

HOUSE BILL No. 2378

By Committee on Federal and State Affairs

Requested by Representative Will Carpenter

2-11

PROPOSED AMENDMENT

House Committee on Federal and
State Affairs

Office of Revisor of Statutes

1 AN ACT establishing removal of squatters act; requiring an owner or
2 agent of a dwelling unit to provide a detailed affidavit regarding a
3 person identified as a squatter; providing criminal penalties for an
4 owner or agent knowingly providing a false affidavit; establishing
5 duties of the county sheriff; establishing a civil cause of action against
6 an owner or agent for wrongful removal.

notorized

law enforcement agencies

8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. The legislature finds that the fundamental rights of owning
10 property include the right of the owner to exclude others from entering or
11 remaining unlawfully on the property. The legislature further finds that
12 squatting, or the unauthorized entry into or remaining in a dwelling, is a
13 violation of the rights of property owners and is against the public interest.
14 The intent of this act is to ensure that squatting is considered a crime, to
15 adequately protect the rights of property owners, and to provide a timely
16 and effective mechanism for removing squatters while protecting the rights
17 of legitimate occupants.

18 Sec. 2. (a) The owner of a dwelling unit or the agent of the owner of a
19 dwelling unit may request the removal of an unauthorized person from the
20 dwelling unit by submitting an affidavit to the county sheriff in the county
21 where the dwelling unit is located containing the following elements:

a law enforcement agency

a notorized

22 (1) The affiant is the owner of the dwelling unit or the agent of the
23 owner of the dwelling unit;

24 (2) a person has entered and is remaining unlawfully in the dwelling
25 unit;

26 (3) the person was not authorized to enter the dwelling unit;

27 (4) the person is not a tenant or a holdover tenant;

28 (5) the affiant has requested the unauthorized person to vacate the
29 dwelling unit and the person has not done so; and

30 (6) the unauthorized person is not an immediate family member of
31 the property owner.

32 (b) (1) "Dwelling unit" has the same meaning as defined in K.S.A.
33 58-2543, and amendments thereto.

34 (2) "Tenant" has the same meaning as defined in K.S.A. 58-2543, and
35 amendments thereto.

An affiant who knowingly provides a false affidavit to a law
enforcement agency under this section may be charged with a class A
nonperson misdemeanor.

1 Sec. 3. (a) Upon receipt of the affidavit, the ~~county sheriff~~ shall verify
 2 that the affiant is the record owner of the dwelling unit or the authorized
 3 agent of the owner of the dwelling unit and appears otherwise entitled to
 4 relief. Upon verification and after at least 24 hours from receipt of the
 5 affidavit, ~~the county sheriff~~ shall serve a notice on the unauthorized person
 6 to vacate immediately the dwelling unit.

applicable law enforcement agency

a law enforcement officer

7 (b) Service may be accomplished by hand delivery of the notice to
 8 any unauthorized person occupying the dwelling or by posting notice on
 9 the front door or entrance of the dwelling unit. The ~~county sheriff~~ shall
 10 also attempt to verify the identities of all persons occupying the dwelling
 11 and note the identities on the return of service.

law enforcement agency

12 (c) The ~~county sheriff~~ may arrest any person found in the dwelling
 13 unit for trespass, burglary, theft or any other criminal act, or for an
 14 outstanding arrest warrant.

, damage to property

15 (d) The ~~county sheriff~~ may charge a fee of not more than \$50 to
 16 process an affidavit filed pursuant to this act.

law enforcement officer

17 Sec. 4. ~~(a)~~ The affiant owner of the dwelling unit or the agent of the
 18 owner of the dwelling unit shall provide notice at the dwelling unit
 19 notifying the unauthorized person that such person has no right to occupy
 20 the dwelling unit and must vacate immediately. The notice shall include
 21 the street address of the ~~county sheriff's office~~ where the affidavit will be
 22 delivered. A copy of the notice with the date and time of delivery shall be
 23 attached to the affidavit.

Sec. 4(b) moved to Sec. 2(b)

24 ~~(b) An affiant who knowingly provides a false affidavit to the county~~
 25 ~~sheriff may be charged with a class A nonperson misdemeanor.~~

law enforcement agency

law enforcement agency or such agency's deputies or employees

26 Sec. 5. No ~~county sheriff's department~~ or political subdivision of the
 27 state may be held liable for any action or omission made in good faith
 28 pursuant to this act. A ~~county sheriff's~~ officer is not liable to an
 29 unauthorized person individual or any other party for loss, destruction or
 30 damage of property.

law enforcement

31 Sec. 6. A person may bring a civil cause of action for wrongful
 32 removal under this act against the affiant owner of the dwelling unit or
 33 agent of the owner of the dwelling unit. An person harmed by a wrongful
 34 removal under this act may have the possession of the dwelling unit
 35 restored and may recover actual costs and damages, as well as punitive
 36 damages of triple the fair market rent of the dwelling, plus court costs and
 37 reasonable attorney fees.

38 Sec. 7. (a) Sections 1 through 7, and amendments thereto, shall be
 39 known as the removal of squatters act.

40 (b) "Squatter" means a person occupying a dwelling who is not
 41 entitled to occupy the dwelling under a lease or rental agreement nor
 42 authorized by a tenant to occupy the dwelling. "Squatter" does not include
 43 a tenant who holds over in periodic tenancy.

As used in this act:

- (1) "Dwelling unit" has the same meaning as defined in K.S.A. 58-2543, and amendments thereto, except that "dwelling unit" includes commercial property and mobile homes.
- (2) "Immediate family member" means spouse, child, grandchild of any degree, parent, mother-in-law, father-in-law, grandparent of any degree, brother, brother-in-law, sister, sister-in-law, half-brother, half-sister, uncle, aunt, nephew or niece, whether biological, step or adoptive.
- (3) "Law enforcement agency" and law enforcement officer" mean the same as defined in K.S.A. 22-4606, and amendments thereto.
- (4)
- (5) "Tenant" has the same meaning as defined in K.S.A. 58-2543, and amendments thereto.