

As Reported by the House Criminal Justice Committee

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Sub. H. B. No. 480

Representatives Young, T., Demetriou

Cosponsors: Representatives Bird, Claggett, Click, Dean, Fowler Arthur, Gross, Hillyer, Holmes, John, Johnson, King, Klopfenstein, Lear, Lipps, Mathews, Patton, Plummer, Ray, Robb Blasdel, Santucci, Schmidt, Wiggam, Williams, Dobos, Abrams

A BILL

To amend section 2909.07 and to enact sections 1
1923.16 and 2913.53 of the Revised Code to 2
provide for the expedited removal of 3
unauthorized occupants of residential property, 4
to prohibit the use and sale of fraudulent 5
deeds, and to declare an emergency. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2909.07 be amended and sections 7
1923.16 and 2913.53 of the Revised Code be enacted to read as 8
follows: 9

Sec. 1923.16. (A) Notwithstanding any contrary provision 10
of this chapter, a record owner of real property in this state 11
or the record owner's authorized agent may request the county 12
sheriff to immediately remove a person who unlawfully occupies a 13
residential premises on that real property, if all of the 14
following apply: 15

(1) The requesting person is the record owner of the real 16

property or the authorized agent of the record owner. 17

(2) The real property includes a residential premises, and 18
the record owner has the right to occupy that residential 19
premises to the exclusion of others. 20

(3) The unauthorized occupant unlawfully entered the 21
residential premises and is residing or otherwise remains in the 22
residential premises. 23

(4) The residential premises was not open to members of 24
the public at the time the unauthorized occupant entered. 25

(5) At least three days before submitting the request, the 26
record owner directed the unauthorized occupant to leave the 27
residential premises by sending written notice by certified 28
mail, return receipt requested, by handing a written copy of the 29
notice to the unauthorized occupant, or by leaving a written 30
copy of the notice at the unauthorized occupant's usual place of 31
abode or at the residential premises from which the record owner 32
seeks to remove the unauthorized occupant. The notice shall 33
contain the following language printed or written in a 34
conspicuous manner: "You are being asked to leave the premises. 35
If you do not leave, you may be removed by the county sheriff. 36
If you are in doubt regarding your legal rights and obligations 37
as an occupant of this premises, it is recommended that you seek 38
legal assistance." 39

(6) The unauthorized occupant is not currently, and was 40
not at any time during the year preceding the date the request 41
is submitted, a tenant of the residential premises pursuant to a 42
written or oral rental agreement authorized by the record owner. 43

(7) The unauthorized occupant is not a current or former 44
owner of any interest in the real property or the residential 45

premises, and is not listed on the title to the real property, 46
unless the unauthorized occupant has engaged in title fraud. 47

(8) The unauthorized occupant is not a member of the 48
record owner's immediate family, as defined in section 1349.04 49
of the Revised Code. 50

(9) There is no pending litigation related to the real 51
property or the residential premises between the record owner 52
and the unauthorized occupant. 53

(B) A request to immediately remove an unauthorized 54
occupant under this section shall be in substantially the 55
following form: 56

"COMPLAINT TO REMOVE PERSONS UNLAWFULLY OCCUPYING A 57
RESIDENTIAL PREMISES 58

I, the record owner or authorized agent of the record 59
owner of the real property located at _____ (address), 60
declare under the penalty of perjury that (initial each box): 61

1. ___ I am the record owner of the real property, or the 62
authorized agent of the record owner. 63

2. ___ I purchased the real property on _____ (date). 64

3. ___ The real property includes a residential premises. 65

4. ___ An unauthorized person unlawfully entered the 66
residential premises and is residing or otherwise remains in the 67
residential premises. 68

5. ___ The residential premises was not open to members of 69
the public at the time the unauthorized occupant entered. 70

