



# Locking Squatters Out

## HOW STATES CAN PROTECT PROPERTY OWNERS

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Squatting is the act of occupying someone else's property without any legal claim or title to it and without consent from the property owner. Beyond trespassing, squatters often cause other trouble by selling the owner's belongings, trashing the property, or using it for a prostitution ring or drug den.<sup>1</sup>

Removing squatters is difficult in most states. Although trespassing is a criminal offense, most state governments treat squatter removal as a landlord-tenant eviction—i.e., civil—dispute.

Law enforcement often tells property owners to file an eviction case and refuse to remove squatters so that officers avoid violence, legal mess, or additional work. Law enforcement cannot easily determine whether squatters who claim to have a lease are indeed tenants or are presenting a fraudulent lease—and may lack the resources to do so.<sup>2</sup> Given this and “the increase in tenants’ defenses to eviction and a growing sense that landlord-tenant confrontations often lead to violence,” police departments may see it as unwise to get involved in removing a squatter.<sup>3</sup> Law enforcement also encourages homeowners to use the eviction process “to ensure that any adverse claims filed [by squatters] are invalid.”<sup>4</sup>

However, waiting for civil procedures to run their course can leave property owners unable to live in their own homes for months or years as they try to evict squatters and can cost thousands of dollars in repairs, increased utility bills, and legal fees. In Tennessee, it can take up to two years to evict a squatter, and in Maryland and Pennsylvania, it can cost \$3,000 to \$10,000 to get a squatter eviction case through the court system.<sup>5</sup> During this time, squatters can wreak havoc on property owners’ homes. In one egregious example, a Dallas woman sustained more than \$150,000 in property damage from squatters. And a New York City homeowner saw his utility bill increase by more than \$1,000 per month when squatters took over his home.<sup>6</sup>

Furthermore, legal scholars argue that states’ treatment of squatting as a civil rather than criminal offense amounts to a government-approved taking of private property without just compensation, a violation of property owners’ Fifth Amendment rights.<sup>7</sup> This research-in-brief provides insight on the rising incidence of squatting, legislative reform efforts to protect property rights in several states, and the impact of such reforms so far in Georgia.

## How Squatting Affects Property Owners

**T**he case of Gavin and Mary Glenn shows the common consequences of squatting for owners under current law and public policy.<sup>8</sup> In March 2020, the Glenns bought a home in Dallas, Texas, to fix up for Gavin’s aging father to live in. But as Gavin entered the front door to start renovations, he was shocked to meet two men squatting in the house. Gavin called the police. The men presented what they claimed was a lease. Gavin pleaded with the police, claiming he did not know these men and that they were trespassing, but police told him there was nothing they could do and that it was a civil matter requiring eviction.

Gavin served the men a notice of eviction. Unfortunately, the ensuing legal process proved difficult to navigate for the Glenns, even though they both are attorneys. Mary described the eviction process in Texas:

*Evictions . . . are costly and time-consuming. You have to give a formal notice to vacate to the*

*evictees, pay to file a lawsuit with the court, wait to get on the court’s docket, have a hearing, and get a judge’s order to evict. Then you get to wait some more for the evictees to move out, which, if they’re squatters, they won’t do expeditiously. So you go back to the court, wait to get a writ of possession ordering a constable to take action against the evictees, then wait to get on the constable’s schedule, wait for the constable to give notice to the evictees (twice!), and then finally have the bad guys escorted out.<sup>9</sup>*

Additionally, the Glenns had to appeal their case after missing a court date they had never been notified of—despite Mary calling the court every week to see when they would need to appear. It took Gavin and Mary nearly a year to legally remove the squatters. Meanwhile, Gavin’s father had to live in a Medicaid bed in a shared room in a nursing home.<sup>10</sup>

# Trends in the Number of Squatting Incidents

Although news stories about squatting are common—the problem has even garnered attention from the Biden administration—little data exist on the number of squatting incidents.<sup>11</sup>

A survey conducted by the National Rental Home Council (NRHC) in 2023 provides the only data collected to date. The NRHC surveyed its members and found that the largest numbers of homes had been subject to squatting at some point in Atlanta (1,200), Dallas (475), and Orlando (125).<sup>12</sup> Note, however, that these numbers are not disaggregated by year.

