

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Senator Lewellen

A Bill

SENATE BILL 440

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 "AN ACT RELATING TO UNLAWFUL DETAINER
18 AND THE RIGHT OF A LANDLORD TO EVICT A
19 TENANT FOR FAILURE TO PAY RENT."
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

26 "(d)(1) If a hearing is required to be held on the demand of the
27 plaintiff for an immediate writ of possession, the plaintiff shall there
28 present evidence sufficient to make a prima facie case of entitlement to
29 possession of the property described in the complaint. The defendant or
30 defendants shall be entitled to present evidence in rebuttal thereof. If the
31 court decides upon all the evidence that the plaintiff is likely to succeed
32 on the merits at a full hearing and if the plaintiff provides adequate
33 security as determined by the court, then the court shall order the clerk
34 forthwith to issue a writ of possession to the sheriff to place the plaintiff
35 in possession of the property described in the complaint, subject to the

1 provisions of subsection (e) below. No such action by the court shall be
2 final adjudication of the parties' rights in the action.

3 (2) A plaintiff demanding an immediate writ of possession shall
4 be entitled to receive an expedited hearing before the court within
5 twenty-one (21) days of the filing of the objections by the defendant or
6 defendants."

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

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

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

16 "18-60-308. Trials-Title to premises not adjudicated.

17 (a) The court shall schedule a trial for all actions involving forcible
18 entry and detainer or unlawful detainer within one hundred twenty (120) days
19 of the filing of the defendant's first responsive pleading unless the court,
20 for good cause, specifically approves a longer period.

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

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

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

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33 SECTION 5. Arkansas Code 18-16-101 is repealed.

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35 SECTION 6. All provisions of this act of a general and permanent

1 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
2 Code Revision Commission shall incorporate the same in the Code.

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4 SECTION 7. If any provision of this act or the application thereof to
5 any person or circumstance is held invalid, such invalidity shall not affect
6 other provisions or applications of the act which can be given effect without
7 the invalid provision or application, and to this end the provisions of this
8 act are declared to be severable.

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10 SECTION 8. All laws and parts of laws in conflict with this act are
11 hereby repealed.

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