

Sub. S. B. No. 32  
As Passed by the Senate

\_\_\_\_\_ moved to amend as follows:

In line 1 of the title, delete the first "section" and insert 1  
"sections 2909.07 and"; delete the second "section" and insert "sections 2  
1923.16," 3

In line 2 of the title, after "2307.221" insert ", and 2913.53" 4

In line 8 of the title, after "circumstances" insert ", to provide 5  
for the expedited removal of unauthorized occupants from residential 6  
property, and to prohibit the use and sale of fraudulent deeds" 7

In line 9, delete the first "section" and insert "sections 2909.07 8  
and"; delete the second "section" and insert "sections 1923.16," 9

In line 10, after "2307.221" insert ", and 2913.53" 10

After line 10, insert: 11

"Sec. 1923.16. (A) Notwithstanding any contrary provision 12  
of this chapter, a record owner of real property in this state 13  
or the record owner's authorized agent may request the county 14  
sheriff to immediately remove a person who unlawfully occupies a 15  
residential premises on that real property, if all of the 16



- following apply: 17
- (1) The requesting person is the record owner of the real property or the authorized agent of the record owner. 18  
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- (2) The real property includes a residential premises, and the record owner has the right to occupy that residential premises to the exclusion of others. 20  
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- (3) The unauthorized occupant unlawfully entered the residential premises and is residing or otherwise remains in the residential premises. 23  
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- (4) The residential premises was not open to members of the public at the time the unauthorized occupant entered. 26  
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- (5) At least three days before submitting the request, the record owner directed the unauthorized occupant to leave the residential premises by sending written notice by certified mail, return receipt requested, by handing a written copy of the notice to the unauthorized occupant, or by leaving a written copy of the notice at the unauthorized occupant's usual place of abode or at the residential premises from which the record owner seeks to remove the unauthorized occupant. The notice shall contain the following language printed or written in a conspicuous manner: "You are being asked to leave the premises. If you do not leave, you may be removed by the county sheriff. If you are in doubt regarding your legal rights and obligations as an occupant of this premises, it is recommended that you seek legal assistance." 28  
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- (6) The unauthorized occupant is not currently, and was not at any time during the year preceding the date the request is submitted, a tenant of the residential premises pursuant to a written or oral rental agreement authorized by the record owner. 42  
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(7) The unauthorized occupant is not a current or former 46  
owner of any interest in the real property or the residential 47  
premises, and is not listed on the title to the real property, 48  
unless the unauthorized occupant has engaged in title fraud. 49

(8) The unauthorized occupant is not a member of the 50  
record owner's immediate family, as defined in section 1349.04 51  
of the Revised Code. 52

(9) There is no pending litigation related to the real 53  
property or the residential premises between the record owner 54  
and the unauthorized occupant. 55

(B) A request to immediately remove an unauthorized 56  
occupant under this section shall be in substantially the 57  
following form: 58

"COMPLAINT TO REMOVE PERSONS UNLAWFULLY OCCUPYING A 59  
RESIDENTIAL PREMISES 60

I, the record owner or authorized agent of the record 61  
owner of the real property located at \_\_\_\_\_ (address), 62  
declare under the penalty of perjury that (initial each box): 63

1. \_\_\_ I am the record owner of the real property, or the 64  
authorized agent of the record owner. 65

2. \_\_\_ I purchased the real property on \_\_\_\_\_ (date). 66

3. \_\_\_ The real property includes a residential premises. 67

4. \_\_\_ An unauthorized person unlawfully entered the 68  
residential premises and is residing or otherwise remains in the 69  
residential premises. 70

5. \_\_\_ The residential premises was not open to members of 71  
the public at the time the unauthorized occupant entered. 72

