

**STATE OF ARIZONA**  
**OFFICE OF THE ATTORNEY GENERAL**

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<p>ATTORNEY GENERAL OPINION</p> <p>by</p> <p>JANET NAPOLITANO ATTORNEY GENERAL</p> <p>December 11, 2001</p>	<p>No. I01-022 (R01-036)</p> <p>Re: Appointing Receivers for Residential Rental Property</p>
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TO: The Honorable Marion Lee Pickens  
State Representative

**Question Presented**

If the owner of a residential rental property has complied with the registration requirements in Arizona Revised Statutes ("A.R.S.") § 33-1902, may a city, town or county apply to the superior court for the appointment of a temporary receiver to manage residential rental property pursuant to A.R.S. § 33-1903 if the property has been designated a slum property?

**Summary Answer**

No. A city, town or county may apply for the appointment of a temporary receiver under A.R.S. § 33-1903 only if the landlord has failed to register in compliance with A.R.S. § 33-1902 and the property has also been designated as slum property.

**Background**

In 1999, the Legislature enacted a comprehensive act to address problems contributing to the deterioration of neighborhoods. 1999 Ariz. Sess. Laws ch. 4 ("the Act"); see *Minutes of Senate*

*Judiciary Comm.*, 44th Legis., 1st Reg. Sess. (Feb. 9, 1999) (discussing SB 1278). A major part of the Act is a registration requirement for residential rental property.<sup>1</sup> A.R.S. § 33-1902. This process helps enable local officials to contact property owners to resolve problems that may arise. *Minutes of Senate Comm. on Gov't & Env't'l Stewardship*, 44th Legis., 1st Reg. Sess. (Feb. 15, 1999) (discussing SB 1278).

Section 33-1902, A.R.S., requires an owner of residential rental property to maintain certain information with the assessor in the county where the property is located. The information includes the address of the property; the year any buildings were built; the name, address and telephone number of the property owner; and information identifying certain responsible individuals for property owned by corporations, partnerships and other entities. A.R.S. § 33-1902(A) (1) - (4). Owners of residential rental property who reside out of state must also designate a statutory agent who lives in Arizona and who will accept legal service on behalf of the owner. A.R.S. § 33-1902(B). Residential rental property cannot be occupied until this information is provided to the county assessor. A.R.S. § 33-1902(C). In addition, property owners who fail to provide the necessary information are subject to civil penalties. A.R.S. § 33-1902(E). Property that does not comply with A.R.S. § 33-1902 is also subject to inspection by a city, town, county, or the State, and the property owner is responsible for the costs of such an inspection. A.R.S. § 33-1904(A)(1), (B).

The Act also provides for the appointment of a temporary receiver under certain circumstances. A.R.S. § 33-1903. The State or a city, town or county "may apply to the superior court for the appointment of a temporary receiver to manage a property that is not in compliance

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<sup>1</sup>Residential rental property is "property that is used solely as leased or rented property for residential purposes." A.R.S. § 33-1901(2).

with § 33-1902 and that is designated as a slum property by a city, town or county or the state." *Id.*<sup>2</sup> A "slum property" is "residential rental property that has deteriorated or is in a state of disrepair and that manifests one or more . . . [specified] conditions that are a danger to the health or safety of the public."<sup>3</sup> A.R.S. § 33-1901(3). "If the court determines that the appointment of a temporary receiver of residential rental property is necessary to remedy the condition for which the property is registered or to cause the owner to register the property, the court may order the appointment of a temporary receiver." A.R.S. § 33-1903(B). The appointment may be in effect "for as long as the court deems necessary," but not "for a term of more than one year." *Id.*

### **Analysis**

Under A.R.S. § 33-1903(A), "[t]his state or a city, town, or county of this state may apply to the superior court for the appointment of a temporary receiver to manage a property that is not in compliance with the provisions of section 33-1902 *and* that is designated as a slum property." (Emphasis added.) Generally, the best indication of a statute's meaning is its language. *State v. Williams*, 175 Ariz. 98, 100, 854 P.2d 131, 133 (1993). Thus, under A.R.S. § 33-1903 two requirements must be met before a city, town, county or the State may apply for the appointment of a temporary receiver: (1) the property must not comply with A.R.S. § 33-1902, which requires that certain information be provided to the county assessor regarding the property and its owner; and (2) the property must be designated a slum property.