6. ___ I have directed the unauthorized occupant, in 71
writing, to leave the residential premises, but the unauthorized 72

occupant has not done so. 73

7. The unauthorized occupant is not currently, and was 74
not at any time during the preceding year, a tenant of the 75
residential premises pursuant to a written or oral rental 76
agreement with myself or my authorized agent, and any lease that 77
may be produced by an occupant is fraudulent. 78

8. The unauthorized occupant is not an owner or co- 79
owner of the real property or the residential premises and has 80
not been listed on the title to the property, unless the 81
unauthorized occupant has engaged in title fraud. 82

9. The unauthorized occupant is not my immediate family 83
member. 84

10. There is no litigation related to the real property 85
or residential premises pending between the property owner and 86
the unauthorized occupant. 87

11. I understand that a person or persons removed from 88
the residential premises pursuant to this procedure may bring a 89
cause of action against me for any false statements made in this 90
complaint, or for wrongfully using this procedure, and that as a 91
result of such action I may be held liable for actual damages, 92
penalties, costs, and reasonable attorney's fees. 93

12. I am requesting the sheriff to immediately remove 94
the unauthorized occupant from the residential premises. 95

13. A copy of my valid government-issued identification 96
is attached, or I am an agent of the record owner and documents 97
evidencing my authority to act on the record owner's behalf are 98
attached. 99

14. A copy of the deed to the residential premises is 100

attached. 101

I HAVE READ EVERY STATEMENT MADE IN THIS COMPLAINT AND 102
EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE 103
STATEMENTS MADE IN THIS COMPLAINT ARE MADE UNDER PENALTY OF 104
PERJURY, PUNISHABLE AS PROVIDED IN SECTION 2921.11 OF THE 105
REVISED CODE. 106

_____ (Signature of record owner or record 107
owner's agent) " 108

(C) (1) Upon receipt of a complaint that substantially 109
conforms to the requirements of this section, and that includes 110
both a copy of the deed to the residential premises and a sworn 111
affirmation that the information in the complaint is true and 112
correct, the sheriff shall, without delay, service a notice to 113
immediately vacate on all unauthorized occupants and shall put 114
the record owner in possession of the real property. 115

(2) Service may be accomplished by hand delivery of the 116
notice to an occupant or by posting the notice on the front door 117
or entrance of the residential premises. The sheriff shall 118
attempt to verify the identities of all persons occupying the 119
residential premises and note the identities on the return of 120
service. If appropriate, the sheriff may arrest any person found 121
in the residential premises for trespass, outstanding warrants, 122
or any other legal cause. 123

(D) The sheriff is entitled to the same fee for service of 124
the notice to immediately vacate as if the sheriff were serving 125
a writ of possession under section 311.17 of the Revised Code. 126

(E) (1) After the sheriff serves the notice to immediately 127
vacate, the record owner or authorized agent may request that 128
the sheriff stand by to keep the peace while the record owner or 129

agent changes the locks and removes any personal property left 130
by the unauthorized occupants from the residential premises to 131
or near the property line. 132

(2) When such a request is made, the sheriff may charge a 133
reasonable hourly rate, and the person requesting the sheriff to 134
stand by and keep the peace is responsible for paying the 135
reasonable hourly rate set by the sheriff. 136

(3) The sheriff is not liable to the unauthorized occupant 137
or any other party for loss, destruction, or damage to property. 138

(4) The record owner or authorized agent is not liable to 139
an unauthorized occupant or any other party for the loss, 140
destruction, or damage to personal property unless the removal 141
was wrongful. 142

(F) A person wrongfully removed from real property under 143
this section may bring a civil action for wrongful removal 144
against the person that requested such removal in any court of 145
competent jurisdiction. The court may restore possession of real 146
property to a person wrongfully removed under this section and 147
may award actual damages, statutory damages equal to triple the 148
monthly fair market rent of the residential premises, court 149
costs, and reasonable attorney's fees. An action for wrongful 150
removal brought under this division shall not be commenced more 151
than two years after the date the person is wrongfully removed 152
from the real property. 153

