

1 AN ACT relating to the rights of real property owners.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Immediate family member" means a spouse, parent, sibling, child, mother-
7 in-law, father-in-law, son-in-law, daughter-in-law, grandparent, or
8 grandchild; and

9 (b) "Law enforcement officer" means a:

10 1. Person who is employed as a sworn law enforcement officer by a city,
11 county, urban-county government, or charter county government law
12 enforcement agency;

13 2. Sheriff or full-time deputy sheriff; or

14 3. Constable granted police powers.

15 (2) A property owner or his or her authorized agent may request a law enforcement
16 officer to immediately remove a person or persons unlawfully occupying real
17 property pursuant to this section if:

18 (a) The unauthorized person is not and never has been a tenant of the
19 premises, and never had a written or oral agreement authorized by the
20 property owner to occupy the premises;

21 (b) The real property was not open to members of the public at the time the
22 unauthorized person or persons entered;

23 (c) The property owner has directed the unauthorized person to leave the
24 property;

25 (d) The unauthorized person or persons are not immediate family members of
26 the property owner; and

27 (e) There is no pending litigation related to the real property between the

1 property owner and any known unauthorized person.

2 (3) The request for immediate removal of an unlawful occupant of real property
3 under subsection (2) of this section shall be made by presenting a completed
4 Petition to Remove Persons Unlawfully Occupying Real Property to the law
5 enforcement officer. The submitted petition shall be in substantially the following
6 form:

7 "PETITION TO REMOVE PERSONS UNLAWFULLY OCCUPYING REAL
8 PROPERTY

9 I, the owner or authorized agent of the owner of the real property located at, declare
10 that (initial each box):

11 1. I am the owner of the real property or the authorized agent of the owner of the
12 real property.

13 2. I obtained title to the property on or about....

14 3. An unauthorized person or persons have unlawfully entered and are
15 remaining or residing unlawfully on the real property.

16 4. The real property was not open to members of the public at the time the
17 unauthorized person or persons entered.

18 5. I have directed the unauthorized person or persons to leave the real property,
19 but they have not done so.

20 6. The unauthorized person or persons sought to be removed are not an owner or
21 a co-owner of the property and have not been listed on the title to the property unless
22 the person or persons have engaged in title fraud.

23 7. The unauthorized person or persons are not immediate family members of the
24 property owner.

25 8. There is no litigation related to the real property pending between the property
26 owner and any person sought to be removed.

27 9. I understand that a person or persons removed from the property pursuant to

this procedure may bring a cause of action against me for any false statements made in this petition, or for wrongfully using this procedure, and that as a result of such action I may be held liable for actual damages, penalties, costs, and reasonable attorney's fees.

10. I am requesting the law enforcement officer to immediately remove the unauthorized person or persons from the property.

11. A copy of my valid government-issued identification is attached, or I am an agent of the property owner, and documents evidencing my authority to act on the property owner's behalf are attached.

I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND EACH STATEMENT IS TRUE AND CORRECT."

..... (signature of property owner or agent of owner)

(4) (a) Upon receipt of a petition in accordance with subsection (3) of this section, the law enforcement officer shall verify the identity of the petitioner. The petitioner's identity may be verified by presentation of a government-issued photo identification.

(b) If the identity of the petitioner is verified, the law enforcement officer shall, without unnecessary delay, serve a notice to immediately vacate the property on all the unlawful occupants and shall put the owner in possession of the real property.

(c) The service required in paragraph (b) of this subsection may be accomplished by hand delivery of the notice to an occupant or by posting the notice on the real property.

(d) The law enforcement officer serving the notice shall attempt to verify the identity of all persons occupying the real property and note the identities on the return of service. If appropriate, the law enforcement officer may arrest any person found on the real property for trespass, outstanding warrants, or

1 any other legal cause.

2 (e) A law enforcement officer acting in good faith under this subsection shall
3 be immune from criminal and civil liability.

4 (5) (a) The sheriff or constable may charge a fee of twenty dollars (\$20) for service
5 of the notice to immediately vacate the property.

6 (b) After the law enforcement officer serves the notice to immediately vacate the
7 property, the property owner or authorized agent may request that the law
8 enforcement officer remain at the premises to keep the peace while the
9 property owner or agent changes the locks and removes the personal
10 property of the unlawful occupants from the premises to or near the
11 property line.

12 (c) The property owner or his or her authorized agent acting in good faith shall
13 be immune from criminal and civil liability due to the loss of, destruction of,
14 or damage to the personal property of the unlawful occupants unless the
15 removal is found to be wrongful under subsection (6) of this section.

16 (6) (a) A person may bring a civil cause of action against a petitioner alleging
17 wrongful removal under this section. A person harmed by a wrongful
18 removal under this section may be restored to possession of the real
19 property. A prevailing plaintiff shall be entitled to an award of court costs
20 and reasonable attorney's fees in addition to other appropriate relief.

21 (b) An action for wrongful removal under this section shall be filed in the
22 District Court of the county in which the property is located.

23 (c) The action for wrongful removal shall be commenced within sixty (60) days
24 after the wrongful removal.

25 (7) This section shall not bar a property owner from bringing a civil cause of action
26 against any unauthorized person for property damage, deprivation of use of
27 property, and any other relief to which the property owner may be entitled.

