



A GUIDE TO UNDERSTANDING ALABAMA'S ANTI-SQUATTING LAW

Note: The below is intended for information only and is not intended as legal advice. If you need legal advice, please seek guidance from retained counsel.

WHAT IS ALABAMA'S ANTI-SQUATTING LAW (ACT 2024-237)?

Act 2024-237, Alabama's Anti-Squatting Law, went into effect on June 1, 2024. When it applies, the act gives residential property owners a faster, more affordable way to remove squatters from their property without using the traditional eviction process.

WHO DOES THIS APPLY TO?

This act applies specifically to *squatters*. Under Alabama law, a squatter is a person occupying a dwelling who has no lease or rental agreement giving them a right to be there, and who has not been authorized by a tenant to occupy the property. Ala. Code § 35-9B-9. Importantly, the act does not apply to tenants, holdover tenants, or immediate family members of the property owner. A holdover tenant is someone who comes into possession of the property by originally having permission to occupy but remains on the property after their lease has ended. Holdover tenants are generally governed by the Alabama Uniform Residential Landlord and Tenant Act and must be removed through the formal eviction process. If the individual occupying the property has or had a lease, even if it expired, the traditional eviction process must be followed.

WHAT STEPS DOES THE PROPERTY OWNER TAKE?

First, the owner is required to post written notice at the dwelling stating the squatter doesn't have the right to occupy the dwelling and must vacate immediately. The notice must include the street address of the law enforcement agency where the affidavit requesting removal will be delivered.

Next, the owner is required to submit an affidavit to the local sheriff's office to begin the official removal process. The affidavit must include a copy of the notice posted at the dwelling, along with the date and time of delivery, and a copy of the property owner's valid government-issued identification. If the affidavit is submitted by an authorized agent of the property owner rather than the owner themselves, the agent must instead attach documentation showing they have authority to act on the owner's behalf.

The sample affidavit provided in Ala. Code § 35-9B-2(b) is provided on the next page. If you have any questions or concerns, consult retained legal counsel before use or submission of the affidavit.

WHAT HAPPENS NEXT?

After submission of the affidavit, law enforcement is required to verify that the person who signed the affidavit is either the record owner of the dwelling or an authorized agent acting on the owner's behalf. If verified, the sheriff's office must serve an official notice for the squatter to vacate. This process is only available when 1) the individual is truly an unauthorized occupant (rather than a tenant or former tenant), 2) the owner has made the required written demand, and 3) there is no ongoing dispute over the property.

The sheriff's office must wait at least 24 hours from the time it receives the affidavit to serve their notice to vacate. There is no set deadline to complete the ownership verification, so it's important to understand that timelines could vary. Additionally, law enforcement is allowed to charge a processing fee of up to \$50.

WHAT ARE THE RISKS OF MISUSING THIS PROCESS?

Improperly using this process comes with consequences. If a property owner files a sworn affidavit against an individual who is actually a tenant rather than a squatter, that individual has the right to take civil action against the property owner. A court could order the property owner to restore possession of the dwelling to that individual, in addition to ordering payment of actual costs and damages, punitive damages equal to triple the fair market rent of the dwelling, court costs, and reasonable attorney fees. The property owner could also face criminal charges for perjury or false reporting. Before pursuing this process, it's crucial to confirm that the individual occupying the property is truly a squatter as defined under Alabama law. It may be helpful to consult legal counsel to ensure the correct procedure is followed.

Property owners should avoid any attempt to remove the individual on their own, such as by changing the locks or shutting off utilities. These actions can expose the owner to liability if the situation is determined to involve a tenant rather than a squatter.

SAMPLE AFFIDAVIT (as provided in Ala. Code § 35-9B-2(b))

Affidavit to Remove an Individual Unauthorized to Occupy a Dwelling

I, the owner, or authorized agent of the owner, of the dwelling located at _____ declare
under the penalty of perjury that:

1. I am the owner of the dwelling or the authorized agent of the owner of the dwelling.
2. The real property is a dwelling.
3. An unauthorized individual has unlawfully entered or remained in the dwelling.
4. The unauthorized individual is not a tenant, a holdover tenant, or an immediate family member of the owner, and any lease that may be produced by the unauthorized individual is fraudulent.
5. The unauthorized individual does not have an ownership interest in the property and is not listed on the title to the property unless the individual has engaged in title fraud.
6. There is no litigation related to the dwelling pending between the owner, or his or her agent, and any unauthorized individual.
7. Notice was provided by hand delivery to the unauthorized individual occupying the dwelling or by posting notice on the front door or entrance of the dwelling, and evidence of the notice, including the date and time of delivery, is attached.
8. I understand that an individual removed from the property pursuant to this affidavit may bring a cause of action against me for any false statements made in this affidavit, or for wrongfully using this procedure, and that, as a result of such action, I may be held liable for actual damages, penalties, costs, and reasonable attorney fees.
9. I am requesting law enforcement to remove, as soon as possible, the unauthorized individual from the dwelling.
10. A copy of my valid government-issued identification is attached, or I am an agent of the property owner, and documents evidencing my authority to act on the property owner's behalf are attached.

I have read and assert the truth of every statement made in this affidavit. I understand that my statements in this affidavit are being made under penalty of perjury as provided in Section 13A-10-9, Code of Alabama 1975.

[Signature of Property Owner/Agent of Property Owner]

[Contact Information of Property Owner/Agent of Property Owner]