

By the Committee on Criminal Justice; and Senator Perry

591-02993-24

2024888c1

1 A bill to be entitled
2 An act relating to property rights; amending s.
3 82.035, F.S.; providing that a person is presumed to
4 be a transient occupant if he or she is unable to
5 produce specified documentation; making a technical
6 change; creating s. 82.036, F.S.; providing
7 legislative findings; authorizing property owners or
8 their authorized agents to request assistance from the
9 sheriff from where the property is located for
10 immediately removing unauthorized occupants from a
11 residential dwelling under certain conditions;
12 requiring such owners or agents to submit a specified
13 completed and verified complaint to the sheriff of the
14 county in which the real property is located;
15 specifying requirements for the form of the complaint;
16 requiring the sheriff to verify the identity of the
17 person submitting the complaint; requiring the sheriff
18 to hand deliver a notice to immediately vacate to the
19 unlawful occupant or to post such notice in a
20 specified manner and to attempt to verify and note the
21 identity of all occupants; authorizing a sheriff to
22 arrest an unauthorized occupant for legal cause;
23 providing that sheriffs are entitled to a specified
24 fee for service of such notice; authorizing the owner
25 or agent to request that the sheriff stand by while
26 the owner or agent takes possession of the property;
27 authorizing the sheriff to charge a reasonable hourly
28 rate; providing that the sheriff is not liable to any
29 party for loss, destruction, or damage; providing that

591-02993-24

2024888c1

30 the property owner or agent is not liable to any party
31 for the loss or destruction of, or damage to, personal
32 property unless it was wrongfully removed; providing
33 civil remedies; providing construction; amending s.
34 806.13, F.S.; providing criminal penalties for a
35 person who unlawfully detains, or occupies or
36 trespasses upon, a residential dwelling and who
37 intentionally damages the dwelling causing at least a
38 specified amount damages; amending s. 817.03, F.S.;
39 providing criminal penalties for any person who
40 knowingly and willfully presents a false document
41 purporting to be a valid lease agreement, deed, or
42 other instrument conveying real property rights;
43 creating s. 817.0311, F.S.; providing criminal
44 penalties for a person who lists or advertises for
45 sale, or rents or leases, residential real property
46 under certain circumstances; providing criminal
47 penalties; providing an effective date.

48
49 Be It Enacted by the Legislature of the State of Florida:

50
51 Section 1. Subsections (1) and (3) of section 82.035,
52 Florida Statutes, are amended to read:

53 82.035 Remedy for unlawful detention by a transient
54 occupant of residential property; recovery of transient
55 occupant's personal belongings.—

56 (1) As used in this section, the term "transient occupant"
57 means a person whose residency in real property intended for
58 residential use has occurred for a brief length of time, is not

591-02993-24

2024888c1

59 pursuant to a lease, and whose occupancy was intended as
60 transient in nature.

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

63 ~~a.1.~~ The person does not have an ownership interest,
64 financial interest, or leasehold interest in the property
65 entitling him or her to occupancy of the property.

66 ~~b.2.~~ The person does not have any property utility
67 subscriptions.

68 ~~c.3.~~ The person cannot produce documentation,
69 correspondence, or identification cards sent or issued by a
70 government agency, including, but not limited to, the Department
71 of Highway Safety and Motor Vehicles or the supervisor of
72 elections, which show that the person used the property address
73 as an address of record with the agency within the previous 12
74 months.

75 ~~d.4.~~ The person pays minimal or no rent for his or her stay
76 at the property.

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

79 ~~f.6.~~ The person has minimal, if any, personal belongings at
80 the property.

81 ~~g.7.~~ The person has an apparent permanent residence
82 elsewhere.

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

85 a. A notarized lease that includes the name and signature
86 of the owner of the property.

87 b. A receipt or other reliable evidence demonstrating that

591-02993-24

2024888c1

88 the person has paid to the owner or the owner's representative
89 rent for the last rent payment period. For monthly rental
90 tenancies and rental tenancies for any lesser period of time, a
91 receipt or other reliable evidence must be dated within the last
92 60 days.

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

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

100 (b) Minor contributions made for the purchase of household
101 goods, or minor contributions towards other household expenses,
102 do not establish residency.

103 (3) Any law enforcement officer may, upon receipt of a
104 sworn affidavit of the party entitled to possession that a
105 person who is a transient occupant is unlawfully detaining
106 residential property, direct a transient occupant to surrender
107 possession of residential property. The sworn affidavit must set
108 forth the facts, including any of the applicable factors listed
109 in subparagraph (1)(a)1. or the inability to produce documents
110 as provided in subparagraph (1)(a)2. ~~paragraph (1)(a),~~ which
111 establish that a transient occupant is unlawfully detaining
112 residential property.