6. I have directed the unauthorized occupant, in writing, to leave the residential premises, but the unauthorized occupant has not done so. 73  
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7. The unauthorized occupant is not currently, and was not at any time during the preceding year, a tenant of the residential premises pursuant to a written or oral rental agreement with myself or my authorized agent, and any lease that may be produced by an occupant is fraudulent. 76  
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8. The unauthorized occupant is not an owner or co-owner of the real property or the residential premises and has not been listed on the title to the property, unless the unauthorized occupant has engaged in title fraud. 81  
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9. The unauthorized occupant is not my immediate family member. 85  
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10. There is no litigation related to the real property or residential premises pending between the property owner and the unauthorized occupant. 87  
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11. I understand that a person or persons removed from the residential premises pursuant to this procedure may bring a cause of action against me for any false statements made in this complaint, or for wrongfully using this procedure, and that as a result of such action I may be held liable for actual damages, penalties, costs, and reasonable attorney's fees. 90  
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12. I am requesting the sheriff to immediately remove the unauthorized occupant from the residential premises. 96  
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13. A copy of my valid government-issued identification is attached, or I am an agent of the record owner and documents evidencing my authority to act on the record owner's behalf are 98  
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attached. 101

14. A copy of the deed to the residential premises is 102  
attached. 103

I HAVE READ EVERY STATEMENT MADE IN THIS COMPLAINT AND 104  
EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE 105  
STATEMENTS MADE IN THIS COMPLAINT ARE MADE UNDER PENALTY OF 106  
PERJURY, PUNISHABLE AS PROVIDED IN SECTION 2921.11 OF THE 107  
REVISED CODE. 108

\_\_\_\_\_ (Signature of record owner or record 109  
owner's agent)" 110

(C) (1) Upon receipt of a complaint that substantially 111  
conforms to the requirements of this section, and that includes 112  
both a copy of the deed to the residential premises and a sworn 113  
affirmation that the information in the complaint is true and 114  
correct, the sheriff shall, without delay, service a notice to 115  
immediately vacate on all unauthorized occupants and shall put 116  
the record owner in possession of the real property. 117

(2) Service may be accomplished by hand delivery of the 118  
notice to an occupant or by posting the notice on the front door 119  
or entrance of the residential premises. The sheriff shall 120  
attempt to verify the identities of all persons occupying the 121  
residential premises and note the identities on the return of 122  
service. If appropriate, the sheriff may arrest any person found 123  
in the residential premises for trespass, outstanding warrants, 124  
or any other legal cause. 125

(D) The sheriff is entitled to the same fee for service of 126  
the notice to immediately vacate as if the sheriff were serving 127  
a writ of possession under section 311.17 of the Revised Code. 128

(E) (1) After the sheriff serves the notice to immediately vacate, the record owner or authorized agent may request that the sheriff stand by to keep the peace while the record owner or agent changes the locks and removes any personal property left by the unauthorized occupants from the residential premises to or near the property line. 129  
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(2) When such a request is made, the sheriff may charge a reasonable hourly rate, and the person requesting the sheriff to stand by and keep the peace is responsible for paying the reasonable hourly rate set by the sheriff. 135  
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(3) The sheriff is not liable to the unauthorized occupant or any other party for loss, destruction, or damage to property. 139  
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(4) The record owner or authorized agent is not liable to an unauthorized occupant or any other party for the loss, destruction, or damage to personal property unless the removal was wrongful. 141  
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(F) A person wrongfully removed from real property under this section may bring a civil action for wrongful removal against the person that requested such removal in any court of competent jurisdiction. The court may restore possession of real property to a person wrongfully removed under this section and may award actual damages, statutory damages equal to triple the monthly fair market rent of the residential premises, court costs, and reasonable attorney's fees. An action for wrongful removal brought under this division shall not be commenced more than two years after the date the person is wrongfully removed from the real property. 145  
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(G) Whoever knowingly makes a false statement on a complaint submitted under division (B) of this section is guilty 156  
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<u>of perjury under section 2921.11 of the Revised Code.</u>	158
<u>(H) This section does not limit the rights of a property owner or limit the authority of a law enforcement officer to arrest an unlawful occupant for trespassing, vandalism, theft, or other crimes.</u>	159 160 161 162
<u>(I) Nothing in this section shall be construed as creating a right of action against a sheriff or county for wrongful removal."</u>	163 164 165
After line 35, insert:	166
<b>"Sec. 2909.07.</b> (A) No person shall:	167
(1) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with either of the following:	168 169 170
(a) The property of another;	171
(b) One's own residential real property with the purpose to decrease the value of or enjoyment of the residential real property, if both of the following apply:	172 173 174
(i) The residential real property is subject to a mortgage.	175 176
(ii) The person has been served with a summons and complaint in a pending residential mortgage loan foreclosure action relating to that real property. As used in this division, "pending" includes the time between judgment entry and confirmation of sale.	177 178 179 180 181
(2) With purpose to interfere with the use or enjoyment of property of another, employ a tear gas device, stink bomb, smoke generator, or other device releasing a substance that is harmful	182 183 184