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<sup>2</sup>Section 33-1903 is one of two provisions in the Act regarding the appointment of a temporary receiver. The other provision concerns the appointment of a temporary receiver for property declared a nuisance because it is regularly used in the commission of a crime. A.R.S. §§ 12-991, -996.

<sup>3</sup>The conditions that are a danger to the health or safety of the public include: (a) structurally unsound exterior surfaces, roof, walls, doors, floors, stairwells, porches or railings; (b) lack of potable water, adequate sanitation facilities, adequate water or waste pipe connections; (c) hazardous electrical systems or gas connections; (d) lack of safe, rapid egress; (e) accumulation of human or animal waste, medical or biological waste, gaseous or combustible materials, dangerous or corrosive liquids, flammable or explosive materials or drug paraphernalia. A.R.S. § 33-1901(3)(a) - (e).

The language in A.R.S. § 33-1903(B) is, to some extent, inconsistent with the language in subsection A of the same statute and with A.R.S. § 33-1902. Under A.R.S. § 33-1903(B), "[i]f the court determines that the appointment of a temporary receiver is necessary to remedy the condition for which the property is registered *or* to cause the owner to register the property, the court may order the appointment of a temporary receiver." (Emphasis added.) The statute's reference to remedying "the condition for which the property is registered" is inconsistent with the language in A.R.S. § 33-1902 which requires that *all* residential rental property owners file certain information with the county assessor. The registration requirement in A.R.S. § 33-1902 is not related to any particular "condition" on the property.

Statutes should be read as a whole, giving meaningful operation to all of their provisions. *Zamora v. Reinstein*, 185 Ariz. 272, 275, 915 P.2d 1227, 1230 (1996). When language is unclear, courts examine a statute's historical background, effects and consequences, and spirit and purpose. *Id.* Here, the legislative history helps explain the apparent incongruity between A.R.S. § 33-1903(B) and other parts of the statutory scheme governing residential rental property. *See State v. Barnard*, 126 Ariz. 110, 112, 612 P.2d 1073, 1075 (App. 1980) ("Successive drafts of the same act are instructive in determining the intent of the legislature."). As introduced, SB 1278 required that owners of residential rental property register with the Secretary of State if the property was declared a slum property, if there were certain violations of ordinances or laws relating to the maintenance or health and safety of the property, or if there were documented reports of certain criminal activity on the property. SB 1278, 44th Legis., 1st Reg. Sess. (introduced version). That version of the bill permitted a city, town, county or the State to apply for the appointment of a temporary receiver "to manage a property that is subject to registration under section 33-1902 and that has not been

registered." *Id.* at A.R.S. § 33-1903(B). The court could appoint a temporary receiver if it determined that such action "is necessary to remedy the condition for which the property is registered or to cause the owner to register the property." *Id.* The legislative history documents a change from a registration system at the state level that encompassed only certain "problem" rental properties to a system of collecting information about all residential rental properties at the county level. The receivership provisions also changed to allow a city, town, county or the State to apply for the appointment of a receiver if the property is not registered and it is a slum property. The result is that the language in A.R.S. § 33-1903(B), which gives courts authority to appoint a temporary receiver to remedy a condition for which the property is registered, is a remnant of earlier versions of the bill that had a more limited registration requirement.

The ambiguity within subsection B, which governs judicial determinations of whether to appoint a receiver, however, does not alter the plain language of subsection A, which governs when a city or county may apply for the appointment of a receiver. The answer to your question about the authority of a city or county is governed by subsection A. Under that subsection, a city or county may apply for the appointment of a receiver if both of the following are true: (1) the property is designated as a slum property; and (2) the property owner has not provided the information to the county recorder as required by A.R.S. § 33-1902.

### **Conclusion**

Under A.R.S. § 33-1903(A), a city, town or county or the State may apply for the appointment of a temporary receiver for residential rental property if the property is designated as

a slum property and if the property owner has failed to provide the required information to the county assessor as required by A.R.S. § 33-1902.

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