27 unlawfully detains them, after lawful demand therefor made in the manner  
28 described in this subchapter, the clerk of the court shall thereupon issue a  
29 summons upon the complaint. The summons shall be in customary form directed  
30 to the sheriff of the county in which the cause of action is filed, with  
31 direction for service thereof on the named defendants. In addition, he shall  
32 issue and direct the sheriff to serve upon the named defendants a notice in  
33 the following form:

34 'NOTICE OF INTENTION TO ISSUE WRIT OF POSSESSION

35 You are hereby notified that the attached complaint in the above styled

1 cause claims that you have been guilty of forcible entry and detainer unlawful  
2 detainer (the inapplicable phrase shall be deleted from the notice) and seeks  
3 to have a writ of possession directing the sheriff to deliver possession of  
4 the lands, tenements, or other possessions described in the complaint  
5 delivered to the plaintiff. If, within five (5) days, excluding Sundays and  
6 legal holidays, from the date of service of this notice, you have not filed in  
7 the office of the circuit clerk of this county a written objection to the  
8 claims made against you by the plaintiff for possession of the property  
9 described in the complaint, then a writ of possession shall forthwith issue  
10 from this office directed to the sheriff of this county and ordering him to  
11 remove you from possession of the property described in the complaint and to  
12 place the plaintiff in possession thereof. If you should file a written  
13 objection to the complaint of the plaintiff and the allegations for immediate  
14 possession of the property described in the complaint within five (5) days,  
15 excluding Sundays and legal holidays, from the date of service of this notice,  
16 a hearing will be scheduled by the circuit court of this county within twenty-  
17 one (21) days to determine whether or not the writ of possession should issue  
18 as sought by the plaintiff.

19 .....  
20 Circuit Clerk of  
21 .....County'

22 (b) If, within five (5) days, excluding Sundays and legal holidays,  
23 following service of this summons, complaint, and notice seeking a writ of  
24 possession against the defendants named therein, the defendant or defendants  
25 have not filed a written objection to the claim for possession made by the  
26 plaintiff in his complaint, the clerk of the circuit court shall immediately  
27 issue a writ of possession directed to the sheriff commanding him to cause the  
28 possession of the property described in the complaint to be delivered to the  
29 plaintiff without delay, which the sheriff shall thereupon execute in the  
30 manner described in 18-60-310.

31 (c) If a written objection to the claim of the plaintiff for a writ of  
32 possession shall be filed by the defendant or defendants within five (5) days  
33 from the date of service of the notice, summons, and complaint as provided for  
34 in this section, the plaintiff shall obtain a date for the hearing of the  
35 plaintiff's demand for possession of the property described in the complaint

1 which shall be no later than twenty-one (21) days from the demand for an  
2 immediate hearing. The plaintiff shall give notice of the date, time, and  
3 place of the hearing by certified mail, postage prepaid, either to the  
4 defendant or to his or their counsel of record.

5 (d) (1) If a hearing is required to be held on the demand of the  
6 plaintiff for an immediate writ of possession, the plaintiff shall there  
7 present evidence sufficient to make a prima facie case of entitlement to  
8 possession of the property described in the complaint. The defendant or  
9 defendants shall be entitled to present evidence in rebuttal thereof. If the  
10 court decides upon all the evidence that the plaintiff is likely to succeed on  
11 the merits at a full hearing and if the plaintiff provides adequate security  
12 as determined by the court, then the court shall order the clerk forthwith to  
13 issue a writ of possession to the sheriff to place the plaintiff in possession  
14 of the property described in the complaint, subject to the provisions of  
15 subsection (e) below. No such action by the court shall be final adjudication  
16 of the parties' rights in the action.

17 (2) A plaintiff demanding an immediate writ of possession who is  
18 a housing authority and who claims in its complaint that the defendant or  
19 defendants are being asked to surrender possession as result of the defendant  
20 or defendants having been convicted of a criminal violation of the Uniform  
21 Controlled Substances Act, 5-64-101 et seq., shall be entitled to receive an  
22 expedited hearing before the court within ten (10) days of the filing of the  
23 objection by the defendant or defendants.

24 (e) If the defendant desires to retain possession of the property, the  
25 court shall allow the retention upon the defendant providing, within five (5)  
26 days of issuance of the writ of possession, adequate security as determined by  
27 the court."

28

29 SECTION 2. All provisions of this act of general and permanent nature  
30 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
31 Revision Commission shall incorporate the same in the Code.

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33 SECTION 3. If any provisions of this act or the application thereof to  
34 any person or circumstance is held invalid, the invalidity shall not affect  
35 other provisions or applications of the act which can be given effect without

1 the invalid provisions or application, and to this end the provisions of this  
2 act are declared to be severable.

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4       SECTION 4. All other laws and parts of laws in conflict with this act  
5 are hereby repealed.

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