

As Introduced

135th General Assembly

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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

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) The record owner directed the unauthorized occupant to 26
leave the residential premises. 27

(6) The unauthorized occupant is not a current or former 28
tenant of the residential premises pursuant to a rental 29
agreement authorized by the record owner. 30

(7) The unauthorized occupant is not a current or former 31
owner of any interest in the real property or the residential 32
premises, and is not listed on the title to the real property, 33
unless the unauthorized occupant has engaged in title fraud. 34

(8) The unauthorized occupant is not a member of the 35
record owner's immediate family, as defined in section 1349.04 36
of the Revised Code. 37

(9) There is no pending litigation related to the real 38
property or the residential premises between the record owner 39
and the unauthorized occupant. 40

(B) A request to immediately remove an unauthorized 41
occupant under this section shall be in substantially the 42
following form: 43

<u>"COMPLAINT TO REMOVE PERSONS UNLAWFULLY OCCUPYING A</u>	44
<u>RESIDENTIAL PREMISES</u>	45
<u>I, the record owner or authorized agent of the record</u>	46
<u>owner of the real property located at _____ (address),</u>	47
<u>declare under the penalty of perjury that (initial each box):</u>	48
<u>1. ___ I am the record owner of the real property, or the</u>	49
<u>authorized agent of the record owner.</u>	50
<u>2. ___ I purchased the real property on _____ (date).</u>	51
<u>3. ___ The real property includes a residential premises.</u>	52
<u>4. ___ An unauthorized person unlawfully entered the</u>	53
<u>residential premises and is residing or otherwise remains in the</u>	54
<u>residential premises.</u>	55
<u>5. ___ The residential premises was not open to members of</u>	56
<u>the public at the time the unauthorized occupant entered.</u>	57
<u>6. ___ I have directed the unauthorized occupant to leave</u>	58
<u>the residential premises, but the unauthorized occupant has not</u>	59
<u>done so.</u>	60
<u>7. ___ The unauthorized occupant is not a current or former</u>	61
<u>tenant of the residential premises pursuant to a rental</u>	62
<u>agreement with myself or my authorized agent, and any lease that</u>	63
<u>may be produced by an occupant is fraudulent.</u>	64
<u>8. ___ The unauthorized occupant is not an owner or co-</u>	65
<u>owner of the real property or the residential premises and has</u>	66
<u>not been listed on the title to the property, unless the</u>	67
<u>unauthorized occupant has engaged in title fraud.</u>	68
<u>9. ___ The unauthorized occupant is not my immediate family</u>	69
<u>member.</u>	70

10. ___ There is no litigation related to the real property 71
or residential premises pending between the property owner and 72
the unauthorized occupant. 73

11. ___ I understand that a person or persons removed from 74
the residential premises pursuant to this procedure may bring a 75
cause of action against me for any false statements made in this 76
complaint, or for wrongfully using this procedure, and that as a 77
result of such action I may be held liable for actual damages, 78
penalties, costs, and reasonable attorney's fees. 79

12. ___ I am requesting the sheriff to immediately remove 80
the unauthorized occupant from the residential premises. 81

13. ___ A copy of my valid government-issued identification 82
is attached, or I am an agent of the record owner and documents 83
evidencing my authority to act on the record owner's behalf are 84
attached. 85

I HAVE READ EVERY STATEMENT MADE IN THIS COMPLAINT AND 86
EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE 87
STATEMENTS MADE IN THIS COMPLAINT ARE MADE UNDER PENALTY OF 88
PERJURY, PUNISHABLE AS PROVIDED IN SECTION 2921.11 OF THE 89
REVISED CODE. 90

_____ (Signature of record owner or record 91
owner's agent)" 92

(C) (1) Upon receipt of a complaint that substantially 93
conforms to the requirements of this section, the sheriff shall 94
verify that the complainant is the record owner of the real 95
property that is the subject of the complaint, or the authorized 96
agent of the record owner, and appears to be entitled to relief 97
under this section. If verified, the sheriff shall, without 98
delay, service a notice to immediately vacate on all 99

unauthorized occupants and shall put the record owner in 100
possession of the real property. 101

(2) Service may be accomplished by hand delivery of the 102
notice to an occupant or by posting the notice on the front door 103
or entrance of the residential premises. 104

(3) The sheriff shall attempt to verify the identities of 105
all persons occupying the residential premises and note the 106
identities on the return of service. If appropriate, the sheriff 107
may arrest any person found in the residential premises for 108
trespass, outstanding warrants, or any other legal cause. 109

