



439330

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/27/2024	.	
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	.	
	.	

The Committee on Rules (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 82.036, Florida Statutes, is created to
read:

82.036 Limited alternative remedy to remove unauthorized
persons from residential real property.-

(1) The Legislature finds that the right to exclude others
from entering, and the right to direct others to immediately
vacate, residential real property are the most important real



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12 property rights. The Legislature further finds that existing
13 remedies regarding unauthorized persons who unlawfully remain on
14 residential real property fail to adequately protect the rights
15 of the property owner and fail to adequately discourage theft
16 and vandalism. The intent of this section is to quickly restore
17 possession of residential real property to the lawful owner of
18 the property when it is being unlawfully occupied and to thereby
19 preserve property rights while limiting the opportunity for
20 criminal activity.

21 (2) A property owner or his or her authorized agent may
22 request from the sheriff of the county in which the property is
23 located the immediate removal of a person or persons unlawfully
24 occupying a residential dwelling pursuant to this section if all
25 of the following conditions are met:

26 (a) The requesting person is the property owner or
27 authorized agent of the property owner.

28 (b) The real property that is being occupied includes a
29 residential dwelling.

30 (c) An unauthorized person or persons have unlawfully
31 entered and remain or continue to reside on the property owner's
32 property.

33 (d) The real property was not open to members of the public
34 at the time the unauthorized person or persons entered.

35 (e) The property owner has become aware of occupants
36 unlawfully occupying the property.

37 (f) The unauthorized person cannot produce documentation,
38 correspondence, or identification cards sent or issued by a
39 government agency, including, but not limited to, the Department
40 of Highway Safety and Motor Vehicles or the supervisor of



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41 elections, which show that the person used the property address
42 as an address of record with the agency within the previous 12
43 months.

44 (g) The unauthorized person does not have a designated
45 space of his or her own, such as a room, at the property.

46 (h) The unauthorized person cannot produce a notarized
47 lease signed by the property owner.

48 (i) The unauthorized person or persons are not current or
49 former tenants pursuant to a written or oral rental agreement
50 authorized by the property owner.

51 (j) The unauthorized person or persons are not immediate
52 family members of the property owner.

53 (k) There is no pending litigation related to the real
54 property between the property owner and any known unauthorized
55 person.

56 (3) To request the immediate removal of an unlawful
57 occupant of a residential dwelling, the property owner or his or
58 her authorized agent must submit a complaint by presenting a
59 completed and verified Complaint to Remove Persons Unlawfully
60 Occupying Residential Real Property to the sheriff of the county
61 in which the real property is located. The submitted complaint
62 must be in substantially the following form:

63
64 COMPLAINT TO REMOVE PERSONS UNLAWFULLY OCCUPYING
65 RESIDENTIAL REAL PROPERTY
66

67 I, the owner or authorized agent of the owner of the real
68 property located at ...(Property Address)..., declare under the
69 penalty of perjury that (initial each box):



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- 70 1. I am the owner of the real property or the
71 authorized agent of the owner of the real property.
- 72 2. I purchased the property on
- 73 3. The real property is a residential dwelling.
- 74 4. An unauthorized person or persons have unlawfully
75 entered and are remaining or residing unlawfully on the real
76 property.
- 77 5. The real property was not open to members of the
78 public at the time the unauthorized person or persons entered.
- 79 6. I have become aware of occupants unlawfully
80 occupying the property.
- 81 7. The person or persons are not current or former
82 tenants pursuant to any valid lease authorized by the property
83 owner, and any lease that may be produced by an occupant is
84 fraudulent.
- 85 8. The unauthorized person or persons sought to be
86 removed are not an owner or a co-owner of the property and have
87 not been listed on the title to the property unless the person
88 or persons have engaged in title fraud.
- 89 9. The unauthorized person or persons are not
90 immediate family members of the property owner.
- 91 10. There is no litigation related to the real
92 property pending between the property owner and any person
93 sought to be removed.
- 94 11. I understand that a person or persons removed from
95 the property pursuant to this procedure may bring a cause of
96 action against me for any false statements made in this
97 complaint, or for wrongfully using this procedure, and that as a
98 result of such action I may be held liable for actual damages,



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99 penalties, costs, and reasonable attorney fees.

