

HB 1200 -- Redline

As Passed the lower to Current version -- "Real Property Owners Protection Act"; create.

Deletions ~~struck~~ · Insertions underlined

Judiciary A Varner, Felsher, Ford (73rd), Foster, McMillan, Newman, Shanks, Wallace, Yancey, Zuber, Sanford ~~COMMITTEE SUBSTITUTE FOR~~ HOUSE BILL NO.

1200 (As Sent to Governor) AN ACT TO CREATE THE "REAL PROPERTY OWNERS PROTECTION ACT";

1200 ~~*HR31/R1425CS.1*~~*HR31/R1425SG* ~ OFFICIAL ~ G1/2 ~~25/HR31/R1425CS.1~~25/HR31/R1425SG PAGE 1 (GT\JAB)
SECTION 2.

(2) ~~(a) The Notwithstanding right any other provision of law to the manage, contrary, control any person who commits the crime of trespass or otherwise receive enters payments or remains on another person's property for any short use period of time real or property an shall indefinite only period belong of to time without the authority owner or consent of the owner property or without an the agent authority or consent of a person designated by the owner, owner shall for not such accrue purposes. any property rights based on the trespass or unauthorized entrance regardless of the time the person remains on the property.~~

(3) (a) A person commits the crime of squatting when he or she trespasses onto property or is invited onto property and remains on the property without the consent or authority of the owner or an agent of the owner after written notification to leave the premises by the owner or an agent of the owner or the law H.

1200 ~~*HR31/R1425CS.1*~~*HR31/R1425SG* ~ OFFICIAL ~ ~~25/HR31/R1425CS.1~~25/HR31/R1425SG PAGE 2 (GT\JAB)

~~(b) enforcement The agency right to manage, control or receive payments for any use of real property shall only belong to the owner municipality, of county the property or an political agents subdivision designated in by which the owner property for is such located. purposes.~~

~~(3) (a) A person commits the crime of squatting when he or she trespasses onto property or is invited onto property and remains on the property without the consent or authority of the owner or an agent of the owner after written notification to leave the premises by the owner or an agent of the owner or the law enforcement agency of the municipality, county or political subdivision in which the property is located.~~

The citation H. shall command such person to immediately vacate the premises or to notify the municipal or justice court, as applicable, no more than three (3) consecutive days after receipt of the citation that he or she wishes to show cause why he or she is not squatting and should continue in possession of the property.

If the alleged squatter fails to notify the municipal or justice court of his or her intent to challenge the charge of squatting within the prescribed time period of three (3) days, the squatter shall be subject to H.

1200 ~~*HR31/R1425CS.1*~~*HR31/R1425SG* ~ OFFICIAL ~ ~~25/HR31/R1425CS.1~~25/HR31/R1425SG PAGE 3 (GT\JAB)

~~shall immediate command removal such from person property to by immediately vacate the premises law or enforcement to agency notify the municipal or justice court, as applicable, no more than three (3) consecutive days after receipt of the citation municipality, that county he or she political wishes subdivision to in show which cause the why property he in or question she is not located. squatting and should continue in possession of the property.~~

~~If the alleged squatter fails to notify the municipal or justice court of his or her intent to challenge the charge of squatting within the prescribed time period of three (3) days, the squatter shall be subject to immediate removal from property by the law enforcement agency of the municipality, county or political subdivision in which the property in question is located.~~

Failure to vacate the property when you H. choose not to contest the allegation of squatting shall result in your immediate removal and the immediate removal of all of your personal property.

~~B.~~

~~No.~~

~~1200 *HR31/R1425CS.1* ~ OFFICIAL ~ 25/HR31/R1425CS.1 PAGE 4 (GT\JAB) choose not to contest the allegation of squatting shall result in your immediate removal and the immediate removal of all of your personal property.~~

At the hearing, the judge will determine if you are a squatter and required H. to vacate, or if you are entitled to possession of the premises.

B.

No.

1200 *HR31/R1425SG* ~ OFFICIAL ~ 25/HR31/R1425SG PAGE 4 (GT\JAB) required to vacate, or if you are entitled to possession of the premises.

The owner or his or her agent may remove any personal property remaining on the premises in any manner determined best H. by the owner or his or her agent.