(G) Whoever knowingly makes a false statement on a 154
complaint submitted under division (B) of this section is guilty 155
of perjury under section 2921.11 of the Revised Code. 156

(H) This section does not limit the rights of a property 157
owner or limit the authority of a law enforcement officer to 158

<u>arrest an unlawful occupant for trespassing, vandalism, theft,</u>	159
<u>or other crimes.</u>	160
<u>(I) Nothing in this section shall be construed as creating</u>	161
<u>a right of action against a sheriff or county for wrongful</u>	162
<u>removal.</u>	163
Sec. 2909.07. (A) No person shall:	164
(1) Without privilege to do so, knowingly move, deface,	165
damage, destroy, or otherwise improperly tamper with either of	166
the following:	167
(a) The property of another;	168
(b) One's own residential real property with the purpose	169
to decrease the value of or enjoyment of the residential real	170
property, if both of the following apply:	171
(i) The residential real property is subject to a	172
mortgage.	173
(ii) The person has been served with a summons and	174
complaint in a pending residential mortgage loan foreclosure	175
action relating to that real property. As used in this division,	176
"pending" includes the time between judgment entry and	177
confirmation of sale.	178
(2) With purpose to interfere with the use or enjoyment of	179
property of another, employ a tear gas device, stink bomb, smoke	180
generator, or other device releasing a substance that is harmful	181
or offensive to persons exposed or that tends to cause public	182
alarm;	183
(3) Without privilege to do so, knowingly move, deface,	184
damage, destroy, or otherwise improperly tamper with a bench	185
mark, triangulation station, boundary marker, or other survey	186

station, monument, or marker;	187
(4) Without privilege to do so, knowingly move, deface,	188
damage, destroy, or otherwise improperly tamper with any safety	189
device, the property of another, or the property of the offender	190
when required or placed for the safety of others, so as to	191
destroy or diminish its effectiveness or availability for its	192
intended purpose;	193
(5) With purpose to interfere with the use or enjoyment of	194
the property of another, set a fire on the land of another or	195
place personal property that has been set on fire on the land of	196
another, which fire or personal property is outside and apart	197
from any building, other structure, or personal property that is	198
on that land;	199
(6) Without privilege to do so, and with intent to impair	200
the functioning of any computer, computer system, computer	201
network, computer software, or computer program, knowingly do	202
any of the following:	203
(a) In any manner or by any means, including, but not	204
limited to, computer hacking, alter, damage, destroy, or modify	205
a computer, computer system, computer network, computer	206
software, or computer program or data contained in a computer,	207
computer system, computer network, computer software, or	208
computer program;	209
(b) Introduce a computer contaminant into a computer,	210
computer system, computer network, computer software, or	211
computer program.	212
(7) Without privilege to do so, knowingly destroy or	213
improperly tamper with a critical infrastructure facility;	214
<u>(8) Without privilege to do so, unlawfully detain, occupy,</u>	215

<u>or trespass upon a residential dwelling and intentionally cause</u>	216
<u>at least one thousand dollars in damages to the dwelling.</u>	217
(B) As used in this section:	218
(1) "Safety device" means any fire extinguisher, fire	219
hose, or fire axe, or any fire escape, emergency exit, or	220
emergency escape equipment, or any life line, life-saving ring,	221
life preserver, or life boat or raft, or any alarm, light,	222
flare, signal, sign, or notice intended to warn of danger or	223
emergency, or intended for other safety purposes, or any guard	224
railing or safety barricade, or any traffic sign or signal, or	225
any railroad grade crossing sign, signal, or gate, or any first	226
aid or survival equipment, or any other device, apparatus, or	227
equipment intended for protecting or preserving the safety of	228
persons or property.	229
(2) "Critical infrastructure facility" has the same	230
meaning as in section 2911.21 of the Revised Code.	231
(3) "Improperly tamper" means to change the physical	232
location or the physical condition of the property.	233
(C) (1) Whoever violates this section is guilty of criminal	234
mischief, and shall be punished as provided in division (C) (2),	235
(3), or (4) of this section.	236
(2) Except as otherwise provided in this division,	237
criminal mischief committed in violation of division (A) (1),	238
(2), (3), (4), or (5) of this section is a misdemeanor of the	239
third degree. Except as otherwise provided in this division, if	240
the violation of division (A) (1), (2), (3), (4), or (5) of this	241
section creates a risk of physical harm to any person, criminal	242
mischief committed in violation of division (A) (1), (2), (3),	243
(4), or (5) of this section is a misdemeanor of the first	244

