

SESSION OF 2025

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2378

As Amended by House Committee of the Whole

Brief*

HB 2378, as amended, would enact the Removal of Squatters Act (Act) that would create a procedure for property owners to request law enforcement remove unauthorized persons from a dwelling unit through submission of an affidavit.

Legislative Findings and Intent (Section 1)

The bill would make the following findings:

- The fundamental rights of owning property include the right of the owner to exclude others from entering or remaining unlawfully on the property; and
- Squatting, or the unauthorized entry into or remaining in a dwelling, is a violation of the rights of the property owners, and is against public interest.

The bill would state the intent of the Act is to protect the rights of the property owners and to provide a timely and effective mechanism for removing squatters while protecting the rights of legitimate occupants.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <https://klrd.gov/>

Unauthorized Occupant Affidavit (Section 2)

The bill would authorize the owner of a dwelling unit or their agent to request the removal of an unauthorized person from the unit by submitting a notarized affidavit to a law enforcement agency in the county where the unit is located. The bill would require the affidavit to contain certain statements that would be attested by the signer (affiant), including:

- The affiant is the owner of the dwelling unit or their agent;
- A person has entered and is remaining unlawfully in the dwelling unit;
- The person was not authorized to enter the dwelling unit;
- The person is not a tenant or a holdover tenant;
- The affiant has requested the unauthorized person vacate the dwelling unit and the person has not done so; and
- The unauthorized person is not an immediate family member of the property owner.

Property Owner Notice to Vacate

In addition to completing the affidavit, the bill would require the affiant to provide notice at the dwelling unit to the unauthorized person that such person has no right to occupancy and must vacate the unit immediately. The bill would also require the notice to include the street address of the law enforcement agency where the affidavit will be delivered. The bill would require a copy of the notice to vacate with the date and time of delivery to be attached to the affidavit when it is submitted.

False Affidavit

If an affiant knowingly submits a false affidavit to a law enforcement agency in conjunction with the Act, the person could be charged with a class A nonperson misdemeanor.

Law Enforcement Procedures (Section 3)

The bill would establish procedures to be followed by law enforcement to verify an unauthorized occupant affidavit, and if an affidavit is verified, serve the unauthorized occupant with a notice to vacate.

Affidavit Verification

The bill would require the applicable law enforcement agency, upon receipt of a notarized affidavit, to verify that the affiant is the record owner of the dwelling unit or their agent, and appears otherwise entitled to relief. Upon verification and after 24 hours of the receipt of the affidavit, a law enforcement officer would be required to serve a notice to the unauthorized person to immediately vacate the dwelling unit.

Law Enforcement Notice to Vacate

The bill would authorize a law enforcement officer to hand-deliver a notice to vacate to any unauthorized person occupying the dwelling, or post the notice on the front door or entrance of the dwelling unit.

The bill would also require the law enforcement agency to attempt to verify the identities of all persons occupying the dwelling and note the identities on the return of service.

Affidavit Processing Fee

The bill would authorize the law enforcement officer to charge a fee of not more than \$50 to process an affidavit filed pursuant with the Act.

Law Enforcement Liability (Section 5)

The bill would exempt a political subdivision of Kansas and a law enforcement agency or such agency's deputies or employees from liability for any action or omission made in good faith. Additionally, the bill would exempt a law enforcement officer from liability for loss, destruction, or damage of property experienced by an unauthorized person, or other individuals, while such officer is carrying out the provisions of the Act.

Wrongful Removal (Section 6)

The bill would allow a person who believes they have been harmed by a wrongful removal to bring a civil cause of action against the affiant owner of the dwelling unit or their agent.

If a court finds that a person was harmed by a wrongful removal, the Act would allow such person to have the possession of the dwelling unit restored and to recover:

- Actual costs and damages;
- Punitive damages of triple the fair market rent of the dwelling;
- Court costs; and
- Reasonable attorney fees.

Definitions (Section 7)

The bill would define the following terms:

- “Squatter” would mean a person occupying a dwelling who is not entitled to occupy the dwelling under a lease or rental agreement nor authorized by a tenant to occupy the dwelling. The bill would clarify “squatter” does not include a tenant who holds over in periodic tenancy;
- “Dwelling unit” would have the same meaning as in the Residential Landlord and Tenant Act, except that “dwelling unit” would include commercial property and mobile homes;
- “Immediate family member” would mean 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;
- “Law enforcement agency” and “law enforcement officer” would mean the same as in the Kansas Code of Criminal Procedure; and
- “Tenant” would have the same meaning as in the Residential Landlord and Tenant Act.

Exclusion from Residential Landlord Tenant Act (Section 7)

The bill would state occupancy by a squatter is excluded from the Residential Landlord Tenant Act and the removal of a squatter shall not require the use of an eviction under this Act

Background

The bill was introduced by the House Committee on Federal and State Affairs at the request of Representative W. Carpenter.

House Committee on Federal and State Affairs

In the House Committee hearing, **proponent** testimony was provided by Representative W. Carpenter and a representative of the Kansas Association of Realtors. The proponents indicated the bill would assist property owners in their efforts to reclaim property and remove unauthorized individuals from residing in or on private property.

Neutral testimony was provided by a representative of the Kansas Sheriffs Association, who indicated there is a possible need for this legislation. The conferee proposed multiple clarifying amendments regarding affidavit notarization, defining “immediate family,” adding “criminal damage to property” to the list of crimes for which an unauthorized individual found in a dwelling could be arrested, and other technical changes.

Written-only opponent testimony was provided by a representative of Kansas Action for Children.

No additional testimony was provided.

The House Committee amended the bill to:

- Change references to a county sheriff to refer to “law enforcement agency” or “law enforcement officer”;
- Require notarization of affidavits;
- Define the terms “Immediate family member” and “Law enforcement agency”;
- Rearrange definition sections; and
- Make additional technical amendments.

House Committee of the Whole

The House Committee of the Whole amended the bill by:

- Removing language from the legislative findings regarding whether squatting is considered a crime and;
- Removing language that would allow law enforcement to arrest persons found in a dwelling unit for certain crimes or for an outstanding arrest warrant.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration states enactment of the bill could increase the number of cases filed in the district courts because the bill creates a new crime and allows a civil cause of action. These additional cases would increase time spent by district court judicial and non-judicial personnel in processing, researching, and hearing cases. Since the new crime carries a class A nonperson misdemeanor penalty, there could also be additional supervision of offenders by court services officers. Enactment of the bill could increase the collection of docket fees, fines, and supervision fees that would be deposited into the State General Fund. However, the agency is unable to estimate a precise fiscal effect. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2026 Governor's Budget Report*.

The Kansas Association of Counties (Association) indicates enactment of the bill could increase costs for counties associated with the sheriff's office being responsible for accepting, processing, and possibly investigating the merits of the affidavits as well as carrying out the removal of a squatter. The bill would authorize a sheriff's office to charge a

fee of up to \$50 to process an affidavit, which could cover some portion of additional costs of implementing the bill's provisions. The Association is unable to estimate a precise fiscal effect of the bill if it is enacted.

Removal of Squatters Act; law enforcement agency; law enforcement officer; affidavit; civil cause of action