

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

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

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

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

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

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

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

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

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

24 (d) The law enforcement officer serving the notice shall attempt to verify the  
25 identity of all persons occupying the real property and note the identities on  
26 the return of service. If appropriate, the law enforcement officer may arrest  
27 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 (Z) "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) Tamper 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.