

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.