

By: Senator(s) Harkins

To: Judiciary, Division A;
Judiciary, Division B

SENATE BILL NO. 2307

1 AN ACT TO ENACT THE "STOP SQUATTERS ACT"; TO STATE
2 LEGISLATIVE FINDINGS AND INTENT CONCERNING THE RIGHTS OF REAL
3 PROPERTY OWNERS; TO AUTHORIZE AN OWNER OF REAL PROPERTY TO REQUEST
4 FROM THE SHERIFF OF THE COUNTY IN WHICH THE REAL PROPERTY IS
5 LOCATED THE IMMEDIATE REMOVAL OF A PERSON OR PERSONS UNLAWFULLY
6 OCCUPYING A RESIDENTIAL DWELLING OR COMMERCIAL BUILDING LOCATED ON
7 THE REAL PROPERTY IF CERTAIN CONDITIONS ARE MET; TO REQUIRE THE
8 PROPERTY OWNER TO SUBMIT A COMPLAINT TO THE SHERIFF OF THE COUNTY
9 IN WHICH THE REAL PROPERTY IS LOCATED; TO REQUIRE A SHERIFF, UPON
10 RECEIPT OF A COMPLAINT, TO VERIFY THAT THE COMPLAINANT IS THE
11 OWNER OF THE REAL PROPERTY AND APPEARS ENTITLED TO THE RELIEF
12 SOUGHT; TO REQUIRE THE SHERIFF TO IMMEDIATELY SERVE A NOTICE TO
13 VACATE ON ALL THE UNLAWFUL OCCUPANTS AND PUT THE OWNER IN
14 POSSESSION OF THE REAL PROPERTY; TO AUTHORIZE A FEE FOR THE
15 SHERIFF'S SERVICE OF THE NOTICE; TO AUTHORIZE THE PROPERTY OWNER
16 TO REQUEST THE SHERIFF REMAIN AT THE REAL PROPERTY TO KEEP THE
17 PEACE WHILE THE PROPERTY OWNER CHANGES THE LOCKS AND REMOVES THE
18 PERSONAL PROPERTY OF THE UNLAWFUL OCCUPANTS FROM THE PREMISES TO
19 OR NEAR THE PROPERTY LINE; TO PROVIDE CERTAIN EXEMPTIONS FROM
20 LIABILITY FOR THE SHERIFF AND THE PROPERTY OWNER; TO AUTHORIZE A
21 PERSON TO BRING A CIVIL CAUSE OF ACTION FOR WRONGFUL REMOVAL UNDER
22 THIS ACT; TO PROVIDE A FORM COMPLAINT; TO AMEND SECTION 97-17-67,
23 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY PERSON WHO DETAINS,
24 OCCUPIES OR TRESPASSES ANY REAL PROPERTY OF ANOTHER SHALL BE
25 GUILTY OF MALICIOUS MISCHIEF; TO PROVIDE THAT ANY PERSON WHO, WITH
26 INTENT TO DETAIN OR REMAIN UPON REAL PROPERTY, KNOWINGLY AND
27 WILLFULLY PRESENTS TO ANOTHER PERSON A FALSE DOCUMENT PURPORTING
28 TO BE A VALID LEASE AGREEMENT, DEED OR OTHER INSTRUMENT CONVEYING
29 REAL PROPERTY RIGHTS COMMITS A MISDEMEANOR; TO PROVIDE THAT ANY
30 PERSON WHO LISTS OR ADVERTISES REAL PROPERTY FOR SALE KNOWING THAT
31 THE PURPORTED SELLER HAS NO LEGAL TITLE OR AUTHORITY TO SELL THE
32 PROPERTY, OR RENTS OR LEASES THE REAL PROPERTY TO ANOTHER PERSON
33 KNOWING THAT HE OR SHE HAS NO LAWFUL OWNERSHIP IN THE PROPERTY OR



LEASEHOLD INTEREST IN THE PROPERTY, COMMITS A FELONY; TO PROVIDE
CRIMINAL PENALTIES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. This act shall be known and may be cited as the
"Stop Squatters Act."

SECTION 2. (1) The Legislature finds:

(a) The right to exclude others from entering, and the
right to direct others to immediately vacate, real property are
the most important real property rights.

(b) The existing remedies regarding unauthorized
persons who unlawfully remain on real property fail to adequately
protect the rights of the property owner and fail to adequately
discourage theft and vandalism.

(2) Therefore, the legislative intent of this act is to
quickly restore possession of real property to the lawful owner of
the property when the property is being unlawfully occupied and to
thereby preserve property rights while limiting the opportunity
for criminal activity.

