

House Bill 1017 (COMMITTEE SUBSTITUTE)

By: Representatives Seabaugh of the 34th, Reeves of the 99th, Burchett of the 176th, Crowe of the 118th, Silcox of the 53rd, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Code Section 15-10-2 of the Official Code of Georgia Annotated, relating to the
2 general jurisdiction and authority of magistrate to act, so as to include certain criminal
3 trespass violations; to amend Title 16 of the Official Code of Georgia Annotated, relating to
4 crimes and offenses, so as to provide for the offense of unlawful squatting violations where
5 a person enters a land or premises for purposes of residing on such land or premises; to
6 provide for a definition; to provide for a violations and penalties; to amend Article 2 of
7 Chapter 11 of Title 44 of the Official Code of Georgia Annotated, relating to proceedings
8 against intruders, so as to provide for the submission of a property affidavit in magistrate
9 court; to provide time frame for turning out person or persons; to provide for
10 counteraffidavits; to provide for officers and certified individuals; to provide for monetary
11 relief; to provide that proceedings regarding a writ of possession are not required to be jury
12 trials; to provide for related matters; to provide for an effective date; to provide a short title;
13 to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 This Act shall be known and may be cited as the "Georgia Squatter Reform Act."

H. B. 1017 (SUB)

SECTION 2.

17
18 Code Section 15-10-2 of the Official Code of Georgia Annotated, relating to the general
19 jurisdiction and authority of magistrate to act, is amended by adding new paragraphs to
20 subsection (a) to read as follows:

21 "(16) The foreclosure of liens on abandoned mobile homes as established in Article 6 of
22 Chapter 7 of Title 44; and

23 (17) The foreclosure of liens on abandoned motor vehicles as established in Article 1A
24 of Chapter 11 of Title 40, 'The Abandoned Motor Vehicle Act.' Act;

25 (18) The trial and sentencing of unlawful squatting violations as provided in Code
26 Section 16-7-21.1; and

27 (19) Proceedings against intruders and unlawful squatting as provided in Code Sections
28 44-11-30, 44-11-31, 44-11-32, and 44-11-33."

SECTION 3.

29
30 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
31 amended in Article 2 of Chapter 7, relating to criminal trespass and damage to property, by
32 adding a new Code Section to read as follows:

33 "16-7-21.1.

34 (a)(1) A person commits the offense of unlawful squatting when he or she enters upon
35 the land or premises of another and resides on such land or premises for any period of
36 time knowingly acting without the knowledge or consent of the owner, rightful occupant,
37 or an authorized representative of the owner. For purposes of this Code section, the term
38 'resides' means to inhabit or live on or within any land or premises.

39 (2) Any person who commits or is accused of committing the offense of unlawful
40 squatting as provided for in paragraph (1) of this subsection shall receive a citation
41 advising that they must present to the head of the issuing law enforcement agency or their
42 designee within three business days of receiving the citation for such alleged offense

43 properly executed documentation that authorizes the person's entry on such land or
44 premises. Such documentation may include a properly executed lease or rental
45 agreement or proof of rental payments.

46 (3) If such person is unable to provide the documentation required by paragraph (2) of
47 this subsection, such person shall be subject to arrest for unlawful squatting and upon
48 conviction to the penalty provided in subsection (b) of this Code section.

49 (4) If such person does provide documentation that authorizes such person's entry on the
50 land or premises, a hearing shall be set within seven days of the submission of such
51 documentation and if the court finds that the submitted documentation was not properly
52 executed or is not meritorious, such person shall be subject to demand for possession and
53 removal as provided in Code Section 44-11-32, be subject to arrest and upon conviction
54 penalties as provided for in Code Sections 16-9-1 and 16-9-2, and shall be assessed an
55 additional fine based on the fair market monthly rental rate of the land or premises.

56 (b) Any person who violates subsection (a) of this Code section shall be guilty of a
57 misdemeanor which upon conviction shall be punishable as provided in Code
58 Section 17-10-3."

59 **SECTION 4.**

60 Article 2 of Chapter 11 of Title 44 of the Official Code of Georgia Annotated, relating to
61 proceedings against intruders, is amended by revising Code Section 44-11-30, relating to
62 manner of ejecting intruders, affidavit, ejection by sheriff, and counteraffidavit, as follows:

63 "44-11-30.

