



521814

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/06/2024	.	
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The Committee on Criminal Justice (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (1) and (3) of section 82.035,
Florida Statutes, are amended to read:

82.035 Remedy for unlawful detention by a transient
occupant of residential property; recovery of transient
occupant's personal belongings.—

(1) As used in this section, the term "transient occupant"



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

15 (a)1. Factors that establish that a person is a transient
16 occupant include, but are not limited to:

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

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

22 c.3. The person cannot produce documentation,
23 correspondence, or identification cards sent or issued by a
24 government agency, including, but not limited to, the Department
25 of Highway Safety and Motor Vehicles or the supervisor of
26 elections, which show that the person used the property address
27 as an address of record with the agency within the previous 12
28 months.

29 d.4. The person pays minimal or no rent for his or her stay
30 at the property.

31 e.5. The person does not have a designated space of his or
32 her own, such as a room, at the property.

33 f.6. The person has minimal, if any, personal belongings at
34 the property.

35 g.7. The person has an apparent permanent residence
36 elsewhere.

37 2. A person is presumed to be a transient occupant if he or
38 she is unable to produce at least one of the following:

39 a. A notarized lease that includes the name and signature



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40 of the owner of the property.

41 b. A receipt or other reliable evidence demonstrating that
42 the person has paid to the owner or the owner's representative
43 rent for the last rent payment period. For monthly rental
44 tenancies and rental tenancies for any lesser period of time, a
45 receipt or other reliable evidence must be dated within the last
46 60 days.

47 c. Written evidence of actual possession for at least 7
48 years based upon a written claim of a conveyance of the property
49 or a decree or judgment providing a claim of title.

50 d. Written evidence of payment of all outstanding taxes and
51 special improvement liens levied against the property by the
52 state, county, and municipality and written evidence of a return
53 filed with the Department of Revenue as required by s. 95.18.

54 (b) Minor contributions made for the purchase of household
55 goods, or minor contributions towards other household expenses,
56 do not establish residency.

57 (3) Any law enforcement officer may, upon receipt of a
58 sworn affidavit of the party entitled to possession that a
59 person who is a transient occupant is unlawfully detaining
60 residential property, direct a transient occupant to surrender
61 possession of residential property. The sworn affidavit must set
62 forth the facts, including any of the applicable factors listed
63 in subparagraph (1)(a)1. or the inability to produce documents
64 as provided in subparagraph (1)(a)2. ~~paragraph (1)(a),~~ which
65 establish that a transient occupant is unlawfully detaining
66 residential property.

67 (a) A person who fails to comply with the direction of the
68 law enforcement officer to surrender possession or occupancy



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69 violates s. 810.08. In any prosecution of a violation of s.
70 810.08 related to this section, whether the defendant was
71 properly classified as a transient occupant is not an element of
72 the offense, the state is not required to prove that the
73 defendant was in fact a transient occupant, and the defendant's
74 status as a permanent resident is not an affirmative defense.

75 (b) A person wrongfully removed pursuant to this subsection
76 has a cause of action for wrongful removal against the person
77 who requested the removal, and may recover injunctive relief and
78 compensatory damages. However, a wrongfully removed person does
79 not have a cause of action against the law enforcement officer
80 or the agency employing the law enforcement officer absent a
81 showing of bad faith by the law enforcement officer.

82 Section 2. Section 82.036, Florida Statutes, is created to
83 read:

84 82.036 Limited alternative remedy to remove unauthorized
85 persons from residential real property.-

86 (1) The Legislature finds that the right to exclude others
87 from entering, and the right to direct others to immediately
88 vacate, residential real property are the most important real
89 property rights. The Legislature further finds that existing
90 remedies regarding unauthorized persons who unlawfully remain on
91 residential real property fail to adequately protect the rights
92 of the property owner and fail to adequately discourage theft
93 and vandalism. The intent of this section is to quickly restore
94 possession of residential real property to the lawful owner of
95 the property when the property is being unlawfully occupied and
96 to thereby preserve property rights while limiting the
97 opportunity for criminal activity.



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

103 (a) The requesting person is the property owner or
104 authorized agent of the property owner;

105 (b) The real property that is being occupied includes a
106 residential dwelling;

107 (c) An unauthorized person or persons have unlawfully
108 entered and remain or continue to reside on the property owner's
109 property;

110 (d) The real property was not open to members of the public
111 at the time the unauthorized person or persons entered;

112 (e) The property owner has directed the unauthorized person
113 to leave the property;

114 (f) The unauthorized person or persons are not current or
115 former tenants pursuant to a written or oral rental agreement
116 authorized by the property owner;

117 (g) The unauthorized person or persons are not immediate
118 family members of the property owner; and

119 (h) There is no pending litigation related to the real
120 property between the property owner and any known unauthorized
121 person.

