

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Harrison offered the following:

Amendment

5 Remove lines 50-86 and insert:

6 (3) Any law enforcement officer may, upon receipt of a
 7 sworn affidavit of the party entitled to possession that a
 8 person who is a transient occupant is unlawfully detaining
 9 residential property, direct a transient occupant to surrender
 10 possession of residential property. The sworn affidavit must set
 11 forth the facts, including the applicable factors listed in
 12 paragraph (1)(a), which establish that a transient occupant is
 13 unlawfully detaining residential property.

14 (a) A person who fails to comply with the direction of the
 15 law enforcement officer to surrender possession or occupancy
 16 violates s. 810.08. In any prosecution of a violation of s.
 17 810.08 related to this section, whether the defendant was

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18 properly classified as a transient occupant is not an element of
19 the offense, the state is not required to prove that the
20 defendant was in fact a transient occupant, and the defendant's
21 status as a permanent resident is not an affirmative defense.

22 (b) A person wrongfully removed pursuant to this
23 subsection has a cause of action for wrongful removal against
24 the person who requested the removal, and may recover injunctive
25 relief and compensatory damages. However, a wrongfully removed
26 person does not have a cause of action against the law
27 enforcement officer or the agency employing the law enforcement
28 officer absent a showing of bad faith by the law enforcement
29 officer.

30 (4) A party entitled to possession of a dwelling has a
31 cause of action for unlawful detainer against a transient
32 occupant pursuant to s. 82.04. The party entitled to possession
33 is not required to notify the transient occupant before filing
34 the action. If the court finds the defendant is not a transient
35 occupant but is instead a tenant of residential property
36 governed by part II of chapter 83, the court may not dismiss the
37 action without first allowing the plaintiff to give the
38 transient occupant notice required by that part and to
39 thereafter amend the complaint to pursue eviction under that
40 part.