64 When any person, either by himself or herself, his or her agent, or his or her attorney in
65 fact, shall take and subscribe an affidavit in writing before any officer authorized to
66 administer an oath setting forth that he or she claims, in good faith, the right of possession
67 to the described land or tenement and that such land or tenement is in the hands of another
68 named person who does not in good faith claim a right to such possession and yet refuses

69 to abandon the same, it shall be the duty of the sheriff, sheriff deputy, constable, marshal,
70 or other individual certified by the Georgia Peace Officer Standards and Training Council
71 of the county where the land or tenement is located, upon receiving such affidavit, to
72 exhibit such affidavit to the person described as being in possession of such land or
73 tenement ~~at the earliest possible day and to turn~~ at least three days prior to turning such
74 person out of possession unless the person in possession tenders to ~~the~~ such sheriff, sheriff
75 deputy, constable, marshal, or other individual certified by the Georgia Peace Officer
76 Standards and Training Council a counteraffidavit stating that he or she claims, in good
77 faith, a legal right to the possession of the land or tenement. Such sheriff, sheriff deputy,
78 constable, marshal, or other individual certified by the Georgia Peace Officer Standards
79 and Training Council shall turn out such person once three days have elapsed from the day
80 such affidavit was exhibited."

81 **SECTION 5.**

82 Said article is further amended by revising Code Section 44-11-31, relating to sheriff
83 competent to administer oath to person in possession as follows:

84 "44-11-31.

85 The sheriff, sheriff deputy, constable, marshal, or other individual certified by the Georgia
86 Peace Officer Standards and Training Council shall be a competent officer to administer
87 the oath to the person in possession if he desires to tender the counteraffidavit provided for
88 in Code Section 44-11-30."

89 **SECTION 6.**

90 Said article is further is amended by revising Code Section 44-11-32, relating to procedure
91 on submission of counteraffidavit and trial, as follows:

92 "44-11-32.

93 (a)(1) If the party in possession submits a counteraffidavit as provided in Code Section
94 44-11-30, the sheriff, sheriff deputy, constable, marshal, or other individual certified by
95 the Georgia Peace Officer Standards and Training Council shall not turn him or her out
96 of possession but shall leave both parties in their respective positions. In such an event,
97 the sheriff, sheriff deputy, constable, marshal, or other individual certified by the Georgia
98 Peace Officer Standards and Training Council shall return both affidavits to the office of
99 the clerk of the superior magistrate court of the county in which the land is located for a
100 nonjury trial of the issue before a jury in accordance with the laws of this state.

101 (2) If the party in possession submits any counteraffidavit or other documentation at trial,
102 upon the magistrate's determination that the affidavit is not meritorious based on the
103 preponderance of the evidence, the sheriff, sheriff deputy, constable, marshal, or other
104 individual certified by the Georgia Peace Officer Standards and Training Council shall
105 turn him or her out of possession to occur as soon as practicable pursuant to a writ of
106 possession.

107 (3) The court may award the plaintiff the fair market value rent for the duration of the
108 party's occupancy, and other monetary relief found appropriate by the court. A party
109 shall have the right to appeal the decision of such magistrate court and such decision shall
110 be directly appealable to the Georgia appellate courts and not by de novo review by the
111 superior court."

112 SECTION 7.

113 Said article is further amended by revising Code Section 44-11-33, relating to issuance of
114 writ of possession and fi.fa. for costs, as follows:

115 "44-11-33.

116 ~~If the jury, upon~~ the trial provided for in Code Section 44-11-32, finds a verdict for the
117 plaintiff, the clerk of the court shall issue a writ of possession instanter and a fi. fa. for the
118 costs of the proceeding and any other monetary relief awarded by the court. The plaintiff

119 and the court shall be authorized to present the final order to law enforcement for
120 investigation or prosecution."

121 **SECTION 8.**

122 This Act shall become effective upon its approval by the Governor or upon its becoming law
123 without such approval.

124 **SECTION 9.**

125 All laws and parts of laws in conflict with this Act are repealed.