122 (3) To request the immediate removal of an unlawful
123 occupant of a residential dwelling, the property owner or his or
124 her authorized agent must submit a complaint by presenting a
125 completed and verified Complaint to Remove Persons Unlawfully
126 Occupying Residential Real Property to the sheriff of the county



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127 in which the real property is located. The submitted complaint
128 must be in substantially the following form:

129
130 COMPLAINT TO REMOVE PERSONS UNLAWFULLY OCCUPYING
131 RESIDENTIAL REAL PROPERTY
132

133 I, the owner or authorized agent of the owner of the real
134 property located at, declare under the penalty of
135 perjury that (initial each box):

136 1. I am the owner of the real property or the
137 authorized agent of the owner of the real property.

138 2. I purchased the property on

139 3. The real property is a residential dwelling.

140 4. An unauthorized person or persons have unlawfully
141 entered and are remaining or residing unlawfully on the real
142 property.

143 5. The real property was not open to members of the
144 public at the time the unauthorized person or persons entered.

145 6. I have directed the unauthorized person or persons
146 to leave the real property, but they have not done so.

147 7. The person or persons are not current or former
148 tenants pursuant to any valid lease authorized by the property
149 owner, and any lease that may be produced by an occupant is
150 fraudulent.

151 8. The unauthorized person or persons sought to be
152 removed are not an owner or a co-owner of the property and have
153 not been listed on the title to the property unless the person
154 or persons have engaged in title fraud.

155 9. The unauthorized person or persons are not



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156 immediate family members of the property owner.

157 10. There is no litigation related to the real
158 property pending between the property owner and any person
159 sought to be removed.

160 11. I understand that a person or persons removed from
161 the property pursuant to this procedure may bring a cause of
162 action against me for any false statements made in this
163 complaint, or for wrongfully using this procedure, and that as a
164 result of such action I may be held liable for actual damages,
165 penalties, costs, and reasonable attorney fees.

166 12. I am requesting the sheriff to immediately remove
167 the unauthorized person or persons from the residential
168 property.

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

173
174 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND EACH
175 STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS
176 MADE IN THIS PETITION ARE BEING MADE UNDER PENALTY OF PERJURY,
177 PUNISHABLE AS PROVIDED IN SECTION 837.02, FLORIDA STATUTES.

178
179 ...(Signature of Property Owner or Agent of Owner)...

180
181 (4) Upon receipt of the complaint, the sheriff shall verify
182 that the person submitting the complaint is the record owner of
183 the real property or the authorized agent of the owner and
184 appears otherwise entitled to relief under this section. If



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185 verified, the sheriff shall, without delay, serve a notice to
186 immediately vacate on all the unlawful occupants and shall put
187 the owner in possession of the real property. Service may be
188 accomplished by hand delivery of the notice to an occupant or by
189 posting the notice on the front door or entrance of the
190 dwelling. The sheriff shall also attempt to verify the
191 identities of all persons occupying the dwelling and note the
192 identities on the return of service. If appropriate, the sheriff
193 may arrest any person found in the dwelling for trespass,
194 outstanding warrants, or any other legal cause.

195 (5) The sheriff is entitled to the same fee for service of
196 the notice to immediately vacate as if the sheriff were serving
197 a writ of possession under s. 30.231. After the sheriff serves
198 the notice to immediately vacate, the property owner or
199 authorized agent may request that the sheriff stand by to keep
200 the peace while the property owner or agent of the owner changes
201 the locks and removes the personal property of the unlawful
202 occupants from the premises to or near the property line. When
203 such a request is made, the sheriff may charge a reasonable
204 hourly rate, and the person requesting the sheriff to stand by
205 and keep the peace is responsible for paying the reasonable
206 hourly rate set by the sheriff. The sheriff is not liable to the
207 unlawful occupant or any other party for loss, destruction, or
208 damage of property. The property owner or his or her authorized
209 agent is not liable to an unlawful occupant or any other party
210 for the loss, destruction, or damage to the personal property
211 unless the removal was wrongful.

212 (6) A person may bring a civil cause of action for wrongful
213 removal under this section. A person harmed by a wrongful



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214 removal under this section may be restored to possession of the
215 real property and may recover actual costs and damages incurred,
216 statutory damages equal to triple the fair market rent of the
217 dwelling, court costs, and reasonable attorney fees. The court
218 shall advance the cause on the calendar.

219 (7) This section does not limit the rights of a property
220 owner or limit the authority of a law enforcement officer to
221 arrest an unlawful occupant for trespassing, vandalism, theft,
222 or other crimes.