or offensive to persons exposed or that tends to cause public alarm;	185 186
(3) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with a bench mark, triangulation station, boundary marker, or other survey station, monument, or marker;	187 188 189 190
(4) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with any safety device, the property of another, or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;	191 192 193 194 195 196
(5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure, or personal property that is on that land;	197 198 199 200 201 202
(6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software, or computer program, knowingly do any of the following:	203 204 205 206
(a) In any manner or by any means, including, but not limited to, computer hacking, alter, damage, destroy, or modify a computer, computer system, computer network, computer software, or computer program or data contained in a computer, computer system, computer network, computer software, or computer program;	207 208 209 210 211 212
(b) Introduce a computer contaminant into a computer,	213



computer system, computer network, computer software, or	214
computer program.	215
(7) Without privilege to do so, knowingly destroy or	216
improperly tamper with a critical infrastructure facility;	217
<u>(8) Without privilege to do so, unlawfully detain, occupy,</u>	218
<u>or trespass upon a residential dwelling and intentionally cause</u>	219
<u>at least one thousand dollars in damages to the dwelling.</u>	220
(B) As used in this section:	221
(1) "Safety device" means any fire extinguisher, fire	222
hose, or fire axe, or any fire escape, emergency exit, or	223
emergency escape equipment, or any life line, life-saving ring,	224
life preserver, or life boat or raft, or any alarm, light,	225
flare, signal, sign, or notice intended to warn of danger or	226
emergency, or intended for other safety purposes, or any guard	227
railing or safety barricade, or any traffic sign or signal, or	228
any railroad grade crossing sign, signal, or gate, or any first	229
aid or survival equipment, or any other device, apparatus, or	230
equipment intended for protecting or preserving the safety of	231
persons or property.	232
(2) "Critical infrastructure facility" has the same	233
meaning as in section 2911.21 of the Revised Code.	234
(3) "Improperly tamper" means to change the physical	235
location or the physical condition of the property.	236
(C) (1) Whoever violates this section is guilty of criminal	237
mischief, and shall be punished as provided in division (C) (2),	238
(3), or (4) of this section.	239
(2) Except as otherwise provided in this division,	240
criminal mischief committed in violation of division (A) (1),	241

(2), (3), (4), or (5) of this section is a misdemeanor of the 242  
third degree. Except as otherwise provided in this division, if 243  
the violation of division (A)(1), (2), (3), (4), or (5) of this 244  
section creates a risk of physical harm to any person, criminal 245  
mischief committed in violation of division (A)(1), (2), (3), 246  
(4), or (5) of this section is a misdemeanor of the first 247  
degree. If the property involved in the violation of division 248  
(A)(1), (2), (3), (4), or (5) of this section is an aircraft, an 249  
aircraft engine, propeller, appliance, spare part, fuel, 250  
lubricant, hydraulic fluid, any other equipment, implement, or 251  
material used or intended to be used in the operation of an 252  
aircraft, or any cargo carried or intended to be carried in an 253  
aircraft, criminal mischief committed in violation of division 254  
(A)(1), (2), (3), (4), or (5) of this section is one of the 255  
following: 256