100 12. I am requesting the sheriff to immediately remove
101 the unauthorized person or persons from the residential
102 property.

103 13. A copy of my valid government-issued
104 identification is attached, or I am an agent of the property
105 owner, and documents evidencing my authority to act on the
106 property owner's behalf are attached.

107
108 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND EACH
109 STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS
110 MADE IN THIS PETITION ARE BEING MADE UNDER PENALTY OF PERJURY,
111 PUNISHABLE AS PROVIDED IN SECTION 837.02, FLORIDA STATUTES.

112
113 ...(Signature of Property Owner or Agent of Owner)...

114
115 (4) Upon receipt of the complaint, the sheriff shall verify
116 that the person submitting the complaint is the record owner of
117 the real property or the authorized agent of the owner and
118 appears otherwise entitled to relief under this section. If
119 verified, the sheriff must, without delay, serve a notice to
120 immediately vacate on all the unlawful occupants and shall put
121 the owner in possession of the real property. Service may be
122 accomplished by hand delivery of the notice to an occupant or by
123 posting the notice on the front door or entrance of the
124 dwelling. The sheriff shall also attempt to verify the
125 identities of all persons occupying the dwelling and note the
126 identities on the return of service. If appropriate, the sheriff
127 may arrest any person found in the dwelling for trespass,



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128 outstanding warrants, or any other legal cause.

129 (5) The sheriff is entitled to the same fee for service of
130 the notice to immediately vacate as if the sheriff were serving
131 a writ of possession under s. 30.231. After the sheriff serves
132 the notice to immediately vacate, the property owner or
133 authorized agent may request that the sheriff stand by to keep
134 the peace while the property owner or agent of the owner changes
135 the locks and removes the personal property of the unlawful
136 occupants from the premises to or near the property line. When
137 such a request is made, the sheriff may charge a reasonable
138 hourly rate, and the person requesting the sheriff to stand by
139 and keep the peace is responsible for paying the reasonable
140 hourly rate set by the sheriff. The sheriff is not liable to the
141 unlawful occupant or any other party for loss, destruction, or
142 damage of property. The property owner or his or her authorized
143 agent is not liable to an unlawful occupant or any other party
144 for the loss, destruction, or damage to the personal property
145 unless the removal was wrongful.

146 (6) A person may bring a civil cause of action for wrongful
147 removal against the person who requested such removal under this
148 section. A person harmed by a wrongful removal under this
149 section may be restored to possession of the real property and
150 may recover actual costs and damages incurred, statutory damages
151 equal to triple the fair market rent of the dwelling, court
152 costs, and reasonable attorney fees. The court shall advance the
153 cause on the calendar.

154 (7) This section does not limit the rights of a property
155 owner or limit the authority of a law enforcement officer to
156 arrest an unlawful occupant for trespassing, vandalism, theft,



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157 or other crimes.

158 Section 2. Present subsections (4) through (11) of section
159 806.13, Florida Statutes, are redesignated as subsections (5)
160 through (12), respectively, a new subsection (4) is added to
161 that section, and present subsection (10) of that section is
162 amended, to read:

163 806.13 Criminal mischief; penalties; penalty for minor.—

164 (4) A person who unlawfully detains or occupies or
165 trespasses upon a residential dwelling and who intentionally
166 damages the dwelling causing \$1,000 or more in damages commits a
167 felony of the second degree, punishable as provided in s.
168 775.082, s. 775.083, or s. 775.084.

