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H.B. 480
135th General Assembly

Bill Analysis

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Version: As Reported by House Criminal Justice

Primary Sponsors: Reps. T. Young and Demetriou

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SUMMARY

- Permits property owners to request the immediate removal of a person unlawfully occupying residential property when certain conditions are met.
- Expands the definition of criminal mischief to include unlawfully detaining, occupying, or trespassing upon a residential dwelling and intentionally causing damage to the dwelling.
- Creates a criminal offense specific to title fraud.
- Declares an emergency.

DETAILED ANALYSIS

Removal of unauthorized occupants

Under continuing law, when an unauthorized occupant refuses to leave real property, the property owner may obtain a writ of execution through a Forcible Entry and Detainer action. Within ten days after receiving a writ of execution, a sheriff, police officer, constable, or bailiff must restore the property owner to possession of the premises.¹ The bill establishes an alternative nonjudicial process under which certain property owners and their agents may request the county sheriff to remove an unauthorized occupant. The bill includes an emergency clause due to the impact of loss of ownership of property, and would go into immediate effect if enacted.²

¹ Chapter 1923 of the Revised Code.

² Section 3.

Conditions and limitations

In order for the sheriff to remove an unauthorized occupant under the process created by the bill, all of the following conditions must be met:

- The requester is the record owner of the real property or the owner's agent;
- The real property includes a residential premises, and the record owner has the exclusive right to occupy the premises;
- The unauthorized occupant unlawfully entered the property and remains in the residential premises;
- The residential premises was not open to the public at the time the unauthorized occupant entered;
- The record owner directed the unauthorized occupant in writing to leave the residential premises (see "**Notice to vacate**," below);
- The unauthorized occupant is not currently, and was not within the year preceding the date the request was submitted, a tenant of the residential premises pursuant to a written or oral rental agreement authorized by the record owner (former tenants of a previous record owner may still be removed by a new record owner following a transfer of the residential premises);
- The unauthorized occupant is not a current or former owner of any interest in the real property or the residential premises, and is not listed on the title to the real property, unless the unauthorized occupant has engaged in title fraud;
- The unauthorized occupant is not a member of the record owner's immediate family – i.e., a spouse residing in the same household; full- or half-siblings; biological children, adopted children, or stepchildren; parents; and grandparents;
- There is no pending litigation related to the real property or the residential premises between the record owner and the unauthorized occupant.³

Notice to vacate

At least three days before initiating the nonjudicial process for removing an unauthorized occupant, the record owner must provide written notice directing the unauthorized occupant to leave the premises. The notice may be effectuated by certified mail (return receipt requested), by handing a copy of the notice to the unauthorized occupant, by leaving a copy of the notice at the unauthorized occupant's usual place of abode, or by leaving a copy of the notice at the residential premises that is the subject of the complaint. The notice must include the following statement:

³ R.C. 1923.16(A); R.C. 1349.04(A)(2), not in the bill.

You are being asked to leave the premises. If you do not leave, you may be removed by the county sheriff. If you are in doubt regarding your legal rights and obligations as an occupant of this premises, it is recommended that you seek legal assistance.⁴

Complaint

If all of the conditions and requirements described above are met, the owner or the owner's agent may file a complaint to have the unauthorized occupant removed. The bill provides the form to which the complaint must substantially adhere. The form consists primarily of sworn affirmations as to the conditions precedent to removing an unlawful occupant under the new procedure. However, it also requires certain additional items such as:

- The date the record owner acquired the property;
- A copy of the record owner's government-issued identification or, if the form is submitted by the record owner's agent, documents evidencing the agent's authority to act on the record owner's behalf;
- An acknowledgment that the record owner or agent may be civilly liable for making false statements in the complaint or wrongfully using the removal process.
- A copy of the deed to the property.⁵

A person who knowingly makes a false statement in the complaint is guilty of perjury, a felony of the third degree.⁶

Notice and removal

Upon receiving a complaint to remove an unauthorized occupant and a copy of the deed to the property, the sheriff is required to serve notice "without delay" that the unauthorized occupant must immediately vacate the property. Notice may be served by hand or posted on the front door of the property.⁷ The sheriff is entitled to a \$60 service fee, to be paid by the record owner or agent that made the complaint.⁸

After delivering notice, the owner or their agent may request that the sheriff stand by to keep the peace while the owner or agent removes the unauthorized occupier's personal property and changes the locks. The sheriff may charge the owner or their agent a reasonable hourly rate to do so. The sheriff is not liable to the unauthorized occupant for loss, destruction,

⁴ R.C. 1923.16(A)(5).

⁵ R.C. 1923.16(B).

⁶ R.C. 1923.16(G); R.C. 2921.11, not in the bill.

⁷ R.C. 1923.16(C).

⁸ R.C. 1923.16(D); R.C. 311.17(A)(7), not in the bill.

or damage to their property. The owner or their agent is also shielded from liability for such damages unless the removal was wrongful.⁹

Wrongful removal

If a person is wrongfully removed from real property, they may bring a civil action for wrongful removal within two years after the removal. A court may restore possession of the real property to the person wrongfully removed, award actual damages, statutory damages of triple the monthly fair market rent of the residential premises, court costs, and attorney's fees.¹⁰ The action may be brought against the person who requested the removal. No cause of action is created against the sheriff or county for wrongful removal.¹¹

Criminal prohibitions

Criminal mischief

The bill expands the current definition of criminal mischief to include a prohibition on unlawfully detaining, occupying, or trespassing upon a residential dwelling and intentionally causing damage to the dwelling. A violation of this prohibition felony of the fifth degree. A subsequent violation is a felony of the fourth degree.¹²

Title fraud

The bill creates a new criminal prohibition for title fraud. A person commits title fraud when they knowingly do any of the following:

- With the purpose to detain or remain upon real property, present to another person a false document purporting to be a valid lease, agreement, deed, or other instrument conveying real property rights;
- List or advertise residential real property that the purported seller has no legal title or authority to sell;
- Rent or lease residential real property that the purported owner has no lawful ownership in to another person;
- Sell or otherwise encumber residential real property that the purported seller has no legal title or authority to sell or encumber.

A violation of the first category of title fraud is a felony of the fifth degree. A violation of the second, third or fourth categories is a felony of the fourth degree.¹³

⁹ R.C. 1923.16(E).

¹⁰ R.C. 1923.16(F).

¹¹ R.C. 1923.16(I).

¹² R.C. 2909.07.

¹³ R.C. 2913.53.

HISTORY

Action	Date
Introduced	04-08-24
Reported, H. Criminal Justice	12-10-24