(a) If the violation creates a risk of physical harm to 257  
any person, except as otherwise provided in division (C)(2)(b) 258  
of this section, criminal mischief committed in violation of 259  
division (A)(1), (2), (3), (4), or (5) of this section is a 260  
felony of the fifth degree. 261

(b) If the violation creates a substantial risk of 262  
physical harm to any person or if the property involved in a 263  
violation of this section is an occupied aircraft, criminal 264  
mischief committed in violation of division (A)(1), (2), (3), 265  
(4), or (5) of this section is a felony of the fourth degree. 266

(3) Except as otherwise provided in this division, 267  
criminal mischief committed in violation of division (A)(6) of 268  
this section is a misdemeanor of the first degree. Except as 269  
otherwise provided in this division, if the value of the 270  
computer, computer system, computer network, computer software, 271

computer program, or data involved in the violation of division 272  
(A) (6) of this section or the loss to the victim resulting from 273  
the violation is one thousand dollars or more and less than ten 274  
thousand dollars, or if the computer, computer system, computer 275  
network, computer software, computer program, or data involved 276  
in the violation of division (A) (6) of this section is used or 277  
intended to be used in the operation of an aircraft and the 278  
violation creates a risk of physical harm to any person, 279  
criminal mischief committed in violation of division (A) (6) of 280  
this section is a felony of the fifth degree. If the value of 281  
the computer, computer system, computer network, computer 282  
software, computer program, or data involved in the violation of 283  
division (A) (6) of this section or the loss to the victim 284  
resulting from the violation is ten thousand dollars or more, or 285  
if the computer, computer system, computer network, computer 286  
software, computer program, or data involved in the violation of 287  
division (A) (6) of this section is used or intended to be used 288  
in the operation of an aircraft and the violation creates a 289  
substantial risk of physical harm to any person or the aircraft 290  
in question is an occupied aircraft, criminal mischief committed 291  
in violation of division (A) (6) of this section is a felony of 292  
the fourth degree. 293

(4) Criminal mischief committed in violation of division 294  
(A) (7) of this section is a felony of the third degree. 295

(5) Except as otherwise provided in this division, 296  
criminal mischief committed in violation of division (A) (8) of 297  
this section is a felony of the fifth degree. If the offender 298  
previously has been convicted of or pleaded guilty to criminal 299  
mischief committed in violation of division (A) (8) of this 300  
section, a subsequent violation is a felony of the fourth 301  
degree. 302

Sec. 2913.53. (A) No person, with the purpose to detain or 303  
remain upon real property, shall knowingly present to another 304  
person a false document purporting to be a valid lease 305  
agreement, deed, or other instrument conveying real property 306  
rights. 307

(B) No person shall knowingly do any of the following: 308

(1) List or advertise residential real property that the 309  
purported seller has no legal title or authority to sell; 310

(2) Rent or lease residential real property that the 311  
purported owner has no lawful ownership in to another person; 312

(3) Sell or otherwise encumber residential real property 313  
that the purported seller has no legal title or authority to 314  
sell or encumber. 315

(C) Whoever violates this section is guilty of title 316  
fraud. A violation of division (A) of this section is a felony 317  
of the fifth degree. A violation of division (B) of this section 318  
is a felony of the fourth degree." 319

In line 385, delete "section" and insert "sections 2909.07 and" 320

In line 386, delete "is" and insert "are" 321

The motion was \_\_\_\_\_ agreed to.

SYNOPSIS 322

**Removal of unauthorized occupants** 323

**R.C. 1923.16, 2909.07, and 2913.53** 324

Permits property owners to request the immediate removal	325
of a person unlawfully occupying residential property when	326
certain conditions are met.	327
Expands the definition of criminal mischief to include	328
unlawfully detaining, occupying, or trespassing upon a	329
residential dwelling and intentionally causing damage to the	330
dwelling.	331
Creates a criminal offense specific to title fraud.	332