169 ~~(11)~~~~(10)~~ A minor whose driver license or driving privilege
170 is revoked, suspended, or withheld under subsection (10) ~~(9)~~ may
171 elect to reduce the period of revocation, suspension, or
172 withholding by performing community service at the rate of 1 day
173 for each hour of community service performed. In addition, if
174 the court determines that due to a family hardship, the minor's
175 driver license or driving privilege is necessary for employment
176 or medical purposes of the minor or a member of the minor's
177 family, the court shall order the minor to perform community
178 service and reduce the period of revocation, suspension, or
179 withholding at the rate of 1 day for each hour of community
180 service performed. As used in this subsection, the term
181 "community service" means cleaning graffiti from public
182 property.

183 Section 3. Section 817.03, Florida Statutes, is amended to
184 read:

185 817.03 Making false statement to obtain property or credit



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186 or to detain real property.-

187 (1) Any person who shall make or cause to be made any false
188 statement, in writing, relating to his or her financial
189 condition, assets or liabilities, or relating to the financial
190 condition, assets or liabilities of any firm or corporation in
191 which such person has a financial interest, or for whom he or
192 she is acting, with a fraudulent intent of obtaining credit,
193 goods, money or other property, and shall by such false
194 statement obtain credit, goods, money or other property, commits
195 ~~shall be guilty of~~ a misdemeanor of the first degree, punishable
196 as provided in s. 775.082 or s. 775.083.

197 (2) Any person who, with the intent to detain or remain
198 upon real property, knowingly and willfully presents to another
199 person a false document purporting to be a valid lease
200 agreement, deed, or other instrument conveying real property
201 rights commits a misdemeanor of the first degree, punishable as
202 provided in s. 775.082 or s. 775.083.

203 Section 4. Section 817.0311, Florida Statutes, is created
204 to read:

205 817.0311 Fraudulent sale or lease of residential real
206 property.-A person who lists or advertises residential real
207 property for sale knowing that the purported seller has no legal
208 title or authority to sell the property, or rents or leases the
209 property to another person knowing that he or she has no lawful
210 ownership in the property or leasehold interest in the property,
211 commits a felony of the first degree, punishable as provided in
212 s. 775.082, s. 775.083, or s. 775.084.

213 Section 5. This act shall take effect July 1, 2024.

214



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

216 And the title is amended as follows:

217 Delete everything before the enacting clause
218 and insert:

219 A bill to be entitled
220 An act relating to property rights; creating s.
221 82.036, F.S.; providing legislative findings;
222 authorizing property owners or their authorized agents
223 to request assistance from the sheriff from where the
224 property is located for the immediate removal of
225 unauthorized occupants from a residential dwelling
226 under certain conditions; requiring such owners or
227 agents to submit a specified completed and verified
228 complaint; specifying requirements for the complaint;
229 providing requirements for the sheriff; authorizing a
230 sheriff to arrest an unauthorized occupant for legal
231 cause; providing that sheriffs are entitled to a
232 specified fee for service of such notice; authorizing
233 the owner or agent to request that the sheriff stand
234 by while the owner or agent takes possession of the
235 property; authorizing the sheriff to charge a
236 reasonable hourly rate; providing that the sheriff is
237 not liable to any party for loss, destruction, or
238 damage; providing that the property owner or agent is
239 not liable to any party for the loss or destruction
240 of, or damage to, personal property unless it was
241 wrongfully removed; providing civil remedies;
242 providing construction; amending s. 806.13, F.S.;
243 prohibiting unlawfully detaining, or occupying or



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244 trespassing upon, a residential dwelling intentionally
245 and causing a specified amount of damage; providing
246 criminal penalties; amending s. 817.03, F.S.;
247 providing criminal penalties for any person who
248 knowingly and willfully presents a false document
249 purporting to be a valid lease agreement, deed, or
250 other instrument conveying real property rights;
251 creating s. 817.0311, F.S.; prohibiting listing or
252 advertising for sale, or renting or leasing,
253 residential real property under certain circumstances;
254 providing criminal penalties; providing an effective
255 date.