

As Introduced

135th General Assembly

Regular Session

2023-2024

S. B. No. 241

Senators Huffman, S., Brenner

**Cosponsors: Senators Johnson, Cirino, Hackett, Lang, Schaffer, Wilson,
Romanchuk**

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
and to prohibit the use and sale of fraudulent 5
deeds. 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, a police officer, constable, or bailiff to immediately 13
remove a person who unlawfully occupies a residential premises 14
on that real property, if all of the 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

"COMPLAINT TO REMOVE PERSONS UNLAWFULLY OCCUPYING A 44
RESIDENTIAL PREMISES 45

I, the record owner or authorized agent of the record 46
owner of the real property located at _____ (address), 47
declare under the penalty of perjury that (initial each box): 48

1. ___ I am the record owner of the real property, or the 49
authorized agent of the record owner. 50

2. ___ I purchased the real property on _____ (date). 51

3. ___ The real property includes a residential premises. 52

4. ___ An unauthorized person unlawfully entered the 53
residential premises and is residing or otherwise remains in the 54
residential premises. 55

5. ___ The residential premises was not open to members of 56
the public at the time the unauthorized occupant entered. 57

6. ___ I have directed the unauthorized occupant to leave 58
the residential premises, but the unauthorized occupant has not 59
done so. 60

7. ___ The unauthorized occupant is not a current or former 61
tenant of the residential premises pursuant to a rental 62
agreement with myself or my authorized agent, and any lease that 63
may be produced by an occupant is fraudulent. 64

8. ___ The unauthorized occupant is not an owner or co- 65
owner of the real property or the residential premises and has 66
not been listed on the title to the property, unless the 67
unauthorized occupant has engaged in title fraud. 68

9. ___ The unauthorized occupant is not my immediate family 69
member. 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, police officer, 80
constable, or bailiff to immediately remove the unauthorized 81
occupant from the residential premises. 82

13. ___ A copy of my valid government-issued identification 83
is attached, or I am an agent of the record owner and documents 84
evidencing my authority to act on the record owner's behalf are 85
attached. 86

I HAVE READ EVERY STATEMENT MADE IN THIS COMPLAINT AND 87
EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE 88
STATEMENTS MADE IN THIS COMPLAINT ARE MADE UNDER PENALTY OF 89
PERJURY, PUNISHABLE AS PROVIDED IN SECTION 2921.11 OF THE 90
REVISED CODE. 91

_____ (Signature of record owner or record 92
owner's agent)" 93

(C) (1) Upon receipt of a complaint that substantially 94
conforms to the requirements of this section, the sheriff, 95
police officer, constable, or bailiff shall verify that the 96
complainant is the record owner of the real property that is the 97
subject of the complaint, or the authorized agent of the record 98
owner, and appears to be entitled to relief under this section. 99
If verified, the sheriff, police officer, constable, or bailiff 100
shall, without delay, service a notice to immediately vacate on 101

all unauthorized occupants and shall put the record owner in possession of the real property. 102
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(2) Service may be accomplished by hand delivery of the notice to an occupant or by posting the notice on the front door or entrance of the residential premises. 104
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(3) The sheriff, police officer, constable, or bailiff shall attempt to verify the identities of all persons occupying the residential premises and note the identities on the return of service. If appropriate, the sheriff, police officer, constable, or bailiff may arrest any person found in the residential premises for trespass, outstanding warrants, or any other legal cause. 107
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(D) The sheriff, police officer, constable, or bailiff is entitled to the same fee for service of the notice to immediately vacate as if the sheriff were serving a writ of possession under section 311.17 of the Revised Code. 114
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(E) (1) After the sheriff, police officer, constable, or bailiff serves the notice to immediately vacate, the record owner or authorized agent may request that the sheriff, police officer, constable, or bailiff stand by to keep the peace while the record owner or agent changes the locks and removes any personal property left by the unauthorized occupants from the residential premises to or near the property line. 118
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(2) When such a request is made, the sheriff, police officer, constable, or bailiff may charge a reasonable hourly rate, and the person requesting the sheriff, police officer, constable, or bailiff to stand by and keep the peace is responsible for paying the reasonable hourly rate set by the sheriff. 125
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(3) The sheriff, police officer, constable, or bailiff is 131
not liable to the unauthorized occupant or any other party for 132
loss, destruction, or damage to property. 133

(4) The record owner or authorized agent is not liable to 134
an unauthorized occupant or any other party for the loss, 135
destruction, or damage to personal property unless the removal 136
was wrongful. 137

