

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

*As Engrossed: S3/13/07*

# A Bill

SENATE BILL 971

5 By: Senator Madison  
6  
7

## For An Act To Be Entitled

9 AN ACT TO REQUIRE THE DEPOSIT OF RENT INTO THE  
10 REGISTRY OF THE COURT PENDING THE DETERMINATION  
11 OF A FORCIBLE ENTRY AND DETAINER COMPLAINT OR  
12 UNLAWFUL DETAINER COMPLAINT; AND FOR OTHER  
13 PURPOSES.  
14

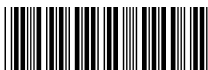
## Subtitle

15 TO REQUIRE THE DEPOSIT OF RENT INTO THE  
16 REGISTRY OF THE COURT PENDING THE  
17 DETERMINATION OF A FORCIBLE ENTRY AND  
18 DETAINER COMPLAINT OR UNLAWFUL DETAINER  
19 COMPLAINT.  
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21  
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
24

25 *SECTION 1. Arkansas Code § 18-60-307(a), concerning an eviction action*  
26 *for a writ of possession, is amended to read as follows:*

27 *(a) When any person to whom any cause of action shall accrue under*  
28 *this subchapter shall file in the office of the clerk of the circuit court of*  
29 *the county in which the offense shall be committed a complaint signed by him*  
30 *or her, his or her agent or attorney, specifying the lands, tenements, or*  
31 *other possessions so forcibly entered and detained, or so unlawfully detained*  
32 *over, and by whom and when done, and shall also file the affidavit of himself*  
33 *or herself or some other credible person for him or her, stating that the*  
34 *plaintiff is lawfully entitled to the possession of the lands, tenements, or*  
35 *other possessions mentioned in the complaint and that the defendant forcibly*  
36 *entered upon and detained them or unlawfully detains them, after lawful*



1 demand therefor made in the manner described in this subchapter, the clerk of  
2 the court shall thereupon issue a summons upon the complaint. The summons  
3 shall be in customary form directed to the sheriff of the county in which the  
4 cause of action is filed, with direction for service thereof on the named  
5 defendants. In addition, he or she shall issue and direct the sheriff to  
6 serve upon the named defendants a notice in the following form:

7  
8 "NOTICE OF INTENTION TO ISSUE WRIT OF POSSESSION

9  
10 You are hereby notified that the attached complaint in the above styled  
11 cause claims that you have been guilty of [forcible entry and detainer]  
12 [unlawful detainer] (the inapplicable phrase shall be deleted from the  
13 notice) and seeks to have a writ of possession directing the sheriff to  
14 deliver possession of the lands, tenements, or other possessions described in  
15 the complaint delivered to the plaintiff. If, within five (5) days, excluding  
16 Sundays and legal holidays, from the date of service of this notice, you have  
17 not filed in the office of the circuit clerk of this county a written  
18 objection to the claims made against you by the plaintiff for possession of  
19 the property described in the complaint, then a writ of possession shall  
20 forthwith issue from this office directed to the sheriff of this county and  
21 ordering him to remove you from possession of the property described in the  
22 complaint and to place the plaintiff in possession thereof. If you should  
23 file a written objection to the complaint of the plaintiff and the  
24 allegations for immediate possession of the property described in the  
25 complaint within five (5) days, excluding Sundays and legal holidays, from  
26 the date of service of this notice, a hearing will be scheduled by the  
27 circuit court of this county to determine whether or not the writ of  
28 possession should issue as sought by the plaintiff. If you continue to  
29 possess the property described in the complaint, you are required to deposit  
30 into the registry of the court a sum equal to the amount of rent due on the  
31 property and continue paying rent into the registry of the court during the  
32 pendency of these proceedings in accordance with your written or verbal  
33 rental agreement. Your failure to tender the rent due without justification  
34 is grounds for the court to grant the writ of possession.

35  
36 .....

Circuit Clerk of

.....County"

SECTION 2. Arkansas Code § 18-60-307(c), concerning a defendant's response to a complaint for a writ of possession, is amended to read as follows:

(c)(1) If a written objection to the claim of the plaintiff for a writ of possession shall be filed by the defendant or defendants within five (5) days from the date of service of the notice, summons, and complaint as provided for in this section, the plaintiff shall obtain a date for the hearing of the plaintiff's demand for possession of the property described in the complaint at any time thereafter when the matter may be heard by the court and shall give notice of the date, time, and place of the hearing by certified mail, postage prepaid, either to the defendant or to his or her or their counsel of record.

(2) If the defendant continues to possess the property described in the plaintiff's complaint during the pendency of the proceedings under this subchapter, the defendant is required to deposit into the registry of the court at the time of filing the written objection a sum equal to the amount of rent due on the property and continue paying rent into the registry of the court in accordance with the written or verbal rental agreement.

(3) The failure of the defendant to deposit into the registry of the court the rent due or any rent subsequently due during the pendency of the proceeding under this subchapter without justification is grounds for the court to grant the writ of possession.

SECTION 3. Arkansas Code § 18-60-309, concerning the court's disposition of a forcible entry and detainer or unlawful detainer complaint, is amended to add an additional subsection to read as follows:

(f) Upon final disposition of the action, the court shall distribute any money paid by the defendant under § 18-60-307(c) into the registry of the court first towards satisfaction of the plaintiff's judgment, if any, and the remainder to the defendant.

/s/ Madison