(D) The sheriff is entitled to the same fee for service of 110
the notice to immediately vacate as if the sheriff were serving 111
a writ of possession under section 311.17 of the Revised Code. 112

(E) (1) After the sheriff serves the notice to immediately 113
vacate, the record owner or authorized agent may request that 114
the sheriff stand by to keep the peace while the record owner or 115
agent changes the locks and removes any personal property left 116
by the unauthorized occupants from the residential premises to 117
or near the property line. 118

(2) When such a request is made, the sheriff may charge a 119
reasonable hourly rate, and the person requesting the sheriff to 120
stand by and keep the peace is responsible for paying the 121
reasonable hourly rate set by the sheriff. 122

(3) The sheriff is not liable to the unauthorized occupant 123
or any other party for loss, destruction, or damage to property. 124

(4) The record owner or authorized agent is not liable to 125
an unauthorized occupant or any other party for the loss, 126
destruction, or damage to personal property unless the removal 127
was wrongful. 128

(F) A person wrongfully removed from real property under 129
this section may bring a civil action for wrongful removal in 130
any court of competent jurisdiction. The court may restore 131
possession of real property to a person wrongfully removed under 132
this section and may award actual damages, statutory damages 133
equal to triple the fair market rent of the residential 134
premises, court costs, and reasonable attorney's fees. 135

(G) This section does not limit the rights of a property 136
owner or limit the authority of a law enforcement officer to 137
arrest an unlawful occupant for trespassing, vandalism, theft, 138
or other crimes. 139

Sec. 2909.07. (A) No person shall: 140

(1) Without privilege to do so, knowingly move, deface, 141
damage, destroy, or otherwise improperly tamper with either of 142
the following: 143

(a) The property of another; 144

(b) One's own residential real property with the purpose 145
to decrease the value of or enjoyment of the residential real 146
property, if both of the following apply: 147

(i) The residential real property is subject to a 148
mortgage. 149

(ii) The person has been served with a summons and 150
complaint in a pending residential mortgage loan foreclosure 151
action relating to that real property. As used in this division, 152
"pending" includes the time between judgment entry and 153
confirmation of sale. 154

(2) With purpose to interfere with the use or enjoyment of 155
property of another, employ a tear gas device, stink bomb, smoke 156

generator, or other device releasing a substance that is harmful	157
or offensive to persons exposed or that tends to cause public	158
alarm;	159
(3) Without privilege to do so, knowingly move, deface,	160
damage, destroy, or otherwise improperly tamper with a bench	161
mark, triangulation station, boundary marker, or other survey	162
station, monument, or marker;	163
(4) Without privilege to do so, knowingly move, deface,	164
damage, destroy, or otherwise improperly tamper with any safety	165
device, the property of another, or the property of the offender	166
when required or placed for the safety of others, so as to	167
destroy or diminish its effectiveness or availability for its	168
intended purpose;	169
(5) With purpose to interfere with the use or enjoyment of	170
the property of another, set a fire on the land of another or	171
place personal property that has been set on fire on the land of	172
another, which fire or personal property is outside and apart	173
from any building, other structure, or personal property that is	174
on that land;	175
(6) Without privilege to do so, and with intent to impair	176
the functioning of any computer, computer system, computer	177
network, computer software, or computer program, knowingly do	178
any of the following:	179
(a) In any manner or by any means, including, but not	180
limited to, computer hacking, alter, damage, destroy, or modify	181
a computer, computer system, computer network, computer	182
software, or computer program or data contained in a computer,	183
computer system, computer network, computer software, or	184
computer program;	185

(b) Introduce a computer contaminant into a computer, 186
computer system, computer network, computer software, or 187
computer program. 188

(7) Without privilege to do so, knowingly destroy or 189
improperly tamper with a critical infrastructure facility; 190

(8) Without privilege to do so, unlawfully detain, occupy, 191
or trespass upon a residential dwelling and intentionally cause 192
at least one thousand dollars in damages to the dwelling. 193

(B) As used in this section: 194

(1) "Safety device" means any fire extinguisher, fire 195
hose, or fire axe, or any fire escape, emergency exit, or 196
emergency escape equipment, or any life line, life-saving ring, 197
life preserver, or life boat or raft, or any alarm, light, 198
flare, signal, sign, or notice intended to warn of danger or 199
emergency, or intended for other safety purposes, or any guard 200
railing or safety barricade, or any traffic sign or signal, or 201
any railroad grade crossing sign, signal, or gate, or any first 202
aid or survival equipment, or any other device, apparatus, or 203
equipment intended for protecting or preserving the safety of 204
persons or property. 205

(2) "Critical infrastructure facility" has the same 206
meaning as in section 2911.21 of the Revised Code. 207

