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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/12/2015	.	
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The Committee on Judiciary (Ring) 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
residential use has occurred for a brief length of time, is not



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12 pursuant to a written 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 or financial interest
17 in the property entitling him or her to occupancy of the
18 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
40 the property has directed the transient occupant to leave.



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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. A person who fails to comply
46 with the direction of the law enforcement officer to surrender
47 possession or occupancy violates s. 810.08. In any prosecution
48 of a violation of s. 810.08 related to this section, whether the
49 defendant was properly classified as a transient occupant is not
50 an element of the offense, the state is not required to prove
51 that the defendant was in fact a transient occupant, and the
52 status as a permanent resident is not an affirmative defense. A
53 person wrongfully removed pursuant to this subsection has a
54 cause of action for wrongful removal against the person who
55 requested the removal, and may recover injunctive relief and
56 compensatory damages. However, a wrongfully removed person does
57 not have a cause of action against the law enforcement officer
58 or the agency employing the law enforcement officer absent a
59 showing of bad faith by the law enforcement officer.

60 (4) A party entitled to possession of a dwelling has a
61 cause of action for unlawful detainer and removal of a transient
62 occupant. The party entitled to possession is entitled to the
63 summary procedure of s. 51.011 to remove a transient occupant.
64 The party entitled to possession is not required to notify the
65 transient occupant before filing the action. If the court finds
66 that the defendant is a transient occupant the court shall order
67 the clerk to issue a writ of possession placing the plaintiff in
68 possession of the premises, and may award compensatory damages.
69 If the court finds the defendant is not a transient occupant but



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70 is instead a tenant of residential property entitled to the
71 protections of part II of chapter 83, the court may not dismiss
72 the action without first allowing the plaintiff to give notice
73 required by that part and to thereafter amend the complaint to
74 pursue eviction under that part. County courts have jurisdiction
75 over actions authorized under this subsection. The filing fee
76 for an action under this subsection is the fee established in s.
77 34.041(1)(a)7. for removal of a tenant.

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

80 ===== T I T L E A M E N D M E N T =====

81 And the title is amended as follows:

82 Delete everything before the enacting clause
83 and insert:

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