

By Senator Perry

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1                   A bill to be entitled  
2       An act relating to property rights; creating s.  
3       82.036, F.S.; providing legislative findings;  
4       authorizing property owners or their authorized agents  
5       to request assistance from law enforcement in  
6       immediately removing unauthorized occupants from a  
7       residential dwelling under certain conditions;  
8       requiring such owners or agents to submit a completed  
9       complaint form to the sheriff of the county in which  
10      the property is located; specifying requirements for  
11      the complaint form; requiring the sheriff to verify  
12      the identity of the person submitting the complaint  
13      form; requiring the sheriff to serve a notice to  
14      immediately vacate on the unauthorized occupant;  
15      authorizing a sheriff to arrest an unauthorized  
16      occupant for legal cause; authorizing the sheriff to  
17      collect the same fee as for service of a writ of  
18      possession; authorizing the owner or agent to request  
19      that the sheriff stand by while the owner or agent  
20      takes possession of the property; authorizing the  
21      sheriff to charge a reasonable hourly rate for a  
22      certain purpose; providing civil remedies; providing  
23      construction; providing an effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

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

29       82.036 Limited alternative remedy to remove unauthorized

9-00993-24

2024888\_\_

30 persons from residential real property.-

31 (1) The Legislature finds that the right to exclude others  
32 from entering, and the right to direct others to immediately  
33 vacate, residential real property are the most important real  
34 property rights. The Legislature further finds that existing  
35 remedies regarding unauthorized persons who unlawfully remain on  
36 residential real property fail to adequately protect the rights  
37 of the property owner and fail to adequately discourage theft  
38 and vandalism. The intent of this section is to quickly restore  
39 possession of residential real property to the lawful owner of  
40 the property when the property is being unlawfully occupied by a  
41 trespasser or squatter, and to thereby preserve property rights  
42 while limiting the opportunity for theft and vandalism.

43 (2) A property owner or his or her authorized agent may  
44 request from the sheriff of the county in which the property is  
45 located the immediate removal of a person or persons unlawfully  
46 occupying a residential dwelling pursuant to this section if all  
47 of the following are met:

48 (a) The person is the property owner or authorized agent of  
49 the property owner;

50 (b) The real property that is being occupied includes a  
51 residential dwelling;

52 (c) An unauthorized person or persons have unlawfully  
53 entered and remain or continue to reside on the property owner's  
54 property;

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

57 (e) The unauthorized person or persons have been directed  
58 to leave the real property but an unauthorized person or persons

9-00993-24

2024888\_\_

59 remain on the property;

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

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

65 (h) There is no other litigation related to the real  
 66 property which is pending between the property owner and any  
 67 known unauthorized person.

68 (3) To request the immediate removal of an unlawful  
 69 occupant of a residential dwelling, the property owner or his or  
 70 her authorized agent must submit a complaint by presenting a  
 71 completed, verified Complaint to Remove Persons Unlawfully  
 72 Occupying Residential Real Property to the sheriff of the county  
 73 in which the real property is located. The submitted complaint  
 74 must be in substantially the following form:

75  
 76 COMPLAINT TO REMOVE PERSONS UNLAWFULLY OCCUPYING RESIDENTIAL  
 77 REAL PROPERTY

78  
 79 I, the owner or authorized agent of the owner of the real  
 80 property located at ... .., declare under the penalty of  
 81 perjury that (initial each box):

82 1. .... I am the owner of the real property or the  
 83 authorized agent of the owner of the real property.

84 2. .... The real property is a residential dwelling.

85 3. .... An unauthorized person or persons have entered and  
 86 are remaining or residing unlawfully on the real property.

87 4. .... The real property was not open to members of the

9-00993-24

2024888\_\_

88 public at the time the unauthorized person or persons entered.

89 5. .... I have directed the unauthorized person or persons  
90 to leave the real property, but they have not done so.

91 6. .... The person or persons are not current or former  
92 tenants pursuant to a written or oral lease authorized by the  
93 property owner, and any lease that may be produced by an  
94 occupant is fraudulent.

95 7. .... The unauthorized person or persons sought to be  
96 removed are not an owner or co-owner of the property and have  
97 not been listed on the title to the property unless the person  
98 or persons have engaged in title fraud.

99 8. .... The unauthorized person or persons are not  
100 immediate family members of the property owner.

101 9. .... There is no litigation related to the real property  
102 pending between the property owner and any person sought to be  
103 removed.

104 10. .... I understand that a person or persons removed from  
105 the property pursuant to this procedure may bring a cause of  
106 action against me for any false statements made in this  
107 complaint, or for wrongfully using this procedure, and that as a  
108 result of such action I may be held liable for actual damages,  
109 penalties, costs, and reasonable attorney fees.

110 11. .... I am requesting the sheriff to immediately remove  
111 the unauthorized person or persons from the residential  
112 property.

113 12. .... A copy of my valid government-issued  
114 identification is attached, and if I am an agent of the property  
115 owner, documents evidencing my authority to act on the property  
116 owner's behalf are attached.

9-00993-24

2024888\_\_

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

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

(4) Upon receipt of the complaint, the sheriff shall verify that the person submitting the complaint is the record owner of the real property or the authorized agent of the owner and appears otherwise entitled to relief under this section. If verified, the sheriff shall, without delay, serve a notice to immediately vacate on the unlawful occupants and shall put the owner in possession of the real property. Service may be accomplished by hand delivery of the notice to an occupant or by posting the notice on the front door or entrance of the dwelling. The sheriff shall also attempt to verify the identities of all persons occupying the dwelling and note the identities on the return of service. If appropriate, the sheriff may arrest any person found in the dwelling for trespass, outstanding warrants, or any other legal cause.

(5) The sheriff is entitled to the same fee for service of the notice to immediately vacate as if the sheriff were serving a writ of possession under s. 30.231. After the sheriff serves the notice to immediately vacate, the property owner or authorized agent may request that the sheriff stand by to keep the peace while the property owner or agent of the owner changes the locks and removes the personal property of the unlawful

9-00993-24

2024888\_\_

146 occupants from the premises to or near the property line. When  
147 such a request is made, the sheriff may charge a reasonable  
148 hourly rate, and the person requesting the sheriff to stand by  
149 to keep the peace shall be responsible for paying the reasonable  
150 hourly rate set by the sheriff. The sheriff is not liable to the  
151 unlawful occupant or any other party for loss, destruction, or  
152 damage. The property owner or his or her authorized agent is not  
153 liable to an unlawful occupant or any other party for the loss,  
154 destruction, or damage to the personal property unless the  
155 removal was wrongful.

156 (6) A person may bring a civil cause of action for wrongful  
157 removal under this section. A person harmed by a wrongful  
158 removal under this section may be restored to possession of the  
159 real property and may recover actual costs and damages incurred,  
160 statutory damages equal to triple the fair market rent of the  
161 dwelling, court costs, and reasonable attorney fees. The court  
162 shall advance the cause on the calendar.

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

167 Section 2. This act shall take effect July 1, 2024.