

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Lewellen**

A Bill

SENATE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 18-60-307(d) AND (e) AND
9 18-60-308 BY ESTABLISHING PROVISIONS FOR TIMELY HEARINGS
10 IN UNLAWFUL DETAINER AND FORCIBLE ENTRY AND DETAINER
11 ACTIONS; TO AMEND ARKANSAS CODE 16-17-206(a) TO CLARIFY
12 MATTERS OF JURISDICTION IN CIVIL CASES OF UNLAWFUL
13 DETAINER; TO REPEAL ARKANSAS CODE 18-16-101; AND FOR OTHER
14 PURPOSES."

Subtitle

17 "REVISES LAW RELATING TO UNLAWFUL DETAINER AND THE RIGHT
18 OF A LANDLORD TO EVICT A TENANT FOR FAILURE TO PAY RENT."

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22 SECTION 1. Arkansas Code 18-60-307(d) is amended to read as follows:

23 "(d) (1) If a hearing is required to be held on the demand of the
24 plaintiff for an immediate writ of possession, the plaintiff shall there
25 present evidence sufficient to make a prima facie case of entitlement to
26 possession of the property described in the complaint. The defendant or
27 defendants shall be entitled to present evidence in rebuttal thereof. If the
28 court decides upon all the evidence that the plaintiff is likely to succeed on
29 the merits at a full hearing and if the plaintiff provides adequate security
30 as determined by the court, then the court shall order the clerk forthwith to
31 issue a writ of possession to the sheriff to place the plaintiff in possession
32 of the property described in the complaint, subject to the provisions of
33 subsection (e) below. No such action by the court shall be final adjudication
34 of the parties' rights in the action.

35 (2) A plaintiff demanding an immediate writ of possession shall be

1 entitled to receive an expedited hearing before the court within twenty-one
2 (21) days of the filing of the objections by the defendant or defendants."

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4 SECTION 2. Arkansas Code 18-60-307(e) is amended to read as follows:

5 "(e) If the defendant desires to retain possession of the property, the
6 court shall allow the retention upon the defendant providing, within five (5)
7 days of issuance of the writ of possession, adequate security as determined by
8 the court. Adequate security may include payment of rent into the registry of
9 the court as it accrues pending a trial."

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11 SECTION 3. Arkansas Code 18-60-308 is amended to read as follows:

12 "18-60-308. Trials - Title to premises not adjudicated.

13 (a) The court shall schedule a trial for all actions involving forcible
14 entry and detainer or unlawful detainer within one hundred twenty (120) days
15 of the filing of the defendant_s first responsive pleading unless the court,
16 for good cause, specifically approves a longer period.

17 (b) In trials under the provisions of this subchapter, the title to the
18 premises in question shall not be adjudicated upon or given in evidence,
19 except to show the right to the possession and the extent thereof."

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21 SECTION 4. Arkansas Code 16-17-206(a) is amended to read as follows:

22 "(a) Municipal courts and justices of the peace shall not have
23 jurisdiction in civil cases where a lien on land or title or possession
24 thereto is involved. Provided, that municipal courts shall have jurisdiction
25 concurrent with circuit courts in civil cases of unlawful detainer, where the
26 amount in controversy does not exceed the jurisdictional limits authorized by
27 Arkansas Constitution, Amendment 64."

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29 SECTION 5. All provisions of this act of a 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 6. If any provision of this act or the application thereof to
34 any person or circumstance is held invalid, such invalidity shall not affect
35 other provisions or applications of the act which can be given effect without

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

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4 SECTION 7. Arkansas Code 18-16-101 and all laws and parts of laws in
5 conflict with this act are hereby repealed.

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