

Committee on Judiciary

CS/CS/HB 305 — Unlawful Detention by a Transient Occupant

by Judiciary Committee; Civil Justice Subcommittee; and Rep. Harrison and others (CS/CS/SB 656 by Regulated Industries Committee; Judiciary Committee; and Senators Latvala and Stargel;)

The bill provides a simplified process for homeowners and rightful residents to remove a transient occupant who has no legal right to the property and for whom an eviction action is unavailable. A transient occupant is a person who, without a lease is authorized to reside in a dwelling on a transient basis for a brief period of time. Factors used to determine transient occupancy include whether the person has a legal interest in the property, has property utility subscriptions, receives mail at the property, and has personal belongings at the property.

A transient occupant unlawfully detains a residential property if the person does not leave after the party with rightful legal interest in the property asks the person to leave. The bill authorizes the party to provide a law enforcement officer with a sworn affidavit setting forth facts showing that the person asked to leave is a transient occupant who is unlawfully detaining the residence. Upon receipt of the affidavit, the law enforcement officer may direct the transient occupant to leave. If the person does not leave, the law enforcement officer may charge the transient occupant with criminal trespassing.

The bill also expressly authorizes the use of an unlawful detainer action to remove a transient occupant and a cause of action for wrongful removal by a person who is wrongfully removed from a property.

If approved by the Governor, these provisions take effect July 1, 2015.

Vote: Senate 39-0; House 110-5