



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5864

by Rep. Sonya M. Harper

SYNOPSIS AS INTRODUCED:

New Act
720 ILCS 5/17-5.8 new

Creates the Remedy to Remove Unauthorized Persons from Residential Real Property Act. Authorizes a property owner or authorized agent to request the sheriff for the immediate removal of a person or persons unlawfully occupying a residential dwelling. Creates a statutory form for the property owner to complete to give to the sheriff to use the provisions of the Act. Provides that if the sheriff verifies the information in the form, the sheriff must serve a notice on the unlawful occupant to vacate the dwelling. Authorizes the sheriff, if appropriate, to arrest any person for trespass, outstanding warrants, or any other legal cause. Authorizes the property owner to request the sheriff to remain on the premises to keep the peace while the locks are changed or the personal property of the unlawful occupant is removed. Authorizes the sheriff to charge a reasonable hourly rate to do so. Amends the Criminal Code of 2012. Provides that a person commits a Class 4 felony if he or she 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 or she has no lawful ownership in the property or leasehold interest in the property.

LRB103 40120 JRC 71775 b

1 AN ACT concerning real property.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Remedy
5 to Remove Unauthorized Persons from Residential Real Estate
6 Act.

7 Section 5. Findings. The General Assembly finds that the
8 right to exclude others from entering and the right to direct
9 others to immediately vacate residential real property are the
10 most important real property rights. The General Assembly
11 further finds that existing remedies regarding unauthorized
12 persons who unlawfully remain on residential real property
13 fail to adequately protect the rights of the property owner
14 and fail to adequately discourage theft and vandalism. The
15 intent of this Act is to quickly restore possession of
16 residential real property to the lawful owner of the property
17 when the property is being unlawfully occupied and to preserve
18 property rights while limiting the opportunity for criminal
19 activity.

20 Section 10. Conditions of removal and statutory form.

21 (a) A property owner or authorized agent may request the
22 sheriff of the county in which the property is located for the

1 immediate removal of a person or persons unlawfully occupying
2 a residential dwelling under this Act if all of the following
3 conditions are met:

4 (1) The requesting person is the property owner or
5 authorized agent of the property owner.

6 (2) The real property that is being occupied includes
7 a residential dwelling.

8 (3) An unauthorized person or persons have unlawfully
9 entered and remain or continue to reside on the property
10 owner's property.

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

14 (5) The property owner has directed the unauthorized
15 person to leave the property.

16 (6) The unauthorized person or persons are not current
17 or former tenants under a written or oral rental agreement
18 authorized by the property owner.

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

21 (8) There is no pending litigation related to the real
22 property between the property owner and any known
23 unauthorized person.

24 (b) To request the immediate removal of an unlawful
25 occupant of a residential dwelling, the property owner or
26 authorized agent must submit a complaint by presenting a

1 completed and verified Complaint to Remove Persons Unlawfully
2 Occupying Residential Real Property to the sheriff of the
3 county in which the real property is located. The submitted
4 complaint must be in substantially the following form:

5 COMPLAINT TO REMOVE PERSONS UNLAWFULLY OCCUPYING
6 RESIDENTIAL REAL PROPERTY

7 I, the owner or authorized agent of the owner of the real
8 property located at, declare under the penalty of
9 perjury that (initial each box):

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

12 2. I purchased the property on

13 3. The real property is a residential dwelling.

14 4. An unauthorized person or persons have
15 unlawfully entered and are remaining or residing
16 unlawfully on the real property.

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

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

23 7. The person or persons are not current or
24 former tenants under any valid lease authorized by the
25 property owner, and any lease that may be produced by an

1 occupant is fraudulent.

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

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

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

11 11. I understand that a person or persons removed
12 from the property under this procedure may bring an action
13 against me for any false statements made in this complaint
14 or for wrongfully using this procedure, and that as a
15 result of such action I may be held liable for actual
16 damages, penalties, costs, and reasonable attorney's fees.

17 12. I am requesting the sheriff to immediately
18 remove the unauthorized person or persons from the
19 residential property.

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

24 I HAVE READ EVERY STATEMENT MADE IN THIS COMPLAINT AND
25 EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE
26 STATEMENTS MADE IN THIS COMPLAINT ARE BEING MADE UNDER PENALTY

1 OF PERJURY.

2 ... (Signature of Property Owner or Agent of Owner)

3 Section 15. Sheriff's duties and fees.

4 (a) Upon receipt of the complaint, the sheriff shall
5 verify that the person submitting the complaint is the record
6 owner of the real property or the authorized agent of the owner
7 and appears otherwise entitled to relief under this Act. If
8 verified, the sheriff shall, without delay, serve a notice to
9 immediately vacate on all the unlawful occupants and shall put
10 the owner in possession of the real property. Service may be
11 accomplished by hand delivery of the notice to an occupant or
12 by posting the notice on the front door or entrance of the
13 dwelling. The sheriff shall also attempt to verify the
14 identities of all persons occupying the dwelling and note the
15 identities on the return of service. If appropriate, the
16 sheriff may arrest any person found in the dwelling for
17 trespass, outstanding warrants, or any other legal cause.

18 (b) The sheriff is entitled to the same fee for service of
19 the notice to immediately vacate as if the sheriff were
20 serving an eviction order under Article IX of the Code of Civil
21 Procedure. After the sheriff serves the notice to immediately
22 vacate, the property owner or authorized agent may request
23 that the sheriff stand by to keep the peace while the property
24 owner or agent of the owner changes the locks and removes the
25 personal property of the unlawful occupants from the premises

1 to or near the property line. When such a request is made, the
2 sheriff may charge a reasonable hourly rate to the person
3 requesting the sheriff's services. The sheriff is not liable
4 to the unlawful occupant or any other party for loss,
5 destruction, or damage of property. The property owner or his
6 or her authorized agent is not liable to an unlawful occupant
7 or any other party for the loss, destruction, or damage to the
8 personal property unless the removal was wrongful.

9 Section 20. Civil action for wrongful removal. A person
10 may bring a civil action for wrongful removal under this Act. A
11 person harmed by a wrongful removal under this Act may be
12 restored to possession of the real property and may recover
13 actual costs and damages incurred, statutory damages equal to
14 triple the fair market rent of the dwelling, court costs, and
15 reasonable attorney's fees. The court is requested to give
16 such an action priority on its calendar. This Act does not
17 limit the rights of a property owner or limit the authority of
18 a law enforcement officer to arrest an unlawful occupant for
19 trespassing, vandalism, theft, or other crimes.

20 Section 900. The Criminal Code of 2012 is amended by
21 adding Section 17-5.8 as follows:

22 (720 ILCS 5/17-5.8 new)

23 Sec. 17-5.8. Unlawful listing or advertising. A person who

1 lists or advertises residential real property for sale knowing
2 that the purported seller has no legal title or authority to
3 sell the property, or rents or leases the property to another
4 person knowing that he or she has no lawful ownership in the
5 property or leasehold interest in the property, commits a
6 Class 4 felony.