1 **(8) The Department of Kentucky State Police shall create a form containing the text**
2 **of the petition as described in subsection (3) of this section and publicly post the**
3 **form it on its website; provided, however, that an owner's petition is not required**
4 **to appear on the Department of Kentucky State Police form to be valid.**

5 **(9) The procedures established in this section are not applicable to, and shall not be**
6 **enforced against, a person who is a current or former tenant of the premises or**
7 **who once had an agreement with the property owner that permitted the person to**
8 **occupy the premises.**

9 ➔Section 2. KRS 512.010 is amended to read as follows:

10 **As used in this chapter**~~The following definitions apply in this chapter unless the context~~
11 ~~otherwise requires~~;

12 (1) "Lease or rental agreement" means all agreements, written or oral, embodying the
13 terms and conditions concerning the use and occupancy of a dwelling unit or
14 premises;

15 (2) "Litter" means rubbish, refuse, waste material, offal, paper, glass, cans, bottles,
16 trash, debris, or any foreign substance of whatever kind or description and whether
17 or not it is of value;

18 (3) "Noxious substance" means any substance capable of generating offensive,
19 noxious, or suffocating fumes, gases, or vapors;

20 (4) "Property" includes livestock as defined in KRS 150.010 and poultry as defined in
21 KRS 246.010;

22 (5) "Residential rental property" means any residential premises or property contained
23 therein leased or otherwise rented to a tenant solely for residential purposes under a
24 lease or rental agreement to which the tenant is a party;~~and~~

25 **(6) "Squatter" means a person who enters or remains unlawfully on real property**
26 **when he or she is not privileged or licensed to do so, including a person who**
27 **takes up residence in a property he or she does not own, provided he or she is not**

1 *a current or former tenant at the premises, did not have an agreement to occupy*
2 *the premises at any time, and is not an immediate family member of the property*
3 *owner; and*

4 (7) "Tenant" means a person entitled under a lease or rental agreement to occupy a
5 residential rental property to the exclusion of others.

6 ➔Section 3. KRS 512.020 is amended to read as follows:

7 (1) A person is guilty of criminal mischief in the first degree when, having no right to
8 do so or any reasonable ground to believe that he or she has such right, he or she
9 intentionally or wantonly:

10 (a) Defaces, destroys, or damages any property causing pecuniary loss of five
11 hundred dollars (\$500) or more;

12 (b) Tampers with the operations of a key infrastructure asset, as defined in KRS
13 511.100, in a manner that renders the operations harmful or dangerous;~~[-or]~~

14 (c) As a tenant, intentionally or wantonly defaces, destroys, or damages
15 residential rental property causing pecuniary loss of five hundred dollars
16 (\$500) or more; or

17 (d) As a squatter, intentionally or wantonly defaces, destroys. or damages real
18 property causing pecuniary loss of five hundred dollars (\$500) or more.

19 (2) Criminal mischief in the first degree is a Class D felony, unless:

20 (a) The offense occurs during a declared emergency as defined by KRS 39A.020
21 arising from a natural or man-made disaster, within the area covered by the
22 emergency declaration, and within the area impacted by the disaster, in which
23 case it is a Class C felony;

24 (b) For the first offense, if the defendant at any time prior to trial effects repair or
25 replacement of the defaced, destroyed, or damaged property, makes complete
26 restitution in the amount of the damage, or performs community service as
27 required by the court, in which case it is a Class B misdemeanor. The court

1 shall determine the number of hours of community service commensurate
2 with the total amount of monetary damage caused by or incidental to the
3 commission of the crime, of not less than sixty (60) hours; or

4 (c) For the second or subsequent offense, if the defendant at any time prior to trial
5 effects repair or replacement of the defaced, destroyed, or damaged property,
6 makes complete restitution in the amount of the damage, or performs
7 community service as required by the court, in which case it is a Class A
8 misdemeanor. The court shall determine the number of hours of community
9 service commensurate with the total amount of monetary damage caused by
10 or incidental to the commission of the crime, of not less than sixty (60) hours.

11 ➔Section 4. KRS 512.030 is amended to read as follows:

12 (1) A person is guilty of criminal mischief in the second degree when, having no right
13 to do so or any reasonable ground to believe that he or she has such right, he or she:

14 (a) Intentionally or wantonly defaces, destroys, or damages any property causing
15 pecuniary loss of less than five hundred dollars (\$500);~~or~~

16 (b) As a tenant, intentionally or wantonly defaces, destroys, or damages
17 residential rental property causing pecuniary loss of less than five hundred
18 dollars (\$500); or

19 (c) As a squatter, intentionally or wantonly defaces, destroys, or damages real
20 property causing a pecuniary loss of less than five hundred dollars (\$500).

21 (2) Criminal mischief in the second degree is a Class A misdemeanor, unless:

22 (a) The offense occurs during a declared emergency as defined by KRS 39A.020
23 arising from a natural or man-made disaster, within the area covered by the
24 emergency declaration, and within the area impacted by the disaster, in which
25 case it is a Class D felony; or

26 (b) The defendant at any time prior to trial effects repair or replacement of the
27 defaced, destroyed, or damaged property, makes complete restitution in the

1 amount of the damage, or performs community service as required by the
2 court, in which case it is a Class B misdemeanor. The court shall determine
3 the number of hours of community service commensurate with the total
4 amount of monetary damage caused by or incidental to the commission of the
5 crime, of not less than fifteen (15) hours.