

# House Bill 2440

Sponsored by Representative YUNKER; Senators NASH, SMITH DB, WEBER (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: This Act allows an owner to ask the cops to remove people who are illegally in a house or office. It raises penalties for stealing a house or office. (Flesch Readability Score: 69.5).

Requires law enforcement to investigate and remove unlawful occupants upon declaration and payment of a fee by a property owner.

Amends trespassing and forgery criminal laws related to dwellings or commercial properties.

## A BILL FOR AN ACT

Relating to unauthorized use of real property; creating new provisions; and amending ORS 164.255 and 165.013.

Whereas the right to exclude others from entering, and the right to direct others to immediately vacate, residential and commercial real property are fundamental property rights; now, therefore,

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1. (1) As used in this section, "law enforcement agency" means the sheriff for a county or the chief of police for a city.**

**(2) A property owner or their authorized agent may request of a law enforcement agency the immediate removal of any person or persons unlawfully occupying a residential dwelling or commercial building. The request must be made as a declaration under penalty of perjury in substantially the following form:**

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### DECLARATION IN SUPPORT OF REMOVAL OF UNLAWFUL OCCUPANTS

**1. I am the owner or the authorized agent of the owner of real property, commonly known as \_\_\_\_\_ (address).**

**2. The property includes a residential dwelling or commercial building.**

**3. One or more individuals are currently unlawfully occupying the property.**

**4. The property was not open to the public at the time of the unlawful occupants' entry.**

**5. No unlawful occupants are current or former tenants.**

**6. No unlawful occupants are immediate family members of the property owner.**

**7. No pending litigation exists between the property owner and any unlawful occupant.**

**8. The property owner has directed the unlawful occupants to leave.**

**9. The property owner hereby requests that the law enforcement agency take any action necessary to remove all unlawful occupants from the property.**

**10. I agree to indemnify any law enforcement agency and its agents for any claims based**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 on the agency’s good faith conduct based upon this declaration.

2 11. I hereby declare that the above statement is true to the best of my knowledge and  
3 belief, and that I understand it is made for use as evidence in court and is subject to penalty  
4 for perjury.

5  
6 \_\_\_\_\_  
7 Signature Date  
8 \_\_\_\_\_  
9

10 (3) Upon receipt of a declaration in support of removal of unlawful occupants under this  
11 section and receipt of any fees established by the law enforcement agency, the agency shall  
12 conduct fact-finding, which may include reviewing any alleged lease agreement, talking to  
13 neighbors and other relevant inquiries to ascertain the validity of the complaint.

14 (4) If the fact-finding indicates probable cause of the factors set forth in the declaration,  
15 the law enforcement agency shall serve a notice to immediately vacate upon the unlawful  
16 occupants and shall use reasonable force to put the property owner in possession of the real  
17 property.

18 (5) The property owner may request that the law enforcement agency stand by to keep  
19 the peace while changing locks and removing personal property of the unlawful occupants.

20 (6) The property owner and any authorized agent who submits a declaration under this  
21 section shall indemnify the law enforcement agency and its agents for any damages awarded  
22 based on the good faith conduct that was based on the declaration.

23 (7) A person who was removed from the property based on a material misstatement in  
24 a declaration made under this section has a cause of action against the property owner and  
25 the declarant for wrongful removal and is entitled to injunctive relief of restoration of pos-  
26 session of the real property plus damages, costs and attorney fees.

27 (8) This section does not limit other rights of a property owner or authority of law  
28 enforcement.

29 **SECTION 2.** ORS 164.255 is amended to read:

30 164.255. (1) A person commits the crime of criminal trespass in the first degree if the person:

31 (a) Enters or remains unlawfully in a dwelling;

32 (b) Enters or remains unlawfully in a building when the building is not open to the public  
33 for the purposes of using the building for sleeping or otherwise as a dwelling;

34 [(b)] (c) Having been denied future entry to a building pursuant to a merchant’s notice of tres-  
35 pass, reenters the building during hours when the building is open to the public with the intent to  
36 commit theft therein;

37 [(c)] (d) Enters or remains unlawfully upon railroad yards, tracks, bridges or rights of way; or

38 [(d)] (e) Enters or remains unlawfully in or upon premises that have been determined to be not  
39 fit for use under ORS 453.855 to 453.912.

40 (2) Subsection [(1)(d)] (1)(e) of this section does not apply to the owner of record of the premises  
41 if:

42 (a) The owner notifies the law enforcement agency having jurisdiction over the premises that  
43 the owner intends to enter the premises;

44 (b) The owner enters or remains on the premises for the purpose of inspecting or decontam-  
45 inating the premises or lawfully removing items from the premises; and

1 (c) The owner has not been arrested for, charged with or convicted of a criminal offense that  
2 contributed to the determination that the premises are not fit for use.

3 (3) Criminal trespass in the first degree:

4 (a) Is a Class A misdemeanor[.]; **or**

5 **(b) Is a Class C felony if while trespassing under subsection (1)(a) or (b) of this section**  
6 **the person causes more than \$1,000 in damages to the dwelling or building.**

7 **SECTION 3.** ORS 165.013 is amended to read:

8 165.013. (1) A person commits the crime of forgery in the first degree if the person violates ORS  
9 165.007:

10 (a) And the written instrument is or purports to be any of the following:

11 (A) Part of an issue of money, securities, postage or revenue stamps, or other valuable instru-  
12 ments issued by a government or governmental agency;

13 (B) Part of an issue of stock, bonds or other instruments representing interests in or claims  
14 against any property or person;

15 (C) A deed, will, codicil, contract or assignment;

16 (D) A check for \$1,000 or more, a credit card purchase slip for \$1,000 or more, or a combination  
17 of checks and credit card purchase slips that, in the aggregate, total \$1,000 or more, or any other  
18 commercial instrument or other document that does or may evidence, create, transfer, alter, termi-  
19 nate or otherwise affect a legal right, interest, obligation or status; [or]

20 (E) A public record; or

21 **(F) A listing or other advertisement for the sale or rent of any dwelling or commercial**  
22 **building; or**

23 (b) By falsely making, completing or altering, or by uttering, at least 15 retail sales receipts,  
24 Universal Product Code labels, EAN-8 labels or EAN-13 labels or a combination of at least 15 retail  
25 sales receipts, Universal Product Code labels, EAN-8 labels or EAN-13 labels.

26 (2) The value of single check or credit card transactions may be added together under sub-  
27 section (1)(a)(D) of this section if the transactions were committed:

28 (a) Against multiple victims within a 30-day period; or

29 (b) Against the same victim within a 180-day period.

30 (3) Forgery in the first degree is a Class C felony.

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