(F) A person wrongfully removed from real property under 138
this section may bring a civil action for wrongful removal in 139
any court of competent jurisdiction. The court may restore 140
possession of real property to a person wrongfully removed under 141
this section and may award actual damages, statutory damages 142
equal to triple the fair market rent of the residential 143
premises, court costs, and reasonable attorney's fees. 144

(G) This section does not limit the rights of a property 145
owner or limit the authority of a law enforcement officer to 146
arrest an unlawful occupant for trespassing, vandalism, theft, 147
or other crimes. 148

Sec. 2909.07. (A) No person shall: 149

(1) Without privilege to do so, knowingly move, deface, 150
damage, destroy, or otherwise improperly tamper with either of 151
the following: 152

(a) The property of another; 153

(b) One's own residential real property with the purpose 154
to decrease the value of or enjoyment of the residential real 155
property, if both of the following apply: 156

(i) The residential real property is subject to a 157
mortgage. 158

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| (ii) The person has been served with a summons and | 159 |
| complaint in a pending residential mortgage loan foreclosure | 160 |
| action relating to that real property. As used in this division, | 161 |
| "pending" includes the time between judgment entry and | 162 |
| confirmation of sale. | 163 |
| (2) With purpose to interfere with the use or enjoyment of | 164 |
| property of another, employ a tear gas device, stink bomb, smoke | 165 |
| generator, or other device releasing a substance that is harmful | 166 |
| or offensive to persons exposed or that tends to cause public | 167 |
| alarm; | 168 |
| (3) Without privilege to do so, knowingly move, deface, | 169 |
| damage, destroy, or otherwise improperly tamper with a bench | 170 |
| mark, triangulation station, boundary marker, or other survey | 171 |
| station, monument, or marker; | 172 |
| (4) Without privilege to do so, knowingly move, deface, | 173 |
| damage, destroy, or otherwise improperly tamper with any safety | 174 |
| device, the property of another, or the property of the offender | 175 |
| when required or placed for the safety of others, so as to | 176 |
| destroy or diminish its effectiveness or availability for its | 177 |
| intended purpose; | 178 |
| (5) With purpose to interfere with the use or enjoyment of | 179 |
| the property of another, set a fire on the land of another or | 180 |
| place personal property that has been set on fire on the land of | 181 |
| another, which fire or personal property is outside and apart | 182 |
| from any building, other structure, or personal property that is | 183 |
| on that land; | 184 |
| (6) Without privilege to do so, and with intent to impair | 185 |
| the functioning of any computer, computer system, computer | 186 |
| network, computer software, or computer program, knowingly do | 187 |

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| any of the following: | 188 |
| (a) In any manner or by any means, including, but not limited to, computer hacking, alter, damage, destroy, or modify a computer, computer system, computer network, computer software, or computer program or data contained in a computer, computer system, computer network, computer software, or computer program; | 189 190 191 192 193 194 |
| (b) Introduce a computer contaminant into a computer, computer system, computer network, computer software, or computer program. | 195 196 197 |
| (7) Without privilege to do so, knowingly destroy or improperly tamper with a critical infrastructure facility; | 198 199 |
| <u>(8) Without privilege to do so, unlawfully detain, occupy, or trespass upon a residential dwelling and intentionally cause at least one thousand dollars in damages to the dwelling.</u> | 200 201 202 |
| (B) As used in this section: | 203 |
| (1) "Safety device" means any fire extinguisher, fire hose, or fire axe, or any fire escape, emergency exit, or emergency escape equipment, or any life line, life-saving ring, life preserver, or life boat or raft, or any alarm, light, flare, signal, sign, or notice intended to warn of danger or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal, or gate, or any first aid or survival equipment, or any other device, apparatus, or equipment intended for protecting or preserving the safety of persons or property. | 204 205 206 207 208 209 210 211 212 213 214 |
| (2) "Critical infrastructure facility" has the same meaning as in section 2911.21 of the Revised Code. | 215 216 |

