



297176

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2015	.	
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The Committee on Regulated Industries (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 82.045, Florida Statutes, is created to
read:

82.045 Remedy for unlawful detention by a transient
occupant of residential property.-

(1) As used in this section, the term "transient occupant"
means a person whose residency in a dwelling intended for



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11 residential use has occurred for a brief length of time, is not
12 pursuant to a lease, and whose occupancy was intended as
13 transient in nature.

14 (a) Factors that establish that a person is a transient
15 occupant include, but are not limited to:

16 1. The person does not have ownership, financial, or
17 leasehold in the property entitling him or her to occupancy of
18 the property.

19 2. The person does not have any property utility
20 subscriptions.

21 3. The person does not use the property address as an
22 address of record with any governmental agency, including, but
23 not limited to, the Department of Highway Safety and Motor
24 Vehicles or the supervisor of elections.

25 4. The person does not receive mail at the property.

26 5. The person pays minimal or no rent for his or her stay
27 at the property.

28 6. The person does not have a designated space of his or
29 her own, such as a room, at the property.

30 7. The person has minimal, if any, personal belongings at
31 the property.

32 8. The person has an apparent permanent residence
33 elsewhere.

34 (b) Minor contributions made for the purchase of household
35 goods or minor contributions towards other household expenses,
36 do not establish residency.

37 (2) A transient occupant unlawfully detains a residential
38 property if the transient occupant remains in occupancy of the
39 residential property after the party entitled to possession of



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40 the property has directed the transient occupant to leave.

41 (3) Any law enforcement officer may, upon receipt of a
42 sworn affidavit of the party entitled to possession that a
43 person who is a transient occupant is unlawfully detaining
44 residential property, direct a transient occupant to surrender
45 possession of residential property. The sworn affidavit must set
46 forth the facts, including the applicable factors listed in
47 paragraph (1) (a), which establish that a transient occupant is
48 unlawfully detaining residential property.

49 (a) A person who fails to comply with the direction of the
50 law enforcement officer to surrender possession or occupancy
51 violates s. 810.08. In any prosecution of a violation of s.
52 810.08 related to this section, whether the defendant was
53 properly classified as a transient occupant is not an element of
54 the offense, the state is not required to prove that the
55 defendant was in fact a transient occupant, and the defendant's
56 status as a permanent resident is not an affirmative defense.

57 (b) A person wrongfully removed pursuant to this subsection
58 has a cause of action for wrongful removal against the person
59 who requested the removal, and may recover injunctive relief and
60 compensatory damages. However, a wrongfully removed person does
61 not have a cause of action against the law enforcement officer
62 or the agency employing the law enforcement officer absent a
63 showing of bad faith by the law enforcement officer.

64 (4) A party entitled to possession of a dwelling has a
65 cause of action for unlawful detainer against a transient
66 occupant pursuant to s. 82.04. The party entitled to possession
67 is not required to notify the transient occupant before filing
68 the action. If the court finds the defendant is not a transient



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69 occupant but is instead a tenant of residential property
70 governed by part II of chapter 83, the court may not dismiss the
71 action without first allowing the plaintiff to give the
72 transient occupant notice required by that part and to
73 thereafter amend the complaint to pursue eviction under that
74 part.

75 Section 2. This act shall take effect July 1, 2015.

76
77 ===== T I T L E A M E N D M E N T =====

78 And the title is amended as follows:

79 Delete everything before the enacting clause
80 and insert:

81 A bill to be entitled

82 An act relating to unlawful detention by a transient
83 occupant; creating s. 82.045, F.S.; defining the term
84 "transient occupant"; providing factors that establish
85 a transient occupancy; providing for removal of a
86 transient occupant by a law enforcement officer;
87 providing a cause of action for wrongful removal;
88 limiting actions for wrongful removal; providing a
89 civil action for removal of a transient occupant;
90 providing an effective date.