degree. If the property involved in the violation of division 245
(A) (1), (2), (3), (4), or (5) of this section is an aircraft, an 246
aircraft engine, propeller, appliance, spare part, fuel, 247
lubricant, hydraulic fluid, any other equipment, implement, or 248
material used or intended to be used in the operation of an 249
aircraft, or any cargo carried or intended to be carried in an 250
aircraft, criminal mischief committed in violation of division 251
(A) (1), (2), (3), (4), or (5) of this section is one of the 252
following: 253

(a) If the violation creates a risk of physical harm to 254
any person, except as otherwise provided in division (C) (2) (b) 255
of this section, criminal mischief committed in violation of 256
division (A) (1), (2), (3), (4), or (5) of this section is a 257
felony of the fifth degree. 258

(b) If the violation creates a substantial risk of 259
physical harm to any person or if the property involved in a 260
violation of this section is an occupied aircraft, criminal 261
mischief committed in violation of division (A) (1), (2), (3), 262
(4), or (5) of this section is a felony of the fourth degree. 263

(3) Except as otherwise provided in this division, 264
criminal mischief committed in violation of division (A) (6) of 265
this section is a misdemeanor of the first degree. Except as 266
otherwise provided in this division, if the value of the 267
computer, computer system, computer network, computer software, 268
computer program, or data involved in the violation of division 269
(A) (6) of this section or the loss to the victim resulting from 270
the violation is one thousand dollars or more and less than ten 271
thousand dollars, or if the computer, computer system, computer 272
network, computer software, computer program, or data involved 273
in the violation of division (A) (6) of this section is used or 274

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

(4) Criminal mischief committed in violation of division 291
(A) (7) of this section is a felony of the third degree. 292

(5) Except as otherwise provided in this division, 293
criminal mischief committed in violation of division (A) (8) of 294
this section is a felony of the fifth degree. If the offender 295
previously has been convicted of or pleaded guilty to criminal 296
mischief committed in violation of division (A) (8) of this 297
section, a subsequent violation is a felony of the fourth 298
degree. 299

Sec. 2913.53. (A) No person, with the purpose to detain or 300
remain upon real property, shall knowingly present to another 301
person a false document purporting to be a valid lease 302
agreement, deed, or other instrument conveying real property 303
rights. 304

<u>(B) No person shall knowingly do any of the following:</u>	305
<u>(1) List or advertise residential real property that the</u>	306
<u>purported seller has no legal title or authority to sell;</u>	307
<u>(2) Rent or lease residential real property that the</u>	308
<u>purported owner has no lawful ownership in to another person;</u>	309
<u>(3) Sell or otherwise encumber residential real property</u>	310
<u>that the purported seller has no legal title or authority to</u>	311
<u>sell or encumber.</u>	312
<u>(C) Whoever violates this section is guilty of title</u>	313
<u>fraud. A violation of division (A) of this section is a felony</u>	314
<u>of the fifth degree. A violation of division (B) of this section</u>	315
<u>is a felony of the fourth degree.</u>	316
Section 2. That existing section 2909.07 of the Revised	317
Code is hereby repealed.	318
Section 3. This act is hereby declared to be an emergency	319
measure necessary for the immediate preservation of the public	320
peace, health, and safety. The reason for such necessity is that	321
due to the impact of loss of ownership of property, the bill is	322
needed to protect property owners. Therefore, this act shall go	323
into immediate effect.	324