You may only retrieve your personal property if the owner or his or her agent approves retrieval, but neither the owner nor his or her agent will be obligated to preserve the personal property upon removal." (d) Upon receipt by the municipal or justice court, as applicable, of notice to show cause from an alleged squatter within three (3) days of issuance of a citation for squatting, the H.

1200 *HR31/R1425CS.1*~*HR31/R1425SG* ~ OFFICIAL ~ 25/HR31/R1425CS.125/HR31/R1425SG PAGE 5(GT\JAB) ~~by court the shall owner set ora his hearing orto her determine agent whether the allegation of squatting is true.~~

~~You may only retrieve your personal property if the owner or his or her agent approves retrieval, but neither the owner nor his or her agent will be obligated to preserve the personal property upon removal." (d) Upon receipt by the municipal or justice court, as applicable, of notice to show cause from an alleged squatter within three (3) days of issuance of a citation for squatting, the court shall set a hearing to determine whether the allegation of squatting is true.~~

or H.(ii) The squatter poses an immediate and significant risk of damage to the premises or of harm or injury to persons on the premises.

Prior to the court-ordered move-out date, the squatter shall have access to the premises to remove all personal property.

If the squatter moves out by the date ordered by the court, leaving H.

1200 *HR31/R1425CS.1*~*HR31/R1425SG* ~ OFFICIAL ~ 25/HR31/R1425CS.125/HR31/R1425SG PAGE 6(GT\JAB) ~~(ii) personal The property squatter behind, poses then an the immediate owner and may significant dispose risk of damages such to abandoned the property premises without or further of notice. harm or injury to persons on the premises.~~

~~Prior to the court-ordered move-out date, the squatter shall have access to the premises to remove all personal property.~~

~~If the squatter moves out by the date ordered by the court, leaving personal property behind, then the owner may dispose of such abandoned property without further notice.~~

If the owner filed the complaint and presents a certified copy of the deed that shows him or her as the owner of record, the court shall declare the person who is the H-subject of the affidavit a squatter and issue a judgment of possession in favor of the owner in accordance with this act.

(b) If the person filing the complaint is not the owner but presents documentation that proves the person in possession is not the owner, a tenant of the property or any other person with a right to remain on the premises, the court shall declare the H.

1200 *HR31/R1425CS.1*~*HR31/R1425SG* ~ OFFICIAL ~ 25/HR31/R1425CS.125/HR31/R1425SG PAGE 7(GT\JAB) ~~subject person of to the be affidavit a squatter and issue a judgment warrant of for possession removal in as favor provided of the owner in accordance with this act.~~

~~(b) If the person filing the complaint is not the owner but presents documentation that proves the person in possession is not the owner, a tenant of the property or any other person with a right to remain on the premises, the court shall declare the person to be a squatter and issue a warrant for removal as provided in this act.~~

(1) This chapter shall apply to, regulate and determine rights, obligations and remedies under any rental H-agreement entered into after July 1, 1991, wherever made, for a dwelling unit located within this state.

Any rights, obligations, or remedies at law or in equity not prohibited by this chapter remain available to residential landlords and tenants.

The provisions of this chapter shall not be construed to give rights to any person who trespasses or otherwise enters and/or remains on H.

1200 *HR31/R1425CS.1*~*HR31/R1425SG* ~ OFFICIAL ~ 25/HR31/R1425CS.125/HR31/R1425SG PAGE 8(GT\JAB) ~~agreement the entered property into of after another July for 1, any 1991, length wherever of made, time for without at the dwelling landlord's unit knowledge located or within permission. this state.~~

~~Any rights, obligations, or remedies at law or in equity not prohibited by this chapter remain available to residential landlords and tenants.~~

~~The provisions of this chapter shall not be construed to give rights to any person who trespasses or otherwise enters and/or remains on the property of another for any length of time without the landlord's knowledge or permission.~~

or (f) Occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes H-or when the occupant is performing agricultural labor for the owner and the premises are rented for less than fair rental value.

