

By the Committees on Rules; and Criminal Justice; and Senators
Perry and Yarborough

595-03789-24

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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 the sheriff from where the
6 property is located for the immediate removal of
7 unauthorized occupants from a residential dwelling
8 under certain conditions; requiring such owners or
9 agents to submit a specified completed and verified
10 complaint; specifying requirements for the complaint;
11 providing requirements for the sheriff; authorizing a
12 sheriff to arrest an unauthorized occupant for legal
13 cause; providing that sheriffs are entitled to a
14 specified fee for service of such notice; authorizing
15 the owner or agent to request that the sheriff stand
16 by while the owner or agent takes possession of the
17 property; authorizing the sheriff to charge a
18 reasonable hourly rate; providing that the sheriff is
19 not liable to any party for loss, destruction, or
20 damage; providing that the property owner or agent is
21 not liable to any party for the loss or destruction
22 of, or damage to, personal property unless it was
23 wrongfully removed; providing civil remedies;
24 providing construction; amending s. 806.13, F.S.;
25 prohibiting unlawfully detaining, or occupying or
26 trespassing upon, a residential dwelling intentionally
27 and causing a specified amount of damage; providing
28 criminal penalties; amending s. 817.03, F.S.;
29 providing criminal penalties for any person who

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30 knowingly and willfully presents a false document
31 purporting to be a valid lease agreement, deed, or
32 other instrument conveying real property rights;
33 creating s. 817.0311, F.S.; prohibiting listing or
34 advertising for sale, or renting or leasing,
35 residential real property under certain circumstances;
36 providing criminal penalties; providing an effective
37 date.

38
39 Be It Enacted by the Legislature of the State of Florida:

40
41 Section 1. Section 82.036, Florida Statutes, is created to
42 read:

43 82.036 Limited alternative remedy to remove unauthorized
44 persons from residential real property.-

45 (1) The Legislature finds that the right to exclude others
46 from entering, and the right to direct others to immediately
47 vacate, residential real property are the most important real
48 property rights. The Legislature further finds that existing
49 remedies regarding unauthorized persons who unlawfully remain on
50 residential real property fail to adequately protect the rights
51 of the property owner and fail to adequately discourage theft
52 and vandalism. The intent of this section is to quickly restore
53 possession of residential real property to the lawful owner of
54 the property when it is being unlawfully occupied and to thereby
55 preserve property rights while limiting the opportunity for
56 criminal activity.

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

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

62 (a) The requesting person is the property owner or
63 authorized agent of the property owner.

64 (b) The real property that is being occupied includes a
65 residential dwelling.

66 (c) An unauthorized person or persons have unlawfully
67 entered and remain or continue to reside on the property owner's
68 property.

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

71 (e) The property owner has become aware of occupants
72 unlawfully occupying the property.

73 (f) The unauthorized person cannot produce documentation,
74 correspondence, or identification cards sent or issued by a
75 government agency, including, but not limited to, the Department
76 of Highway Safety and Motor Vehicles or the supervisor of
77 elections, which show that the person used the property address
78 as an address of record with the agency within the previous 12
79 months.

80 (g) The unauthorized person cannot produce a notarized
81 lease signed by the property owner.

82 (h) The unauthorized person or persons are not current or
83 former tenants pursuant to a written or oral rental agreement
84 authorized by the property owner.

85 (i) The unauthorized person or persons are not immediate
86 family members of the property owner.

87 (j) There is no pending litigation related to the real

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88 property between the property owner and any known unauthorized
89 person.

90 (3) To request the immediate removal of an unlawful
91 occupant of a residential dwelling, the property owner or his or
92 her authorized agent must submit a complaint by presenting a
93 completed and verified Complaint to Remove Persons Unlawfully
94 Occupying Residential Real Property to the sheriff of the county
95 in which the real property is located. The submitted complaint
96 must be in substantially the following form:

97
98 COMPLAINT TO REMOVE PERSONS UNLAWFULLY OCCUPYING
99 RESIDENTIAL REAL PROPERTY

100
101 I, the owner or authorized agent of the owner of the real
102 property located at ...(property address)..., declare under the
103 penalty of perjury that (initial each box):

104 1. I am the owner of the real property or the
105 authorized agent of the owner of the real property.

106 2. I purchased the property on ...(purchase date)....

107 3. The real property is a residential dwelling.

108 4. An unauthorized person or persons have unlawfully
109 entered and are remaining or residing unlawfully on the real
110 property.

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

113 6. I have become aware of occupants unlawfully
114 occupying the property.

