

State of Arkansas

76th General Assembly

Regular Session, 1987 As engrossed 3-25-87

SENATE BILL 72

By: Senator Dowd

"AN ACT TO AMEND SECTION 8 OF ACT 615 OF 1981 [ARK. STAT. 34-1508] PERTAINING TO THE EXECUTION OF A WRIT OF POSSESSION; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 8 of Act 615 of 1981, the same being Arkansas Statute 34-1508, is hereby amended to read as follows:

"Section 8. Execution of Writ of Possession. Upon receipt of a writ of possession from the Clerk of the Circuit Court, the Sheriff shall forthwith proceed to execute such writ in the specific manner herein described and, if necessary, ultimately by ejecting from the property described in the writ the defendant or defendants and any other person or persons who shall have received or entered into the possession of the property after the issuance of the writ, and thereupon notify the plaintiff that the property has been vacated by the defendant or defendants. Upon receipt of the writ the Sheriff shall notify the defendant of the issuance of the writ by delivering a copy thereof to the defendant or to any person authorized to receive summons in civil cases and in like manner; provided, that if within eight hours of receipt of the writ of possession the Sheriff shall not find any such person at their normal place of residence, he may serve the writ of possession by placing a copy thereon conspicuously upon the front door or the structure of the property described in the complaint which shall have like effect as if delivered in person pursuant to the terms hereof. If at the expiration of twenty-four hours from the service of the writ of possession in the manner indicated, the defendants, or any or either of them, shall be and remain in possession of the property or possession thereof has not been returned by the plaintiff, the Sheriff shall thereupon notify the plaintiff or his attorney of that fact and shall be provided with all labor and assistance required by him

in removing the possessions and belongings of the defendants from the affected property to a place of storage in a public warehouse or in some other reasonable safe place of storage under the control of the plaintiff until a final determination by the court. If the determination is in favor of the defendant, then the possessions and belongings of the defendant shall be immediately restored to the defendant with the cost of storage assessed against the plaintiff. If the determination is in favor of the plaintiff, and it includes a monetary judgment for the plaintiff, then the court shall order the possessions and belongings of the defendant sold by the plaintiff in a commercially reasonable manner with the proceeds of the sale applied first to the cost of storage, second to any monetary judgment in favor of the plaintiff, and third any excess to be remitted to the defendant.

In executing the writ of possession the Sheriff shall have the right forcibly to remove all locks or the barriers erected to prevent entry upon the premises in any manner which he deems appropriate or convenient and, if necessary, physically to restrain the defendants from interfering with the removal of the defendants' property and possessions from the property described in the writ of possession. The plaintiff shall not be required to give any bond, unless ordered to do so by the Court, as a condition to the execution of the writ by the Sheriff. The Sheriff shall return the writ at or before the return date thereof and shall state in his return the manner in which he executed the same and whether or not the properties described therein have been delivered to the plaintiff and, if not, the reason for his failure to do so."

SECTION 2. Upon the voluntary or involuntary termination of any lease agreement, all property left in and about the premises by the lessee shall be considered abandoned, and may be disposed of by the lessor as the lessor shall see fit without recourse by the lessee. All property placed on the premises by the tenant/lessee is hereby subjected to a lien in favor of the lessor for the payment of all sums agreed to be paid by the lessee.

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

/s/ Dowd