

1 AN ACT relating to the removal of persons unlawfully occupying real property.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 383.290 is amended to read as follows:

4 (1) As used in this section:

5 (a) "Immediate family member" means a spouse, parent, sibling, child, mother-
6 in-law, father-in-law, son-in-law, daughter-in-law, grandparent, or grandchild;
7 and

8 (b) "Law enforcement officer" means a:

- 9 1. Person who is employed as a sworn law enforcement officer by a city,
10 county, urban-county government, **consolidated local government**, or
11 charter county government law enforcement agency;
12 2. Sheriff or full-time deputy sheriff; or
13 3. Constable granted police powers.

14 (2) A property owner or his or her authorized agent may request a law enforcement
15 **agency**~~[officer]~~ to immediately remove a person or persons unlawfully occupying
16 real property pursuant to this section if:

- 17 (a) The unauthorized person is not and never has been a tenant of the premises,
18 and never had a written or oral agreement authorized by the property owner to
19 occupy the premises;
20 (b) The real property was not open to members of the public at the time the
21 unauthorized person or persons entered;
22 (c) The property owner has directed the unauthorized person to leave the
23 property;
24 (d) The unauthorized person or persons are not immediate family members of the
25 property owner; and
26 (e) There is no pending litigation related to the real property between the property
27 owner and any known unauthorized person.

(3) The request for immediate removal of an unlawful occupant of real property under subsection (2) of this section shall be made by presenting a completed Petition to Remove Persons Unlawfully Occupying Real Property to the responding law enforcement officer. The submitted petition shall be in substantially the following form:

"PETITION TO REMOVE PERSONS UNLAWFULLY OCCUPYING REAL
PROPERTY

I, the owner or authorized agent of the owner of the real property located at, declare that (initial each box):

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

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

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

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

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

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

7. The unauthorized person or persons are not immediate family members of the property owner.

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

9. I understand that a person or persons removed from the property pursuant to this procedure may bring a cause of action against me for any false statements

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

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

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

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

11 (signature of property owner or agent of owner)_"

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

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

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

23 (d) The law enforcement officer serving the notice shall attempt to verify the
24 identity of all persons occupying the real property and note the identities on
25 the return of service. If appropriate, the law enforcement officer may arrest
26 any person found on the real property for trespass, outstanding warrants, or
27 any other legal cause.

- 1 (e) A law enforcement officer acting in good faith under this subsection shall be
2 immune from criminal and civil liability.
- 3 (5) (a) The sheriff or constable may charge a fee of twenty dollars (\$20) for service
4 of the notice to immediately vacate the property.
- 5 (b) After the law enforcement officer serves the notice to immediately vacate the
6 property, the property owner or authorized agent may request that the law
7 enforcement officer remain at the premises to keep the peace while the
8 property owner or agent changes the locks and removes the personal property
9 of the unlawful occupants from the premises to or near the property line.
- 10 (c) The property owner or his or her authorized agent acting in good faith shall be
11 immune from criminal and civil liability due to the loss of, destruction of, or
12 damage to the personal property of the unlawful occupants unless the removal
13 is found to be wrongful under subsection (6) of this section.
- 14 (6) (a) A person may bring a civil cause of action against a petitioner alleging
15 wrongful removal under this section. A person harmed by a wrongful removal
16 under this section may be restored to possession of the real property. A
17 prevailing plaintiff shall be entitled to an award of court costs and reasonable
18 attorney's fees in addition to other appropriate relief.
- 19 (b) An action for wrongful removal under this section shall be filed in the District
20 Court of the county in which the property is located.
- 21 (c) The action for wrongful removal shall be commenced within sixty (60) days
22 after the wrongful removal.
- 23 (7) This section shall not bar a property owner from bringing a civil cause of action
24 against any unauthorized person for property damage, deprivation of use of
25 property, and any other relief to which the property owner may be entitled.
- 26 (8) The Department of Kentucky State Police shall create a form containing the text of
27 the petition as described in subsection (3) of this section and publicly post the form

1 it on its website.~~[; provided,]~~ However,~~[that]~~ an owner's petition is not required to
2 appear on the Department of Kentucky State Police form to be valid.

3 (9) The procedures established in this section are not applicable to, and shall not be
4 enforced against, a person who is a current or former tenant of the premises or who
5 once had an agreement with the property owner that permitted the person to occupy
6 the premises.