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HOUSE BILL 413

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Ray Begaye

AN ACT

RELATING TO PROPERTY; PROVIDING FOR EXPEDITED HEARING AND
EVICTION IN CASES OF CERTAIN ACTIVITIES ON OR NEAR LEASED
RESIDENTIAL PREMISES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 47-8-43 NMSA 1978 (being Laws 1975,
Chapter 38, Section 43, as amended) is amended to read:

"47-8-43. ISSUANCE OF SUMMONS.--

A. The summons shall be issued and directed, with a
copy of the petition attached to the summons, and shall state
the cause of the complaint, the answer day for other causes of
action and notice that if the defendant fails to appear,
judgment shall be entered against him. The summons may be
served pursuant to the New Mexico rules of civil procedure and
returned as in other cases. Trial of the action for possession

underscoring material = new
[bracketed material] = delete

1 shall be set as follows:

2 (1) for any matter brought by the owner for
3 possession, not less than seven or more than ten days after the
4 service of summons; [~~or~~]

5 (2) for any matter brought by the owner for
6 possession based in whole or in part on Paragraph (4) of
7 Subsection A of Section 47-8-40 NMSA 1978, not less than three
8 or more than five days after service of summons; or

9 [~~(2)~~] (3) for any matter brought by the
10 resident for possession, not less than three or more than five
11 days after the service of summons.

12 B. Upon finding of good cause, the court may
13 continue the date of hearing on the action for possession for
14 up to seven days from the date of the initial hearing."

15 Section 2. Section 47-8-46 NMSA 1978 (being Laws 1975,
16 Chapter 38, Section 46, as amended) is amended to read:

17 "47-8-46. WRIT OF RESTITUTION.--

18 A. Upon petition for restitution filed by the owner
19 if judgment is rendered against the defendant for restitution
20 of the premises, the court shall declare the forfeiture of the
21 rental agreement and shall, at the request of the plaintiff or
22 [~~his~~] the plaintiff's attorney, issue a writ of restitution
23 directing the sheriff to restore possession of the premises to
24 the plaintiff on a specified date not less than three [~~nor~~] or
25 more than seven days after entry of judgment, or if the owner's

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1 petition for restitution is based in whole or in part on
2 Paragraph (4) of Subsection A of Section 47-8-40 NMSA 1978,
3 within twenty-four hours after entry of judgement.

4 B. Upon a petition for restitution filed by the
5 resident, if judgment is rendered against the defendant for
6 restitution of the premises, the court shall, at the request of
7 the plaintiff or [~~his~~] the plaintiff's attorney, issue a writ
8 of restitution directing the sheriff to restore possession of
9 the premises to the plaintiff within twenty-four hours after
10 entry of judgment."

11 Section 3. EFFECTIVE DATE.--The effective date of
12 the provisions of this act is July 1, 2005.

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