**South Carolina General Assembly**

125th Session, 2023-2024

**S. 1231**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Loftis, Corbin, Massey, Martin, Alexander and Kimbrell

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Introduced in the Senate on April 2, 2024

Currently residing in the Senate Committee on **Judiciary**

Summary: Ejectment of Person Unlawfully Occupying Residential Dwelling

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 4/2/2024 Senate Introduced and read first time (Senate Journal‑page 8)

 4/2/2024 Senate Referred to Committee on **Judiciary** (Senate Journal‑page 8)

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**VERSIONS OF THIS BILL**

[04/02/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/1231_20240402.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 27‑37‑200 SO AS TO PROVIDE A PROCEDURE FOR THE REMOVAL OF A PERSON UNLAWFULLY OCCUPYING A RESIDENTIAL DWELLING; BY ADDING SECTION 16‑11‑785 SO AS TO PROVIDE A CRIMINAL PENALTY FOR A PERSON WHO UNLAWFULLY DETAINS OR OCCUPIES OR TRESPASSES UPON A RESIDENTIAL DWELLING AND WHO INTENTIONALLY DAMAGES THE DWELLING CAUSING ONE THOUSAND DOLLARS OR MORE IN DAMAGES; BY ADDING SECTION 16‑11‑790 SO AS TO PROVIDE A CRIMINAL PENALTY FOR A PERSON WHO LISTS OR ADVERTISES RESIDENTIAL REAL PROPERTY FOR SALE KNOWING THAT THE PURPORTED SELLER HAS NO LEGAL TITLE OR AUTHORITY TO SELL THE PROPERTY, OR RENTS OR LEASES THE PROPERTY TO ANOTHER PERSON KNOWING THAT HE HAS NO LAWFUL OWNERSHIP IN THE PROPERTY OR LEASEHOLD INTEREST IN THE PROPERTY; AND BY ADDING SECTION 16‑11‑795 SO AS TO PROVIDE A CRIMINAL PENALTY FOR A PERSON WHO, WITH THE INTENT 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.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 37, Title 27 of the S.C. Code is amended by adding:

Article 1

EJECTMENT OF PERSONS OTHER THAN TENANTS

 Section 27‑37‑200. (A) A property owner or his authorized representative may request from the sheriff of the county in which the property is located the immediate removal of a person unlawfully occupying a residential dwelling pursuant to this section if the following conditions are met:

 (1) the requesting person is the property owner or authorized agent of the property owner;

 (2) the real property that is being occupied includes a residential dwelling;

 (3) an unauthorized person has unlawfully entered, remains, or continues to reside on the owner’s property;

 (4) the real property was not open to members of the public at the time the unauthorized person entered;

 (5) the property owner has directed the unauthorized person to leave the property;

 (6) the unauthorized person is not a current or former tenant pursuant to a written or oral agreement authorized by the property owner;

 (7) the unauthorized person is not an immediate family member of the property owner; and

 (8) there is no pending litigation related to the real property between the property owner and the person unlawfully occupying the property.

 (B) To request the immediate removal of an unlawful occupant of a residential dwelling, the property owner or his authorized representative must submit a complaint to remove persons unlawfully occupying residential real property to the sheriff of the county in which the real property is located. In the submitted complaint, the owner or authorized agent of the owner of the real property must state the legal description of the property and declare under the penalty of perjury that:

 (1) he is the owner of the real property or the authorized representative of the owner of the real property;

 (2) he purchased the property and provide the date of purchase;

 (3) the real property is a residential dwelling;

 (4) an unauthorized person has unlawfully entered and is remaining or residing unlawfully on the real property;

 (5) the real property was not open to members of the public at the time the unauthorized person entered;

 (6) he has directed the unauthorized person to leave the real property, but they have not done so;

 (7) the person is not a current or former tenant pursuant to any valid lease authorized by the property owner, and any lease that may be produced by an occupant is fraudulent;

 (8) the unauthorized person sought to be removed is not an owner or a co‑owner of the property and has not been listed on the title to the property unless the person has engaged in title fraud;

 (9) the unauthorized person is not an immediate family member of the property owner;

 (10) there is no litigation related to the real property pending between the property owner and the person sought to be removed;

 (11) the owner of the property understands that a person removed from the property pursuant to this procedure may bring a cause of action against the owner of the property for any false statements made in the complaint, or for wrongfully using the procedure, and that as a result of such action the owner of the property may be held liable for actual damages, penalties, costs, and reasonable attorney fees;

 (12) the owner of the property is requesting the sheriff to immediately remove the unauthorized person from the residential property;

 (13) the owner of the property must attach a copy of a valid government‑issued identification, or if a representative of the property owner, attach documents evidencing representative’s authority to act on the property owner's behalf; and

 (14) the form must be signed by the owner of the property or the representative of the owner of the property, and it must include the following language: I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN SECTION 16‑9‑10 OF THE SOUTH CAROLINA CODE.

 (C) Upon receipt of the complaint, the sheriff shall verify that the person submitting the complaint is the record owner of the real property or the authorized representative of the owner and appears otherwise entitled to relief under this section. If the complaint is verified, then the sheriff must, without delay, serve a notice to immediately vacate on all unlawful occupants and shall put the owner in possession of the real property. Service may be accomplished by hand delivery of the notice to an occupant or by posting the notice on the front door or entrance of the dwelling. The sheriff shall also attempt to verify the identities of all persons occupying the dwelling and note the identities on the return of service. If appropriate, the sheriff may arrest any person found in the dwelling for trespassing, outstanding warrants, or any other legal cause.

 (D) The sheriff is entitled to a fee for service of the notice to immediately vacate as provided in Section 23‑19‑10. After the sheriff serves the notice to immediately vacate, the property owner or authorized representative may request that the sheriff stand by to keep the peace while the property owner or agent of the owner changes the locks and removes the personal property of the unlawful occupants from the premises to or near the property line. When such a request is made, the sheriff may charge a reasonable hourly rate, and the person requesting the sheriff to stand by and keep the peace is responsible for paying the reasonable hourly rate set by the sheriff. The sheriff is not liable to the unlawful occupant or any other party for loss, destruction, or damage of property. The property owner or his authorized representative is not liable to an unlawful occupant or any other party for the loss, destruction, or damage to the personal property unless the removal was wrongful.

 (E) A person may bring a civil cause of action for wrongful removal against the person who requested such removal under this section. A person harmed by a wrongful removal under this section 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. The court shall advance the cause on the calendar.

 (F) This section does not limit the rights of a property owner or limit the authority of a law enforcement officer to arrest an unlawful occupant for trespassing, vandalism, theft, or other crimes.

SECTION 2. Chapter 11, Title 16 of the S.C. Code is amended by adding:

 Section 16‑11‑785. A person who unlawfully detains or occupies or trespasses upon a residential dwelling and who intentionally damages the dwelling causing one thousand dollars or more in damages is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both.

SECTION 3. Chapter 11, Title 16 of the S.C. Code is amended by adding:

 Section 16‑11‑790. A person who lists or advertises residential real property for sale knowing that the purported seller has no legal title or authority to sell the property, or rents or leases the property to another person knowing that he has no lawful ownership in the property or leasehold interest in the property, is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both.

SECTION 4. Chapter 11, Title 16 of the S.C. Code is amended by adding:

 Section 16‑11‑795. Any person who, with the intent 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 is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than one year, or both.

SECTION 5. This act takes effect upon approval by the Governor.

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