113 (a) A person who fails to comply with the direction of the
114 law enforcement officer to surrender possession or occupancy
115 violates s. 810.08. In any prosecution of a violation of s.
116 810.08 related to this section, whether the defendant was

591-02993-24

2024888c1

117 properly classified as a transient occupant is not an element of
118 the offense, the state is not required to prove that the
119 defendant was in fact a transient occupant, and the defendant's
120 status as a permanent resident is not an affirmative defense.

121 (b) A person wrongfully removed pursuant to this subsection
122 has a cause of action for wrongful removal against the person
123 who requested the removal, and may recover injunctive relief and
124 compensatory damages. However, a wrongfully removed person does
125 not have a cause of action against the law enforcement officer
126 or the agency employing the law enforcement officer absent a
127 showing of bad faith by the law enforcement officer.

128 Section 2. Section 82.036, Florida Statutes, is created to
129 read:

130 82.036 Limited alternative remedy to remove unauthorized
131 persons from residential real property.-

132 (1) The Legislature finds that the right to exclude others
133 from entering, and the right to direct others to immediately
134 vacate, residential real property are the most important real
135 property rights. The Legislature further finds that existing
136 remedies regarding unauthorized persons who unlawfully remain on
137 residential real property fail to adequately protect the rights
138 of the property owner and fail to adequately discourage theft
139 and vandalism. The intent of this section is to quickly restore
140 possession of residential real property to the lawful owner of
141 the property when the property is being unlawfully occupied and
142 to thereby preserve property rights while limiting the
143 opportunity for criminal activity.

144 (2) A property owner or his or her authorized agent may
145 request from the sheriff of the county in which the property is

591-02993-24

2024888c1

146 located the immediate removal of a person or persons unlawfully
147 occupying a residential dwelling pursuant to this section if all
148 of the following conditions are met:

149 (a) The requesting person is the property owner or
150 authorized agent of the property owner;

151 (b) The real property that is being occupied includes a
152 residential dwelling;

153 (c) An unauthorized person or persons have unlawfully
154 entered and remain or continue to reside on the property owner's
155 property;

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

158 (e) The property owner has directed the unauthorized person
159 to leave the property;

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

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

165 (h) There is no pending litigation related to the real
166 property between the property owner and any known unauthorized
167 person.

168 (3) To request the immediate removal of an unlawful
169 occupant of a residential dwelling, the property owner or his or
170 her authorized agent must submit a complaint by presenting a
171 completed and verified Complaint to Remove Persons Unlawfully
172 Occupying Residential Real Property to the sheriff of the county
173 in which the real property is located. The submitted complaint
174 must be in substantially the following form:

591-02993-24

2024888c1

175
176 COMPLAINT TO REMOVE PERSONS UNLAWFULLY OCCUPYING
177 RESIDENTIAL REAL PROPERTY
178

179 I, the owner or authorized agent of the owner of the real
180 property located at, declare under the penalty of
181 perjury that (initial each box):

182 1. I am the owner of the real property or the
183 authorized agent of the owner of the real property.

184 2. I purchased the property on

185 3. The real property is a residential dwelling.

186 4. An unauthorized person or persons have unlawfully
187 entered and are remaining or residing unlawfully on the real
188 property.

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

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

193 7. The person or persons are not current or former
194 tenants pursuant to any valid lease authorized by the property
195 owner, and any lease that may be produced by an occupant is
196 fraudulent.

197 8. The unauthorized person or persons sought to be
198 removed are not an owner or a co-owner of the property and have
199 not been listed on the title to the property unless the person
200 or persons have engaged in title fraud.

201 9. The unauthorized person or persons are not
202 immediate family members of the property owner.

203 10. There is no litigation related to the real

591-02993-24

2024888c1

204 property pending between the property owner and any person
205 sought to be removed.

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

212 12. I am requesting the sheriff to immediately remove
213 the unauthorized person or persons from the residential
214 property.

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

219
220 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND EACH
221 STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS
222 MADE IN THIS PETITION ARE BEING MADE UNDER PENALTY OF PERJURY,
223 PUNISHABLE AS PROVIDED IN SECTION 837.02, FLORIDA STATUTES.