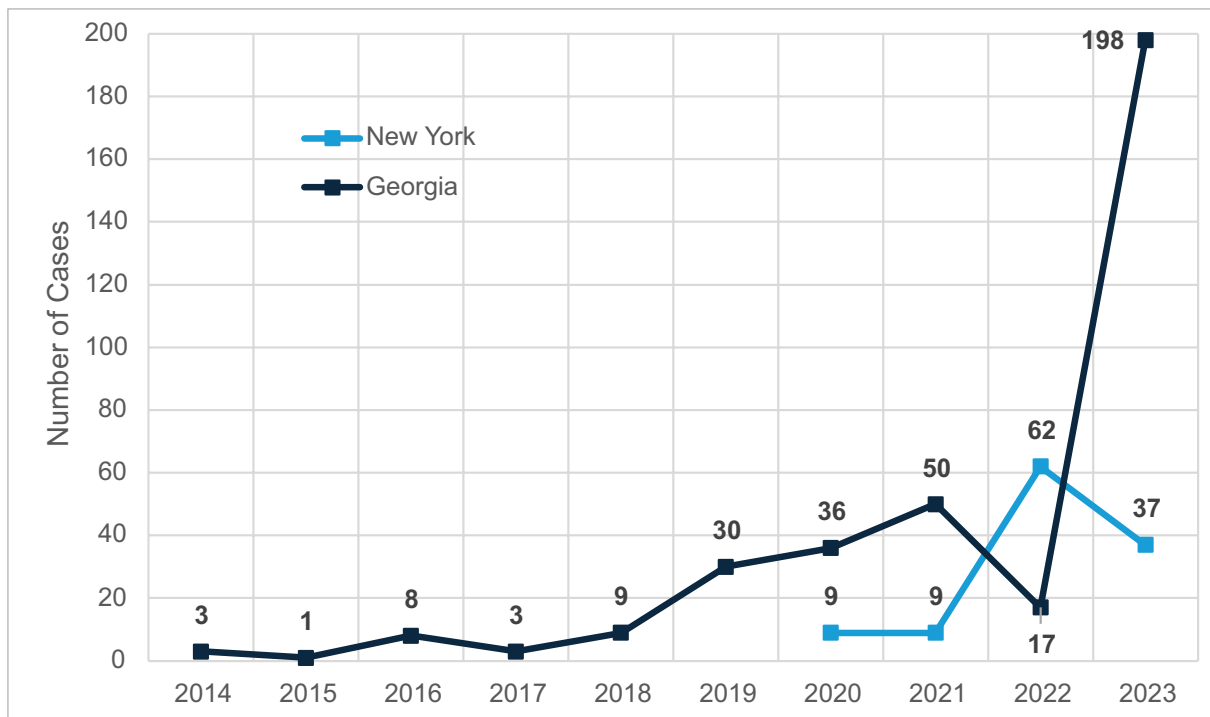
Case counts tabulated from centralized civil court records in Georgia and New York, however, generally reveal an upward trend beginning in 2019 (figure 1). Georgia’s case count jumped from 3 in 2017 to 50 in 2021—to 198 in 2023. New York’s was 9 in both 2020

and 2021, rising to 62 in 2022 and then moderating to 37 in 2023.

Case counts undercount the actual number of squatting occurrences in Georgia and New York. First, counts are not available from all courts across these states. The centralized case records from Georgia only cover courts in 25 of the state’s 159 counties, and the records in New York cover local civil courts but exclude towns and villages.<sup>13</sup>

Also, many property owners resolve squatting issues without litigation. Flash Shelton, known as “the Squatter Hunter,” uses de-escalation tactics to help property owners repossess their homes.<sup>14</sup> Other property owners may be able to pay the squatters to leave or convince them to sign an official lease instead of taking them to court.<sup>15</sup>

**Figure 1.** Number of Civil Court Cases Involving Squatting



Source: re:SearchGA (website), accessed June 29, 2024, <https://researchga.tylerhost.net/CourtRecordsSearch/>; “Landlord–Tenant Data” (database), New York State Unified Court System, Division of Technology and Court Research, accessed June 29, 2024, <https://ww2.nycourts.gov/landlord-tenant-data-34621>.

