

1 A bill to be entitled
 2 An act relating to possession of real property;
 3 amending s. 82.035, F.S.; revising provisions
 4 concerning unlawful detention by a transient occupant
 5 of residential property; amending s. 817.03, F.S.;
 6 prohibiting knowingly and willfully presenting a false
 7 document purporting to be a valid lease agreement,
 8 deed, or other instrument conveying real property
 9 rights; providing criminal penalties; providing an
 10 effective date.

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 12 Be It Enacted by the Legislature of the State of Florida:

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

16 82.035 Remedy for unlawful detention by a transient
 17 occupant of residential property; recovery of transient
 18 occupant's personal belongings.—

19 (1) As used in this section, the term "transient occupant"
 20 means a person whose residency in real property intended for
 21 residential use has occurred for a brief length of time, is not
 22 pursuant to a lease, and whose occupancy was intended as
 23 transient in nature.

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

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

29 ~~b.2.~~ The person does not have any property utility
 30 subscriptions.

31 ~~c.3.~~ The person cannot produce documentation,
 32 correspondence, or identification cards sent or issued by a
 33 government agency, including, but not limited to, the Department
 34 of Highway Safety and Motor Vehicles or the supervisor of
 35 elections, which show that the person used the property address
 36 as an address of record with the agency within the previous 12
 37 months.

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

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

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

44 ~~g.7.~~ The person has an apparent permanent residence
 45 elsewhere.

46 2. In addition, the person is presumed to be a transient
 47 occupant if he or she is unable to produce at least one of the
 48 following:

49 a. A notarized lease that includes the name and signature
 50 of the owner of the property.

51 b. A proof of payment or other reliable evidence
 52 demonstrating that the person has paid to the owner or the
 53 owner's representative rent for the last rent payment period.
 54 For monthly rental tenancies and rental tenancies for any lesser
 55 period of time, a proof of payment or other reliable evidence
 56 must be dated within the last 60 days.

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

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

64 (b) Minor contributions made for the purchase of household
 65 goods, or minor contributions towards other household expenses,
 66 do not establish residency.

67 (3) Any law enforcement officer may, upon receipt of a
 68 sworn affidavit of the party entitled to possession that a
 69 person who is a transient occupant is unlawfully detaining
 70 residential property, direct a transient occupant to surrender
 71 possession of residential property. The sworn affidavit must set
 72 forth the facts, including any of the applicable factors listed
 73 in paragraph (1)(a), which establish that a transient occupant
 74 is unlawfully detaining residential property.

75 (a) A person who fails to comply with the direction of the

76 law enforcement officer to surrender possession or occupancy
 77 violates s. 810.08. In any prosecution of a violation of s.
 78 810.08 related to this section, whether the defendant was
 79 properly classified as a transient occupant is not an element of
 80 the offense, the state is not required to prove that the
 81 defendant was in fact a transient occupant, and the defendant's
 82 status as a permanent resident is not an affirmative defense.

83 (b) A person wrongfully removed pursuant to this
 84 subsection has a cause of action for wrongful removal against
 85 the person who requested the removal, and may recover injunctive
 86 relief and compensatory damages. However, a wrongfully removed
 87 person does not have a cause of action against the law
 88 enforcement officer or the agency employing the law enforcement
 89 officer absent a showing of bad faith by the law enforcement
 90 officer.

91 Section 2. Section 817.03, Florida Statutes, is amended to
 92 read:

93 817.03 Making false statement to obtain property or credit
 94 or to detain real property.-

95 (1) Any person who shall make or cause to be made any
 96 false statement, in writing, relating to his or her financial
 97 condition, assets or liabilities, or relating to the financial
 98 condition, assets or liabilities of any firm or corporation in
 99 which such person has a financial interest, or for whom he or
 100 she is acting, with a fraudulent intent of obtaining credit,

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101 goods, money or other property, and shall by such false
102 statement obtain credit, goods, money or other property, commits
103 ~~shall be guilty of~~ a misdemeanor of the first degree, punishable
104 as provided in s. 775.082 or s. 775.083.

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

111 Section 3. This act shall take effect July 1, 2024.