



# ARIZONA HOUSE OF REPRESENTATIVES

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First Regular Session

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## **SB 1726: unlawful occupants; property; removal; documents**

**Sponsor: Senator Rogers, LD 7**

**Committee on Judiciary**

### **Overview**

Allows property owners to request expedited removal of unlawful occupants from residential properties upon meeting specific criteria.

### **History**

A person who is not named on the written lease of a property and who remains on said premises without the permission of the tenant or the landlord is not a lawful tenant. A person who knowingly remains on the premises without the permission of the tenant or the landlord may be removed by a law enforcement officer at the request of the tenant or the landlord who is entitled to possession of the premises ([A.R.S. § 33-1378](#)).

The criminal code includes multiple forms of criminal trespass offenses, some of which may involve residential property. For example, a person can commit *criminal trespass in the third degree*, a class 3 misdemeanor, by knowingly entering or remaining unlawfully on any real property after a reasonable request to leave by a law enforcement officer, the owner or any other person having lawful control over such property, or reasonable notice prohibiting entry ([A.R.S. § 13-1502](#)). Additionally, one form of *criminal trespass in the first degree* involves a person who knowingly enters or remains unlawfully in a residential structure; this is a class 1 misdemeanor ([A.R.S. § 13-1504](#)).

### **Provisions**

1. Authorizes a property owner of a residential property to request that a law enforcement agency of that jurisdiction expeditiously remove a person who is unlawfully occupying the residential dwelling if all nine of the following apply:
  - a) the requesting person is the owner or his agent;
  - b) the property is residential in use;
  - c) the unauthorized person is unlawfully occupying the property;
  - d) the owner has directed the unauthorized person to leave;
  - e) the property was not open to the public when the unauthorized person entered;
  - f) the unauthorized person is not a current or former tenant;
  - g) there was no prior cohabitation agreement;
  - h) the unauthorized person is not an immediate family member of the owner; and
  - i) there is no ongoing litigation between the owner and the unauthorized person. (Sec. 2)
2. Instructs the person entitled to possession of the residential property to submit an affidavit of complaint to the law enforcement agency of that jurisdiction to request the

☐ Prop 105 (45 votes)

☐ Prop 108 (40 votes)

☐ Emergency (40 votes)

☐ Fiscal Note

expeditious removal of the unauthorized person; the affidavit must affirm under oath that all nine statutory conditions are met. (Sec. 2)

3. Directs law enforcement to conduct a preliminary investigation upon receipt of the affidavit, which may include reviewing alleged lease agreements, interviewing neighbors and other relevant inquiries. (Sec. 2)
4. Requires law enforcement to serve a notice to vacate and restore possession to the owner if probable cause exists that the nine statutory conditions are met. (Sec. 2)
5. Allows property owners to presume abandonment of personal belongings left by the occupant after the occupant has vacated the dwelling. (Sec. 2)
6. Grants law enforcement officers and agencies immunity from liability for wrongful removal actions absent a showing of bad faith. (Sec. 2)
7. Asserts that the statute does not limit other property rights or enforcement mechanisms and does not create new rights for unauthorized occupants. (Sec. 2)
8. Classifies unlawful occupation involving intentional property damage as:
  - a) a class 1 misdemeanor if damages are under \$1,000; and
  - b) a class 6 felony if damages are \$1,000 or more. (Sec. 2)
9. Classifies knowingly listing for sale or rent a residential property, without legal title or other authority, as a class 6 felony. (Sec. 2)
10. Adds explicitly that the criminal penalty for recording fraudulent real estate documents applies to a document that purports to convey an ownership or leasehold interest in real property. (Sec. 1)
11. Contains an intent clause. (Sec. 3)
12. Makes technical changes. (Sec. 1)