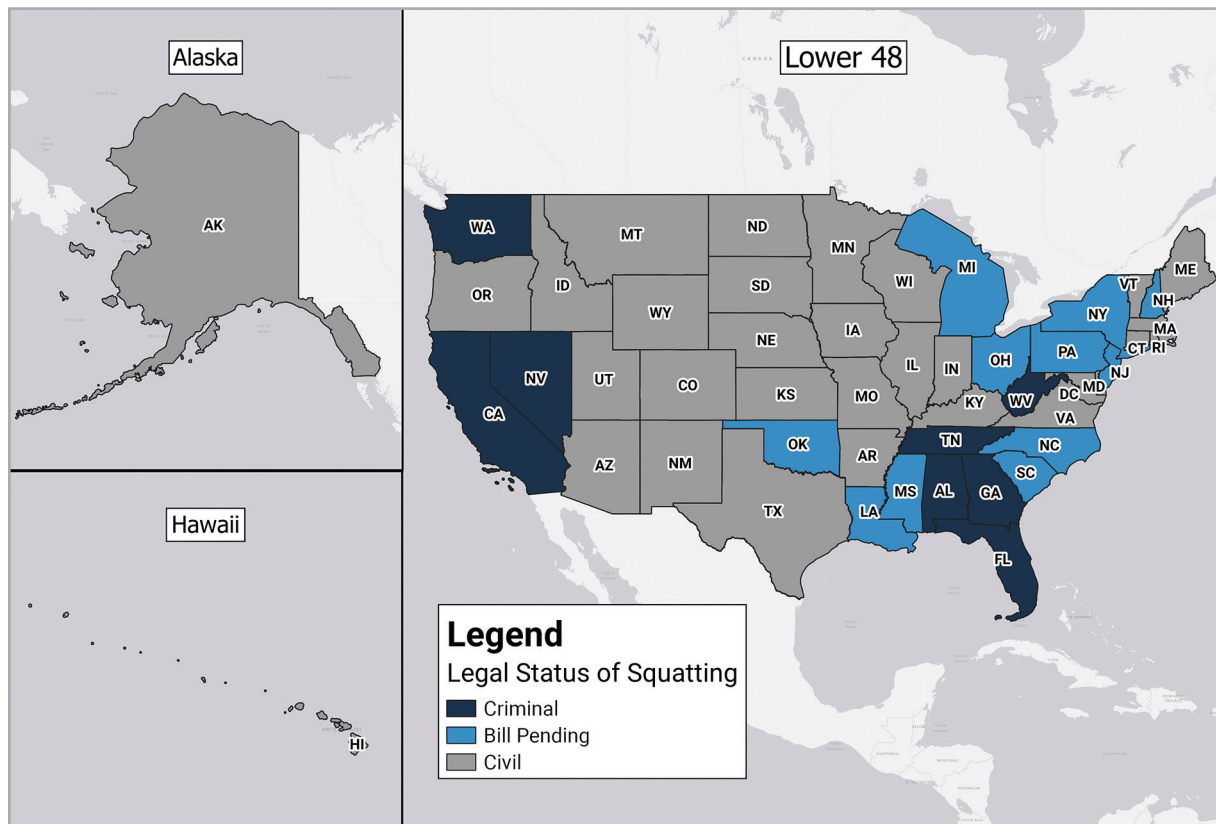
# State Responses

In response to the rise in squatting, some states are using legislation to turn squatting into a criminal offense and make it easier for property owners to remove squatters. As of May 2024, Alabama, California, Florida, Georgia, Nevada, Tennessee, Washington, and West Virginia have passed laws that criminalize squatting, while eleven other states have introduced bills to do so (figure 2). Most states, however, have not yet addressed the issue legislatively, leaving property owners' doors wide open to squatters and requiring the civil court system to resolve the issue through the much-slower eviction process.

It is important to note that figure 2 does not

indicate states that give property owners a quick process for removing squatters. Conferring criminal status to squatting does not guarantee a sped-up process for removing squatters. California charges squatters with a trespassing misdemeanor if a property owner has filed a no-trespass letter with police in advance of squatting incident, but eviction is still required if the property owner failed to file a letter.<sup>16</sup> Conversely, the process of removing squatters can be sped up without criminalizing the activity. In Colorado, legislators created a special eviction process for squatters that takes significantly less time than normal evictions, but the activity is not considered criminal.<sup>17</sup>

**Figure 2.** Legal Status of Squatting



Note: Data are current as of May 2024.

Sources: Isa Wilson, "Squatters Legislation on the Rise," National Apartment Association, May 22, 2024, <https://www.naahq.org/squatters-legislation-rise>; "Real Estate Rental Laws," DoorLoop, accessed June 29, 2024, <https://www.doorloop.com/laws>; "What Landlords Need to Know about Squatters Rights," Innago, August 23, 2023, <https://innago.com/what-landlords-need-to-know-about-squatters-rights/>; Mark Powell, "California Property Owners Need More Protections against Squatters Now," *San Diego Union-Tribune*, April 10, 2024; S.B. 308, 2024 Reg. Sess. (La. 2024).