(3) "Improperly tamper" means to change the physical 208
location or the physical condition of the property. 209

(C) (1) Whoever violates this section is guilty of criminal 210
mischief, and shall be punished as provided in division (C) (2), 211
(3), or (4) of this section. 212

(2) Except as otherwise provided in this division, 213

criminal mischief committed in violation of division (A) (1), 214
(2), (3), (4), or (5) of this section is a misdemeanor of the 215
third degree. Except as otherwise provided in this division, if 216
the violation of division (A) (1), (2), (3), (4), or (5) of this 217
section creates a risk of physical harm to any person, criminal 218
mischief committed in violation of division (A) (1), (2), (3), 219
(4), or (5) of this section is a misdemeanor of the first 220
degree. If the property involved in the violation of division 221
(A) (1), (2), (3), (4), or (5) of this section is an aircraft, an 222
aircraft engine, propeller, appliance, spare part, fuel, 223
lubricant, hydraulic fluid, any other equipment, implement, or 224
material used or intended to be used in the operation of an 225
aircraft, or any cargo carried or intended to be carried in an 226
aircraft, criminal mischief committed in violation of division 227
(A) (1), (2), (3), (4), or (5) of this section is one of the 228
following: 229

(a) If the violation creates a risk of physical harm to 230
any person, except as otherwise provided in division (C) (2) (b) 231
of this section, criminal mischief committed in violation of 232
division (A) (1), (2), (3), (4), or (5) of this section is a 233
felony of the fifth degree. 234

(b) If the violation creates a substantial risk of 235
physical harm to any person or if the property involved in a 236
violation of this section is an occupied aircraft, criminal 237
mischief committed in violation of division (A) (1), (2), (3), 238
(4), or (5) of this section is a felony of the fourth degree. 239

(3) Except as otherwise provided in this division, 240
criminal mischief committed in violation of division (A) (6) of 241
this section is a misdemeanor of the first degree. Except as 242
otherwise provided in this division, if the value of the 243

computer, computer system, computer network, computer software, 244
computer program, or data involved in the violation of division 245
(A) (6) of this section or the loss to the victim resulting from 246
the violation is one thousand dollars or more and less than ten 247
thousand dollars, or if the computer, computer system, computer 248
network, computer software, computer program, or data involved 249
in the violation of division (A) (6) of this section is used or 250
intended to be used in the operation of an aircraft and the 251
violation creates a risk of physical harm to any person, 252
criminal mischief committed in violation of division (A) (6) of 253
this section is a felony of the fifth degree. If the value of 254
the computer, computer system, computer network, computer 255
software, computer program, or data involved in the violation of 256
division (A) (6) of this section or the loss to the victim 257
resulting from the violation is ten thousand dollars or more, or 258
if the computer, computer system, computer network, computer 259
software, computer program, or data involved in the violation of 260
division (A) (6) of this section is used or intended to be used 261
in the operation of an aircraft and the violation creates a 262
substantial risk of physical harm to any person or the aircraft 263
in question is an occupied aircraft, criminal mischief committed 264
in violation of division (A) (6) of this section is a felony of 265
the fourth degree. 266

(4) Criminal mischief committed in violation of division 267
(A) (7) of this section is a felony of the third degree. 268

(5) Criminal mischief committed in violation of division 269
(A) (8) of this section is a felony of the second degree. 270

Sec. 2913.53. (A) No person, with the purpose to detain or 271
remain upon real property, shall knowingly present to another 272
person a false document purporting to be a valid lease 273

<u>agreement, deed, or other instrument conveying real property</u>	274
<u>rights.</u>	275
<u>(B) No person shall knowingly do any of the following:</u>	276
<u>(1) List or advertise residential real property that the</u>	277
<u>purported seller has no legal title or authority to sell;</u>	278
<u>(2) Rent or lease residential real property that the</u>	279
<u>purported owner has no lawful ownership in to another person.</u>	280
<u>(C) Whoever violates this section is guilty of title</u>	281
<u>fraud. A violation of division (A) of this section is a</u>	282
<u>misdemeanor of the first degree. A violation of division (B) of</u>	283
<u>this section is a felony of the first degree.</u>	284
Section 2. That existing section 2909.07 of the Revised	285
Code is hereby repealed.	286
Section 3. This act is hereby declared to be an emergency	287
measure necessary for the immediate preservation of the public	288
peace, health, and safety. The reason for such necessity is that	289
due to the impact of loss of ownership of property, the bill is	290
needed to protect property owners. Therefore, this act shall go	291
into immediate effect.	292