224
225 ...(Signature of Property Owner or Agent of Owner)...
226

227 (4) Upon receipt of the complaint, the sheriff shall verify
228 that the person submitting the complaint is the record owner of
229 the real property or the authorized agent of the owner and
230 appears otherwise entitled to relief under this section. If
231 verified, the sheriff shall, without delay, serve a notice to
232 immediately vacate on all the unlawful occupants and shall put

591-02993-24

2024888c1

233 the owner in possession of the real property. Service may be
234 accomplished by hand delivery of the notice to an occupant or by
235 posting the notice on the front door or entrance of the
236 dwelling. The sheriff shall also attempt to verify the
237 identities of all persons occupying the dwelling and note the
238 identities on the return of service. If appropriate, the sheriff
239 may arrest any person found in the dwelling for trespass,
240 outstanding warrants, or any other legal cause.

241 (5) The sheriff is entitled to the same fee for service of
242 the notice to immediately vacate as if the sheriff were serving
243 a writ of possession under s. 30.231. After the sheriff serves
244 the notice to immediately vacate, the property owner or
245 authorized agent may request that the sheriff stand by to keep
246 the peace while the property owner or agent of the owner changes
247 the locks and removes the personal property of the unlawful
248 occupants from the premises to or near the property line. When
249 such a request is made, the sheriff may charge a reasonable
250 hourly rate, and the person requesting the sheriff to stand by
251 and keep the peace is responsible for paying the reasonable
252 hourly rate set by the sheriff. The sheriff is not liable to the
253 unlawful occupant or any other party for loss, destruction, or
254 damage of property. The property owner or his or her authorized
255 agent is not liable to an unlawful occupant or any other party
256 for the loss, destruction, or damage to the personal property
257 unless the removal was wrongful.

258 (6) A person may bring a civil cause of action for wrongful
259 removal under this section. A person harmed by a wrongful
260 removal under this section may be restored to possession of the
261 real property and may recover actual costs and damages incurred,

591-02993-24

2024888c1

262 statutory damages equal to triple the fair market rent of the
263 dwelling, court costs, and reasonable attorney fees. The court
264 shall advance the cause on the calendar.

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

269 Section 3. Present subsections (4) through (11) of section
270 806.13, Florida Statutes, are redesignated as subsections (5)
271 through (12), respectively, a new subsection (4) is added to
272 that section, and present subsection (10) of that section is
273 amended, to read:

274 806.13 Criminal mischief; penalties; penalty for minor.—

275 (4) A person who unlawfully detains or occupies or
276 trespasses upon a residential dwelling and who intentionally
277 damages the dwelling causing \$1,000 or more in damages commits a
278 felony of the second degree, punishable as provided in s.
279 775.082, s. 775.083, or s. 775.084.

280 (11)~~(10)~~ A minor whose driver license or driving privilege
281 is revoked, suspended, or withheld under subsection (10) ~~(9)~~ may
282 elect to reduce the period of revocation, suspension, or
283 withholding by performing community service at the rate of 1 day
284 for each hour of community service performed. In addition, if
285 the court determines that due to a family hardship, the minor's
286 driver license or driving privilege is necessary for employment
287 or medical purposes of the minor or a member of the minor's
288 family, the court shall order the minor to perform community
289 service and reduce the period of revocation, suspension, or
290 withholding at the rate of 1 day for each hour of community

591-02993-24

2024888c1

291 service performed. As used in this subsection, the term
292 "community service" means cleaning graffiti from public
293 property.

294 Section 4. Section 817.03, Florida Statutes, is amended to
295 read:

296 817.03 Making false statement to obtain property or credit
297 or to detain real property.-

298 (1) Any person who shall make or cause to be made any false
299 statement, in writing, relating to his or her financial
300 condition, assets or liabilities, or relating to the financial
301 condition, assets or liabilities of any firm or corporation in
302 which such person has a financial interest, or for whom he or
303 she is acting, with a fraudulent intent of obtaining credit,
304 goods, money or other property, and shall by such false
305 statement obtain credit, goods, money or other property, commits
306 ~~shall be guilty of~~ a misdemeanor of the first degree, punishable
307 as provided in s. 775.082 or s. 775.083.

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

314 Section 5. Section 817.0311, Florida Statutes, is created
315 to read:

316 817.0311 Fraudulent sale or lease of residential real
317 property.-A person who lists or advertises residential real
318 property for sale knowing that the purported seller has no legal
319 title or authority to sell the property, or rents or leases the

591-02993-24

2024888c1

320 property to another person knowing that he or she has no lawful
321 ownership in the property or leasehold interest in the property,
322 commits a felony of the first degree, punishable as provided in
323 s. 775.082, s. 775.083, or s. 775.084.

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