223 Section 3. Present subsections (4) through (11) of section
224 806.13, Florida Statutes, are redesignated as subsections (5)
225 through (12), respectively, a new subsection (4) is added to
226 that section, and present subsection (10) of that section is
227 amended, to read:

228 806.13 Criminal mischief; penalties; penalty for minor.—

229 (4) A person who unlawfully detains or occupies or
230 trespasses upon a residential dwelling and who intentionally
231 damages the dwelling causing \$1,000 or more in damages commits a
232 felony of the second degree, punishable as provided in s.
233 775.082, s. 775.083, or s. 775.084.

234 (11)~~(10)~~ A minor whose driver license or driving privilege
235 is revoked, suspended, or withheld under subsection (10) ~~(9)~~ may
236 elect to reduce the period of revocation, suspension, or
237 withholding by performing community service at the rate of 1 day
238 for each hour of community service performed. In addition, if
239 the court determines that due to a family hardship, the minor's
240 driver license or driving privilege is necessary for employment
241 or medical purposes of the minor or a member of the minor's
242 family, the court shall order the minor to perform community



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243 service and reduce the period of revocation, suspension, or
244 withholding at the rate of 1 day for each hour of community
245 service performed. As used in this subsection, the term
246 "community service" means cleaning graffiti from public
247 property.

248 Section 4. Section 817.03, Florida Statutes, is amended to
249 read:

250 817.03 Making false statement to obtain property or credit
251 or to detain real property.—

252 (1) Any person who shall make or cause to be made any false
253 statement, in writing, relating to his or her financial
254 condition, assets or liabilities, or relating to the financial
255 condition, assets or liabilities of any firm or corporation in
256 which such person has a financial interest, or for whom he or
257 she is acting, with a fraudulent intent of obtaining credit,
258 goods, money or other property, and shall by such false
259 statement obtain credit, goods, money or other property, commits
260 ~~shall be guilty of~~ a misdemeanor of the first degree, punishable
261 as provided in s. 775.082 or s. 775.083.

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

268 Section 5. Section 817.0311, Florida Statutes, is created
269 to read:

270 817.0311 Fraudulent sale or lease of residential real
271 property.—A person who lists or advertises residential real



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272 property for sale knowing that the purported seller has no legal
273 title or authority to sell the property, or rents or leases the
274 property to another person knowing that he or she has no lawful
275 ownership in the property or leasehold interest in the property,
276 commits a felony of the first degree, punishable as provided in
277 s. 775.082, s. 775.083, or s. 775.084.

278 Section 6. This act shall take effect July 1, 2024.

279

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

281 And the title is amended as follows:

282 Delete everything before the enacting clause

283 and insert:

284 A bill to be entitled

285 An act relating to property rights; amending s.

286 82.035, F.S.; providing that a person is presumed to

287 be a transient occupant if he or she is unable to

288 produce specified documentation; making a technical

289 change; creating s. 82.036, F.S.; providing

290 legislative findings; authorizing property owners or

291 their authorized agents to request assistance from the

292 sheriff from where the property is located for

293 immediately removing unauthorized occupants from a

294 residential dwelling under certain conditions;

295 requiring such owners or agents to submit a specified

296 completed and verified complaint to the sheriff of the

297 county in which the real property is located;

298 specifying requirements for the form of the complaint;

299 requiring the sheriff to verify the identity of the

300 person submitting the complaint; requiring the sheriff



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301 to hand deliver a notice to immediately vacate to the
302 unlawful occupant or to post such notice in a
303 specified manner and to attempt to verify and note the
304 identity of all occupants; authorizing a sheriff to
305 arrest an unauthorized occupant for legal cause;
306 providing that sheriffs are entitled to a specified
307 fee for service of such notice; authorizing the owner
308 or agent to request that the sheriff stand by while
309 the owner or agent takes possession of the property;
310 authorizing the sheriff to charge a reasonable hourly
311 rate; providing that the sheriff is not liable to any
312 party for loss, destruction, or damage; providing that
313 the property owner or agent is not liable to any party
314 for the loss or destruction of, or damage to, personal
315 property unless it was wrongfully removed; providing
316 civil remedies; providing construction; amending s.
317 806.13, F.S.; providing criminal penalties for a
318 person who unlawfully detains, or occupies or
319 trespasses upon, a residential dwelling and who
320 intentionally damages the dwelling causing at least a
321 specified amount damages; amending s. 817.03, F.S.;
322 providing criminal penalties for any person who
323 knowingly and willfully presents a false document
324 purporting to be a valid lease agreement, deed, or
325 other instrument conveying real property rights;
326 creating s. 817.0311, F.S.; providing criminal
327 penalties for a person who lists or advertises for
328 sale, or rents or leases, residential real property
329 under certain circumstances; providing criminal



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penalties; providing an effective date.