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| (3) "Improperly tamper" means to change the physical | 217 |
| location or the physical condition of the property. | 218 |
| (C) (1) Whoever violates this section is guilty of criminal | 219 |
| mischief, and shall be punished as provided in division (C) (2), | 220 |
| (3), or (4) of this section. | 221 |
| (2) Except as otherwise provided in this division, | 222 |
| criminal mischief committed in violation of division (A) (1), | 223 |
| (2), (3), (4), or (5) of this section is a misdemeanor of the | 224 |
| third degree. Except as otherwise provided in this division, if | 225 |
| the violation of division (A) (1), (2), (3), (4), or (5) of this | 226 |
| section creates a risk of physical harm to any person, criminal | 227 |
| mischief committed in violation of division (A) (1), (2), (3), | 228 |
| (4), or (5) of this section is a misdemeanor of the first | 229 |
| degree. If the property involved in the violation of division | 230 |
| (A) (1), (2), (3), (4), or (5) of this section is an aircraft, an | 231 |
| aircraft engine, propeller, appliance, spare part, fuel, | 232 |
| lubricant, hydraulic fluid, any other equipment, implement, or | 233 |
| material used or intended to be used in the operation of an | 234 |
| aircraft, or any cargo carried or intended to be carried in an | 235 |
| aircraft, criminal mischief committed in violation of division | 236 |
| (A) (1), (2), (3), (4), or (5) of this section is one of the | 237 |
| following: | 238 |
| (a) If the violation creates a risk of physical harm to | 239 |
| any person, except as otherwise provided in division (C) (2) (b) | 240 |
| of this section, criminal mischief committed in violation of | 241 |
| division (A) (1), (2), (3), (4), or (5) of this section is a | 242 |
| felony of the fifth degree. | 243 |
| (b) If the violation creates a substantial risk of | 244 |
| physical harm to any person or if the property involved in a | 245 |
| violation of this section is an occupied aircraft, criminal | 246 |

mischief committed in violation of division (A) (1), (2), (3), 247
(4), or (5) of this section is a felony of the fourth degree. 248

(3) Except as otherwise provided in this division, 249
criminal mischief committed in violation of division (A) (6) of 250
this section is a misdemeanor of the first degree. Except as 251
otherwise provided in this division, if the value of the 252
computer, computer system, computer network, computer software, 253
computer program, or data involved in the violation of division 254
(A) (6) of this section or the loss to the victim resulting from 255
the violation is one thousand dollars or more and less than ten 256
thousand dollars, or if the computer, computer system, computer 257
network, computer software, computer program, or data involved 258
in the violation of division (A) (6) of this section is used or 259
intended to be used in the operation of an aircraft and the 260
violation creates a risk of physical harm to any person, 261
criminal mischief committed in violation of division (A) (6) of 262
this section is a felony of the fifth degree. If the value of 263
the computer, computer system, computer network, computer 264
software, computer program, or data involved in the violation of 265
division (A) (6) of this section or the loss to the victim 266
resulting from the violation is ten thousand dollars or more, or 267
if the computer, computer system, computer network, computer 268
software, computer program, or data involved in the violation of 269
division (A) (6) of this section is used or intended to be used 270
in the operation of an aircraft and the violation creates a 271
substantial risk of physical harm to any person or the aircraft 272
in question is an occupied aircraft, criminal mischief committed 273
in violation of division (A) (6) of this section is a felony of 274
the fourth degree. 275

(4) Criminal mischief committed in violation of division 276
(A) (7) of this section is a felony of the third degree. 277

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| <u>(5) Criminal mischief committed in violation of division</u> | 278 |
| <u>(A) (8) of this section is a felony of the second degree.</u> | 279 |
| <u>Sec. 2913.53.</u> (A) <u>No person, with the purpose to detain or</u> | 280 |
| <u>remain upon real property, shall knowingly present to another</u> | 281 |
| <u>person a false document purporting to be a valid lease</u> | 282 |
| <u>agreement, deed, or other instrument conveying real property</u> | 283 |
| <u>rights.</u> | 284 |
| <u>(B) No person shall knowingly do any of the following:</u> | 285 |
| <u>(1) List or advertise residential real property that the</u> | 286 |
| <u>purported seller has no legal title or authority to sell;</u> | 287 |
| <u>(2) Rent or lease residential real property that the</u> | 288 |
| <u>purported owner has no lawful ownership in to another person.</u> | 289 |
| <u>(C) Whoever violates this section is guilty of title</u> | 290 |
| <u>fraud. A violation of division (A) of this section is a</u> | 291 |
| <u>misdemeanor of the first degree. A violation of division (B) of</u> | 292 |
| <u>this section is a felony of the first degree.</u> | 293 |
| Section 2. That existing section 2909.07 of the Revised | 294 |
| Code is hereby repealed. | 295 |