115 7. The person or persons are not current or former
116 tenants pursuant to any valid lease authorized by the property

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117 owner, and any lease that may be produced by an occupant is
118 fraudulent.

119 8. The unauthorized person or persons sought to be
120 removed are not an owner or a co-owner of the property and have
121 not been listed on the title to the property unless the person
122 or persons have engaged in title fraud.

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

125 10. There is no litigation related to the real
126 property pending between the property owner and any person
127 sought to be removed.

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

134 12. I am requesting the sheriff to immediately remove
135 the unauthorized person or persons from the residential
136 property.

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

141
142 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND EACH
143 STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS
144 MADE IN THIS PETITION ARE BEING MADE UNDER PENALTY OF PERJURY,
145 PUNISHABLE AS PROVIDED IN SECTION 837.02, FLORIDA STATUTES.

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...(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 must, without delay, serve a notice to immediately vacate on all 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 occupants from the premises to or near the property line. When such a request is made, the sheriff may charge a reasonable hourly rate, and the person requesting the sheriff to stand by and keep the peace is responsible for paying the reasonable hourly rate set by the sheriff. The sheriff is not liable to the

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175 unlawful occupant or any other party for loss, destruction, or
176 damage of property. The property owner or his or her authorized
177 agent is not liable to an unlawful occupant or any other party
178 for the loss, destruction, or damage to the personal property
179 unless the removal was wrongful.

180 (6) A person may bring a civil cause of action for wrongful
181 removal against the person who requested such removal under this
182 section. A person harmed by a wrongful removal under this
183 section may be restored to possession of the real property and
184 may recover actual costs and damages incurred, statutory damages
185 equal to triple the fair market rent of the dwelling, court
186 costs, and reasonable attorney fees. The court shall advance the
187 cause on the calendar.

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

192 Section 2. Present subsections (4) through (11) of section
193 806.13, Florida Statutes, are redesignated as subsections (5)
194 through (12), respectively, a new subsection (4) is added to
195 that section, and present subsection (10) of that section is
196 amended, to read:

197 806.13 Criminal mischief; penalties; penalty for minor.—

198 (4) A person who unlawfully detains or occupies or
199 trespasses upon a residential dwelling and who intentionally
200 damages the dwelling causing \$1,000 or more in damages commits a
201 felony of the second degree, punishable as provided in s.
202 775.082, s. 775.083, or s. 775.084.

203 (11) ~~(10)~~ A minor whose driver license or driving privilege

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204 is revoked, suspended, or withheld under subsection (10) ~~(9)~~ may
205 elect to reduce the period of revocation, suspension, or
206 withholding by performing community service at the rate of 1 day
207 for each hour of community service performed. In addition, if
208 the court determines that due to a family hardship, the minor's
209 driver license or driving privilege is necessary for employment
210 or medical purposes of the minor or a member of the minor's
211 family, the court shall order the minor to perform community
212 service and reduce the period of revocation, suspension, or
213 withholding at the rate of 1 day for each hour of community
214 service performed. As used in this subsection, the term
215 "community service" means cleaning graffiti from public
216 property.

217 Section 3. Section 817.03, Florida Statutes, is amended to
218 read:

219 817.03 Making false statement to obtain property or credit
220 or to detain real property.-

221 (1) Any person who shall make or cause to be made any false
222 statement, in writing, relating to his or her financial
223 condition, assets or liabilities, or relating to the financial
224 condition, assets or liabilities of any firm or corporation in
225 which such person has a financial interest, or for whom he or
226 she is acting, with a fraudulent intent of obtaining credit,
227 goods, money or other property, and shall by such false
228 statement obtain credit, goods, money or other property, commits
229 ~~shall be guilty of~~ a misdemeanor of the first degree, punishable
230 as provided in s. 775.082 or s. 775.083.

231 (2) Any person who, with the intent to detain or remain
232 upon real property, knowingly and willfully presents to another

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233 person a false document purporting to be a valid lease
234 agreement, deed, or other instrument conveying real property
235 rights commits a misdemeanor of the first degree, punishable as
236 provided in s. 775.082 or s. 775.083.

237 Section 4. Section 817.0311, Florida Statutes, is created
238 to read:

239 817.0311 Fraudulent sale or lease of residential real
240 property.—A person who lists or advertises residential real
241 property for sale knowing that the purported seller has no legal
242 title or authority to sell the property, or rents or leases the
243 property to another person knowing that he or she has no lawful
244 ownership in the property or leasehold interest in the property,
245 commits a felony of the first degree, punishable as provided in
246 s. 775.082, s. 775.083, or s. 775.084.

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