# Impact of Anti-Squatting Law in Georgia

In April 2024, Governor Brian Kemp signed the Georgia Squatter Reform Act, which makes squatting a criminal offense and allows property owners to expedite the legal process of removing squatters.<sup>18</sup> Under the old law, property owners had to file a landlord–tenant dispossession proceeding or use a little-known intruder-ejection process.<sup>19</sup>

This change in law in the Peach State has immediately sped up the process of removing squatters. Removing squatters under the old law took at least eight months because property owners were directed to file eviction notices (table 1).<sup>20</sup> Now the police serve criminal notice, and the squatter removal process takes less than two weeks.

Outside the courtroom, squatting reform has had significant effects. Police officers in some cities are taking advantage of the change in law to help homeowners regain possession of their property quickly. For example, the police department of South Fulton, Georgia, has created a special task force to address reports of squatters and give them criminal notice immediately.<sup>21</sup>

Homeowners in Georgia have expressed delight with the Georgia Squatter Reform Act. The Hampton Oaks community in South Fulton has experienced squatting in more than 18 homes, according to HOA president Mel Keyton. Residents at Hampton Oaks previously had difficulty removing the squatters and say the reforms could not have come soon enough.<sup>22</sup>

**Table 1.** Process of Removing a Squatter under Old and New Laws in Georgia

OLD LAW: Affidavit of Intruder and Eviction	NEW LAW: Georgia Squatter Reform Act
The property owner files an affidavit about the intruder with the county sheriff, who serves it to the squatter. The sheriff was supposed to remove the squatter on the spot but often told the owner to file an eviction case in civil court instead.	The property owner, HOA, or neighbors notify police of the squatter’s presence.
To start the eviction process, the property owner gives a notice of eviction to the squatter and waits for a response. The amount of time given varies depending on the preference of the owner, and the state requires no time limit, but most notices last a minimum of 24 hours.	Police serve criminal notice and give the squatter three business days to provide a valid lease or else be charged with a misdemeanor and removed.
The owner files a case in civil court and waits several months for a hearing.	The court has one week to hold a hearing and then will determine if the lease is valid or not.
If the owner wins the case, the court issues a writ of possession, which gives the squatter at least seven days to leave or be removed by law enforcement.	If the court determines the lease provided is not valid, the squatter is removed by law enforcement, charged with a felony, and issued a fine based on market rent.
Total time to repossess home: <b>8 months</b>	Total time to repossess home: <b>10 days</b>

Sources: David Bitton, “Georgia Squatter’s Rights and Adverse Possession Laws for 2024 | Rights, Laws, and Protections,” *DoorLoop* (blog), March 26, 2024; John Adams, “Squatters in Georgia: How Homeowners Can Get Their Property Back,” FOX 5 Atlanta, February 20, 2024; Dana Fowle, “Georgia Squatter Reform Act Passes, Awaits Governor’s Signature,” FOX 5 Atlanta, March 29, 2024.

## How States Can Help

One of the most effective ways states can help protect property rights against squatters is by reforming laws to make it easier and faster for property owners to remove squatters from their property. Pacific Legal Foundation's model bill, the Stop Squatters Act, is a template for legislators to craft laws that would better protect property rights, give owners remedies against squatting, and penalize squatters as criminals.

In addition, states could bring greater awareness to the issue by collecting and publishing comprehensive data on squatting. For example, New York City is

currently considering a bill to require public reporting of squatting incidents, with some council members lamenting the lack of information on the scope of the problem.<sup>23</sup> But legislators should not wait for comprehensive data before rescuing the property of homeowners whose eviction proceedings are languishing in civil court.

By following these steps, states could help protect property owners' constitutional rights, make it easier for property owners to regain possession of their homes, and treat squatting properly in law.