~~B-~~

~~No-~~

1200 *HR31/R1425CS.1* ~ OFFICIAL ~ 25/HR31/R1425CS.1 PAGE 9(GT\JAB) ~~or when the occupant is performing agricultural labor for the owner and the premises are rented for less than fair rental value.~~

~~(a) H. "Building and housing codes" means any law, ordinance, or governmental regulation concerning fitness for habitation, construction, maintenance, operation, occupancy or use of any premises or~~

~~dwelling unit.~~

B.

No.

1200 *HR31/R1425SG* ~ OFFICIAL ~ 25/HR31/R1425SG PAGE 9(GT\JAB) (a) "Building and housing codes" means any law, ordinance, or governmental regulation concerning fitness for habitation, construction, maintenance, operation, occupancy or use of any premises or dwelling unit.

~~H.~~(g) "Organization" means a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two (2) or more persons having a joint or common interest, and any other legal or commercial entity.

(h) "Owner" means one or more persons, jointly or severally, in whom is vested (i) all or part of the legal title to property or (ii) all or part of the beneficial ownership and a H.

1200 *HR31/R1425CS.1*~HR31/R1425SG* ~ OFFICIAL ~ ~~25/HR31/R1425CS.125/HR31/R1425SG~~ PAGE 10(GT\JAB) ~~(g)right "Organization"to meanspresent ause corporation,and government,enjoyment governmentalof subdivisionthe orpremises, agency,and businessthe trust,term estate,includes trust,partnership or association, two (2) or more persons having a jointmortgagee orin commonpossession. interest, and any other legal or commercial entity.~~

~~(h) "Owner" means one or more persons, jointly or severally, in whom is vested (i) all or part of the legal title to property or (ii) all or part of the beneficial ownership and a right to present use and enjoyment of the premises, and the term includes a mortgagee in possession.~~

(m) "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others, ~~H.~~and shall not include any person who trespasses or otherwise enters and/or remains on the property of another for any length of time without the landlord's knowledge or permission.

(n) "Qualified tenant management organizations" means any organization incorporated under the Mississippi Nonprofit Corporation Act, a majority of the directors of which are tenants of the housing project to be managed under a contract authorized H.

1200 *HR31/R1425CS.1*~HR31/R1425SG* ~ OFFICIAL ~ ~~25/HR31/R1425CS.125/HR31/R1425SG~~ PAGE 11(GT\JAB) ~~andby shallthis notsection includeand anywhich personis whoable trespasses to orconform otherwiseto entersstandards and/orset remainsby onthe propertyUnited States Department of anotherHousing forand anyUrban lengthDevelopment as capable of timesatisfactorily withoutperforming the landlord'soperational knowledgeand ormanagement permission-functions delegated to it by the contract.~~

~~(n) "Qualified tenant management organizations" means any organization incorporated under the Mississippi Nonprofit Corporation Act, a majority of the directors of which are tenants of the housing project to be managed under a contract authorized by this section and which is able to conform to standards set by the United States Department of Housing and Urban Development as capable of satisfactorily performing the operational and management functions delegated to it by the contract.~~

~~H.~~(2) The right to manage, control or receive payments for any use of real property shall only belong to the owner of the property or a person designated by the owner for such purposes.

SECTION 6.

(1) 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, granting or H.

1200 *HR31/R1425CS.1*~HR31/R1425SG* ~ OFFICIAL ~ ~~25/HR31/R1425CS.125/HR31/R1425SG~~ PAGE 12(GT\JAB) ~~(2)authorizing theuse, right to manage, control or receive management paymentsof forreal anyproperty use shall be guilty of reala propertyfelony, shalland onlyupon belongconviction, toimprisoned in the ownercustody of the propertyDepartment orof aCorrections personfor designatedno byless thethan ownertwo for(2) suchyears, purposes, nor more than five (5) years, and fined as follows:~~

SECTION 6.

~~(1) 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, granting or authorizing use, control or management of real property shall be guilty of a felony, and upon conviction, imprisoned in the custody of the Department of Corrections for no less than two (2) years, nor more than five (5) years, and fined as follows:~~

~~H.~~(a) An amount equal to the value lost to the owner for any rental, mortgage or lease fees the owner could have charged during the entire time that the offender unlawfully received monies for the property; and (b) An amount equal to the cost of all repairs made as a result of the damages caused.

(3) Any person, except an heir to the property, who lists or otherwise advertises real property for sale knowing that the H.