SECTION 3. (1) An owner of real property or his or her
authorized agent may request from the sheriff of the county in
which the real property is located the immediate removal of a
person or persons unlawfully occupying a residential dwelling or
commercial building located on the real property pursuant to this
act if all of the following conditions are met:

(a) The requesting person is the owner of the real
property or is the authorized agent of the property owner.



60 (b) The real property that is being occupied includes a
61 residential dwelling or commercial building.

62 (c) An unauthorized person or persons have unlawfully
63 entered and remain or continue to reside on the owner's real
64 property.

65 (d) The real property was not open to members of the
66 public at the time the unauthorized person or persons entered.

67 (e) The property owner has directed the unauthorized
68 person or persons to leave the property.

69 (f) The unauthorized person or persons are not current
70 or former tenants pursuant to a written or oral rental agreement
71 authorized by the property owner.

72 (g) The unauthorized person or persons are not
73 immediate family members of the property owner.

74 (h) There is no pending litigation related to the real
75 property between the property owner and any known unauthorized
76 person.

77 (2) To request the immediate removal of an unlawful occupant
78 of a residential dwelling or commercial building, the property
79 owner or his or her authorized agent must submit a complaint by
80 presenting a completed and verified Complaint to Remove Persons
81 Unlawfully Occupying Real Property to the sheriff of the county in
82 which the real property is located.

83 (3) (a) Upon receipt of the complaint, the sheriff shall
84 verify that the complainant is the record owner of the real



85 property or the authorized agent of the owner and appears
86 otherwise entitled to relief under this act. If verified, the
87 sheriff shall, without delay, serve a notice to immediately vacate
88 on all the unlawful occupants and shall put the owner in
89 possession of the real property. Service may be accomplished by
90 hand delivery of the notice to an occupant or by posting the
91 notice on the front door or entrance of the dwelling. The sheriff
92 shall also attempt to verify the identities of all persons
93 occupying the dwelling and note the identities on the return of
94 service.

95 (b) The sheriff is entitled to the same fee for service
96 of the notice to immediately vacate as if the sheriff were serving
97 a writ of possession under Section 25-7-19.

98 **SECTION 4.** (1) After the sheriff serves the notice to
99 immediately vacate, the property owner or authorized agent may
100 request that the sheriff remain at the real property to keep the
101 peace while the property owner or agent of the owner changes the
102 locks and removes the personal property of the unlawful occupants
103 from the premises to or near the property line.

104 (2) The sheriff is not liable to the unlawful occupant or
105 any other party for loss, destruction or damage of property.

106 (3) The real property owner or his or her authorized agent
107 is not liable to an unlawful occupant or any other party for the
108 loss, destruction or damage to the personal property unless the
109 removal was wrongful.



SECTION 5.

A person may bring a civil cause of action for wrongful removal under this act. A person harmed by a wrongful removal under this act may be restored to possession of the real property and may recover actual costs and damages incurred, statutory damages equal to triple the fair market rent of the dwelling, court costs and reasonable attorney fees. In an action brought under this section, the court shall give priority on its docket and an expedited review and may grant injunctive or other equitable relief.

SECTION 6. This act shall not limit:

(a) The rights of a property owner;

(b) The authority of a law enforcement officer to arrest an unlawful occupant for trespassing, vandalism, theft or other crimes; or

(c) The authority of a sheriff, who is serving the notice provided in this act, from arresting any person found in the dwelling for trespass, outstanding warrants or any other legal cause.

SECTION 7. The complaint required in Section 3 of this act

must be in substantially the following form:

COMPLAINT TO REMOVE PERSONS UNLAWFULLY

OCCUPYING REAL PROPERTY

I, the owner or authorized agent of the owner of the real property located at [Address of real property], declare under the penalty of perjury that [initial each space]:



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

2. [_____] The real property is a residential dwelling or commercial building.

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

7. [_____] 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.

8. [_____] The unauthorized person or persons are not immediate family members of the property owner.

9. [_____] There is no litigation related to the real property pending between the property owner and any person sought to be removed.



159 10. [_____] I understand that a person or persons removed
160 from the property pursuant to this procedure may bring a cause of
161 action against me for any false statements made in this complaint,
162 or for wrongfully using this procedure, and that as a result of
163 such action I may be held liable for actual damages, penalties,
164 costs and reasonable attorney fees.

165 11. [_____] I am requesting the sheriff to immediately
166 remove the unauthorized person or persons from the residential or
167 commercial property.

