

1 AN ACT relating to property rights.

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 a*  
17 *residential dwelling or other structure on the real property pursuant to this*  
18 *section if:*

19 *(a) The real property being occupied includes a residential dwelling;*

20 *(b) An unauthorized person or persons have unlawfully entered and remain or*  
21 *continue to reside on the property owner's property;*

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

24 *(d) The property owner has directed the unauthorized person to leave the*  
25 *property;*

26 *(e) The unauthorized person or persons are not current or holdover tenants*  
27 *pursuant to a written or oral rental agreement authorized by the property*

1 owner;

2 (f) The unauthorized person or persons are not immediate family members of  
3 the property owner; and

4 (g) There is no pending litigation related to the real property between the  
5 property owner and any known unauthorized person.

6 (3) The request for immediate removal of an unlawful occupant of a residential  
7 dwelling or other structure under subsection (2) of this section shall be made by  
8 presenting a completed and notarized Petition to Remove Persons Unlawfully  
9 Occupying Residential Real Property to the law enforcement officer. The  
10 submitted petition shall be in substantially the following form:

11 "PETITION TO REMOVE PERSONS UNLAWFULLY OCCUPYING  
12 RESIDENTIAL REAL PROPERTY

13 I, the owner or authorized agent of the owner of the real property located at ...., declare  
14 under penalty of perjury that (initial each box):

15 1. .... I am the owner of the real property or the authorized agent of the owner of the  
16 real property.

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

18 3. .... The real property includes a residential dwelling.

19 4. .... An unauthorized person or persons have unlawfully entered and are  
20 remaining or residing unlawfully on the real property.

21 5. .... The real property was not open to members of the public at the time the  
22 unauthorized person or persons entered.

23 6. .... I have directed the unauthorized person or persons to leave the real property,  
24 but they have not done so.

25 7. .... The person or persons are not current or holdover tenants pursuant to any  
26 valid lease authorized by the property owner, and any lease that may be produced by an  
27 occupant is fraudulent.

1 8. .... The unauthorized person or persons sought to be removed are not an owner or  
2 a co-owner of the property and have not been listed on the title to the property unless  
3 the person or persons have engaged in title fraud.

4 9. .... The unauthorized person or persons are not immediate family members of the  
5 property owner.

6 10. .... There is no litigation related to the real property pending between the property  
7 owner and any person sought to be removed.

8 11. .... I understand that a person or persons removed from the property pursuant to  
9 this procedure may bring a cause of action against me for any false statements made in  
10 this petition, or for wrongfully using this procedure, and that as a result of such action  
11 I may be held liable for actual damages, penalties, costs, and reasonable attorneys'  
12 fees.

13 12. .... I am requesting the law enforcement officer to immediately remove the  
14 unauthorized person or persons from the residential property.

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

18 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND EACH  
19 STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE  
20 STATEMENTS MADE IN THIS PETITION ARE BEING MADE UNDER  
21 PENALTY OF PERJURY, PUNISHABLE UNDER KRS 523.030."

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

23 (4) (a) Upon receipt of a petition in accordance with subsection (3) of this section,  
24 the law enforcement officer shall verify that the person submitting the  
25 petition is the record owner of the real property or the authorized agent of  
26 the owner and appears otherwise entitled to relief under this section.  
27 Verification may be accomplished by presenting a government-issued photo

1           identification.

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

6           (c) The service required in paragraph (b) of this subsection may be  
7           accomplished by hand delivery of the notice to an occupant or by posting  
8           the notice on the front door or entrance of the dwelling or other structure.

9           (d) The law enforcement officer shall attempt to verify the identity of all  
10           persons occupying the dwelling or other structure and note the identities on  
11           the return of service. If appropriate, the law enforcement officer may arrest  
12           any person found in the dwelling or other structure for trespass,  
13           outstanding warrants, or any other legal cause.

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

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

18           (b) After the law enforcement officer serves the notice to immediately vacate the  
19           property, the property owner or authorized agent may request that the law  
20           enforcement officer remain at the premises to keep the peace while the  
21           property owner or agent changes the locks and removes the personal  
22           property of the unlawful occupants from the premises to or near the  
23           property line.

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

1 (6) (a) A person may bring a civil cause of action against a petitioner alleging  
 2 wrongful removal under this section. A person harmed by a wrongful  
 3 removal under this section may be restored to possession of the real  
 4 property and may recover actual costs and damages incurred, statutory  
 5 damages equal to triple the fair market rent of the dwelling, court costs, and  
 6 reasonable attorneys' fees.

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

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

11 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 523 IS CREATED TO  
 12 READ AS FOLLOWS:

13 (1) A person is guilty of making a false statement to detain real property when he or  
 14 she knowingly and with intent to detain or remain upon real property presents to  
 15 another person a fraudulent document purporting to be a valid lease agreement,  
 16 deed, or other instrument conveying real property rights.

17 (2) Making a false statement to detain real property is a Class A misdemeanor.