

## HOUSE BILL No. 2378

By Committee on Federal and State Affairs

Requested by Representative Will Carpenter

2-11

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.  
7

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:

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.

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.

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.

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.

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

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.

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

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.

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.

1       (c) Occupancy by a squatter is excluded from the residential landlord  
2 tenant act and the removal of a squatter shall not require the use of an  
3 eviction action under such act.

4       Sec. 8. This act shall take effect and be in force from and after its  
5 publication in the statute book.