168 12. [_____] A copy of my valid government-issued
169 identification is attached, or I am an agent of the property
170 owner, and documents evidencing my authority to act on the
171 property owner's behalf are attached.

172 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION, AND EACH
173 STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS
174 MADE IN THIS PETITION ARE BEING MADE UNDER PENALTY OF PERJURY,
175 PUNISHABLE AS PROVIDED IN SECTION 97-9-59.

176 [Signature of Property Owner or Agent of Owner]

177 **SECTION 8.** Section 97-17-67, Mississippi Code of 1972, is
178 amended as follows:

179 97-17-67. (1) Every person who shall maliciously or
180 mischievously destroy, disfigure, or injure, or cause to be
181 destroyed, disfigured, or injured, any property of another, either
182 real or personal, shall be guilty of malicious mischief.



183 (2) Every person who unlawfully or maliciously detains,
184 occupies or trespasses or causes to be detained, occupied or
185 trespassed, any real property of another, shall be guilty of
186 malicious mischief.

187 (* * *3) If the value of the property destroyed,
188 disfigured, detained, occupied, trespassed or injured is One
189 Thousand Dollars (\$1,000.00) or less, it shall be a misdemeanor
190 and may be punishable by a fine of not more than One Thousand
191 Dollars (\$1,000.00) or imprisonment in the county jail not
192 exceeding twelve (12) months, or both, if the court finds
193 substantial and compelling reasons why the offender cannot be
194 safely and effectively supervised in the community, is not
195 amenable to community-based treatment, or poses a significant risk
196 to public safety. If such a finding is not made, the court shall
197 suspend the sentence of imprisonment and impose a period of
198 probation not exceeding one (1) year or a fine of not more than
199 One Thousand Dollars (\$1,000.00), or both. Any person convicted
200 of a third or subsequent offense under this subsection where the
201 value of the property is not less than Five Hundred Dollars
202 (\$500.00), shall be imprisoned in the Penitentiary for a term not
203 exceeding three (3) years or fined an amount not exceeding One
204 Thousand Dollars (\$1,000.00), or both.

205 (* * *4) If the value of the property destroyed,
206 disfigured, detained, occupied, trespassed or injured is in excess
207 of One Thousand Dollars (\$1,000.00) but less than Five Thousand



208 Dollars (\$5,000.00), it shall be a felony punishable by a fine not
209 exceeding Ten Thousand Dollars (\$10,000.00) or imprisonment in the
210 Penitentiary not exceeding five (5) years, or both.

211 (* * *5) If the value of the property is Five Thousand
212 Dollars (\$5,000.00) or more but less than Twenty-five Thousand
213 Dollars (\$25,000.00), it shall be punishable by a fine of not more
214 than Ten Thousand Dollars (\$10,000.00) or imprisonment in the
215 Penitentiary not exceeding ten (10) years, or both.

216 (* * *6) If the value of the property is Twenty-five
217 Thousand Dollars (\$25,000.00) or more, it shall be punishable by a
218 fine of not more than Ten Thousand Dollars (\$10,000.00) or
219 imprisonment in the Penitentiary not exceeding twenty (20) years,
220 or both.

221 (* * *7) In all cases restitution to the victim for all
222 damages shall be ordered. The value of property destroyed,
223 disfigured, detained, occupied, trespassed or injured by the same
224 party as part of a common crime against the same or multiple
225 victims may be aggregated together and if the value exceeds One
226 Thousand Dollars (\$1,000.00), shall be a felony.

227 (* * *8) For purposes of this statute, value shall be the
228 cost of repair or replacement of the property damaged or
229 destroyed.

230 (* * *9) Anyone who by any word, deed or act directly or
231 indirectly urges, aids, abets, suggests or otherwise instills in
232 the mind of another the will to so act shall be considered a



principal in the commission of said crime and shall be punished in the same manner.

SECTION 9. Any person who, with intent to detain or remain, or cause another to detain or remain upon real property, knowingly and willfully presents to another person a false document purporting to be a valid lease agreement, deed or other instrument conveying real property rights commits a misdemeanor. Upon conviction, the person shall be imprisoned for a term less than one (1) year in the county jail, fined an amount not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

SECTION 10. Any person who lists or advertises real property for sale knowing that the purported seller has no legal title or authority to sell the property, or leases the real property to another person knowing that he or she or the purported lessor has no lawful ownership in the property or leasehold interest in the property, commits a felony. Upon conviction, the person shall be imprisoned for a term not to exceed thirty (30) years in the custody of the Mississippi Department of Corrections, fined an amount not to exceed Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment.

SECTION 11. This act shall take effect and be in force from and after its passage.