## Notes

1. Giulia Carbonaro, "How Squatters Rights Compare in Different States," *Newsweek*, March 26, 2024; Mary Glenn, "How Squatters Stole My House," *D Magazine*, January 8, 2021; Taylor Penley, "Squatter Crisis Hits Atlanta as Property Owners See Homes Morph into Drug and Prostitution Dens," FOX 5 Atlanta, February 9, 2024; Leo Wolfson, "Prostitution, Drugs as Responsible for Trashed Casper Motel as the Homeless, Says Shelter Director," *Cowboy State Daily*, September 8, 2023; Kevin Sheehan and Alex Oliveira, "Landlord of NYC Migrant Squatter House Claims Gun-Toting Drug-Dealers Scammed Him—He Now Fears for His Life," *New York Post*, April 4, 2024.
2. John Adams, "Squatters in Georgia: How Homeowners Can Get Their Property Back," FOX 5 Atlanta, February 20, 2024.
3. Randy G. Gerchik, "No Easy Way Out: Making the Summary Eviction Process a Fairer and More Efficient Alternative to Landlord Self-Help," *UCLA Law Review* 41, no. 3 (1994): 764.
4. Jennie Taer, "Squatters Sell Texas Woman's Belongings at Yard Sale—Turn Home into 'Drug Den,'" *New York Post*, March 28, 2024.
5. Sydney Keller, "Tennessee Law to Further Protect Property Owners from Squatters Takes Effect This July," NBC 24, April 17, 2024; Brent Khusid, "How to Deal with Squatters in Pennsylvania and Maryland," Anchor Realty NE, February 27, 2023.
6. Kristen Altus, "Texas Homeowner 'Completely Destroyed' Financially after Squatter Nightmare," *Fox Business*, May 21, 2024; Sheehan and Oliveira, "Landlord of NYC Migrant Squatter House."
7. "Supreme Court Affirms Property Rights for California Fruit Growers: *Cedar Point Nursery v. Hassid*," Pacific Legal Foundation, <https://pacificlegal.org/case/cedar-point-nursery-v-gould>, accessed June 29, 2024; Ilya Somin, "Squatters' Rights Laws Violate the Takings Clause," *Volokh Conspiracy, Reason*, March 26, 2024.
8. Glenn, "How Squatters Stole My House."
9. Glenn, "How Squatters Stole My House."
10. Emma Ruby, "Experts Say Dallas Has a Squatter Problem, and State Lawmakers Are Ready to Evict," *Dallas Observer*, June 13, 2024.
11. White House press secretary Karine Jean-Pierre said at a press conference in April 2024 that it is "critical that local governments take action" on squatting. Matthew Impelli, "Squatters Spark Warning from Biden Admin: 'Critical' Action Needed," *Newsweek*, April 1, 2024.
12. Khaleda Rahman, "Squatting Map Shows Cities with Highest Number of Homes Taken Over," *Newsweek*, April 3, 2024.
13. re:SearchGA (website), <https://researchga.tylerhost.net/CourtRecordsSearch/>, accessed June 29, 2024; "Landlord—Tenant Data" (database), New York State Unified Court System, Division of Technology and Court Research, accessed June 29, 2024, <https://ww2.nycourts.gov/landlord-tenant-data-34621>.
14. Megan Palin, "Flash Shelton 'Building an Army' across the US to Tackle Squatters Invading People's Homes," *New York Post*, May 13, 2024.
15. Osborne Team, "How to Get Rid of Squatters in California," Osborne Homes, April 9, 2024, <https://osbornehomes.com/how-to-get-rid-of-squatters-in-california>.
16. Mark Powell, "California Property Owners Need More Protections against Squatters Now," *San Diego Union-Tribune*, April 10, 2024; Mike Nemeth, "Newsom Signs Bill Offering Enhanced Trespass Protections for Property Owners," California Apartment Association, October 10, 2023, <https://caanet.org/newsom-signs-bill-offering-enhanced-trespass-protections-for-property-owners/>; "California Squatter's Rights," Innago, December 13, 2023, <https://innago.com/california-squatters-rights/>.
17. Mike Rosen, "Mike Rosen: Honeymoon Over for Squatters in Colorado," *Complete Colorado*, September 19, 2018.
18. H.B. 1017, 2024–2024 Reg. Sess. (Ga. 2024); Dana Fowle, "Georgia Passes Squatter Reform Act, Protecting Property Owners," FOX 5 Atlanta, May 6, 2024.
19. David Metzger, "Ejecting Squatters and Intruders in Georgia," Williams Teusink, August 7, 2023, <https://williamsteusink.com/law-news-articles/real-estate-law/ejecting-squatters-and-intruders-in-georgia>.
20. According to Georgia Representative Devan Seabaugh, the process under the old law took from eight months to two years. Dana Fowle, "Georgia Squatter Reform Act Passes, Awaits Governor's Signature," FOX 5 Atlanta, March 29, 2024.
21. Justin Gray, "This Is How Police Are Now Enforcing Georgia's New Squatter Laws Following Channel 2 Investigations," WSB-TV, May 20, 2024.
22. Bobeth Yates, "Squatters Reform Act Gives Property Owners More Rights in Georgia," 11 Alive, April 1, 2024.
23. Hannah Kliger, "New Bill Calls for NYC Agencies to Collect Data on Squatters. Why Lawmakers Say It Will Help," CBS News, May 17, 2024.



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