1200 *HR31/R1425CS.1*~HR31/R1425SG* ~ OFFICIAL ~ ~~25/HR31/R1425CS.125/HR31/R1425SG~~ PAGE 13(GT\JAB) ~~(a)purported Anseller amounthas equalno legal title or authority to sell the valueproperty, lostor torents or leases the ownerproperty for to anyanother rental, person mortgageknowing that he or lease she feeshas no lawful ownership in the ownerproperty couldor haveleasehold chargedinterest duringin the~~

~~entire property, time shall that be guilty of a felony, and upon conviction, imprisoned in the offender custody unlawfully of received the monies Department of Corrections for the no property, less than two (2) years, nor more than five (5) years, and fined as follows:~~

~~and (b) An amount equal to the cost of all repairs made as a result of the damages caused.~~

~~(3) Any person, except an heir to the property, who lists or otherwise advertises 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, shall be guilty of a felony, and upon conviction, imprisoned in the custody of the Department of Corrections for no less than two (2) years, nor more than five (5) years, and fined as follows:~~

(a) "Perpetrator" means a person who has engaged in criminal trespass and includes a person convicted of trespass under applicable state law;

(b) "Victim" means a person who was the object of another's criminal trespass and includes a person at the scene of an emergency who gives reasonable assistance to another person who is exposed to or has suffered grave physical harm;

(c) "Course of criminal conduct" includes the acts or omissions of a victim in resisting criminal conduct;

1200 *HR31/R1425CS.1*HR31/R1425SG* ~ OFFICIAL ~ 25/HR31/R1425CS.125/HR31/R1425SG PAGE 14(GT\JAB) ~~(a)(d)~~
"Perpetrator" "Convicted" means includes a person finding who of has guilt, engaged whether in or criminal not trespass the and adjudication includes of guilt is stayed or executed, an unwithdrawn judicial admission of guilt or guilty plea, a person no convicted contest plea, a judgment of trespass conviction, under an applicable adjudication state as law; a delinquent child, an admission to a juvenile delinquency petition, or a disposition as an extended jurisdiction juvenile;

~~(b) "Victim" means a person who was the object of another's criminal trespass and includes a person at the scene of an emergency who gives reasonable assistance to another person who is exposed to or has suffered grave physical harm;~~

~~(c) "Course of criminal conduct" includes the acts or omissions of a victim in resisting criminal conduct;~~

~~(d) "Convicted" includes a finding of guilt, whether or not the adjudication of guilt is stayed or executed, an unwithdrawn judicial admission of guilt or guilty plea, a no contest plea, a judgment of conviction, an adjudication as a delinquent child, an admission to a juvenile delinquency petition, or a disposition as an extended jurisdiction juvenile;~~

(2) A perpetrator assumes the risk of loss, injury or death resulting from or arising out of a course of criminal trespass or squatting, as defined in this section, engaged in by the perpetrator or an accomplice, and the crime victim is immune from H, and not liable for any civil damages as a result of acts or omissions of the victim.

(3) Notwithstanding other evidence which the victim may adduce relating to the perpetrator's conviction of the crime involving the parties to the civil action, a certified copy of a guilty plea, a court judgment of guilt, a court record of conviction, a writ of removal for squatter, or determination that the perpetrator was a squatter, court order adjudging the person H.

1200 *HR31/R1425CS.1*HR31/R1425SG* ~ OFFICIAL ~ 25/HR31/R1425CS.125/HR31/R1425SG PAGE 15(GT\JAB) ~~and as not a liable squatter for or any an civil adjudication damages as a result delinquent child is conclusive proof of acts the or perpetrator's omissions assumption of the victim risk.~~

~~(3) Notwithstanding other evidence which the victim may adduce relating to the perpetrator's conviction of the crime involving the parties to the civil action, a certified copy of a guilty plea, a court judgment of guilt, a court record of conviction, a writ of removal for squatter, or determination that the perpetrator was a squatter, court order adjudging the person as a squatter or an adjudication as a delinquent child is conclusive proof of the perpetrator's assumption of the risk.~~

1200 *HR31/R1425CS.1*HR31/R1425SG* ~ OFFICIAL ~ 25/HR31/R1425CS.125/HR31/R1425SG ST: