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CS/CS/HB 621

2024 Legislature

1
 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

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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
 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

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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 the property is being unlawfully occupied and
 55 to thereby preserve property rights while limiting the
 56 opportunity for 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
 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
 70 public at the time the unauthorized person or persons entered.

71 (e) The property owner has directed the unauthorized
 72 person to leave the property.

73 (f) The unauthorized person or persons are not current or
 74 former tenants pursuant to a written or oral rental agreement
 75 authorized by the property owner.

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76 (g) The unauthorized person or persons are not immediate
 77 family members of the property owner.

78 (h) There is no pending litigation related to the real
 79 property between the property owner and any known unauthorized
 80 person.

81 (3) To request the immediate removal of an unlawful
 82 occupant of a residential dwelling, the property owner or his or
 83 her authorized agent must submit a complaint by presenting a
 84 completed and verified Complaint to Remove Persons Unlawfully
 85 Occupying Residential Real Property to the sheriff of the county
 86 in which the real property is located. The submitted complaint
 87 must be in substantially the following form:

88
 89 COMPLAINT TO REMOVE PERSONS UNLAWFULLY OCCUPYING
 90 RESIDENTIAL REAL PROPERTY

91
 92 I, the owner or authorized agent of the owner of the real
 93 property located at, declare under the penalty of
 94 perjury that (initial each box):

95 1. I am the owner of the real property or the
 96 authorized agent of the owner of the real property.

97 2. I purchased the property on

98 3. The real property is a residential dwelling.

99 4. An unauthorized person or persons have unlawfully
 100 entered and are remaining or residing unlawfully on the real

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101 property.

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

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

106 7. The person or persons are not current or former
 107 tenants pursuant to any valid lease authorized by the property
 108 owner, and any lease that may be produced by an occupant is
 109 fraudulent.

110 8. The unauthorized person or persons sought to be
 111 removed are not an owner or a co-owner of the property and have
 112 not been listed on the title to the property unless the person
 113 or persons have engaged in title fraud.

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

116 10. There is no litigation related to the real
 117 property pending between the property owner and any person
 118 sought to be removed.

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

125 12. I am requesting the sheriff to immediately remove

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126 the unauthorized person or persons from the residential
 127 property.

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

132
 133 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND EACH
 134 STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS
 135 MADE IN THIS PETITION ARE BEING MADE UNDER PENALTY OF PERJURY,
 136 PUNISHABLE AS PROVIDED IN SECTION 837.02, FLORIDA STATUTES.

137
 138 ...(Signature of Property Owner or Agent of Owner)...

139
 140 (4) Upon receipt of the complaint, the sheriff shall
 141 verify that the person submitting the complaint is the record
 142 owner of the real property or the authorized agent of the owner
 143 and appears otherwise entitled to relief under this section. If
 144 verified, the sheriff shall, without delay, serve a notice to
 145 immediately vacate on all the unlawful occupants and shall put
 146 the owner in possession of the real property. Service may be
 147 accomplished by hand delivery of the notice to an occupant or by
 148 posting the notice on the front door or entrance of the
 149 dwelling. The sheriff shall also attempt to verify the
 150 identities of all persons occupying the dwelling and note the

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151 identities on the return of service. If appropriate, the sheriff
 152 may arrest any person found in the dwelling for trespass,
 153 outstanding warrants, or any other legal cause.

154 (5) The sheriff is entitled to the same fee for service of
 155 the notice to immediately vacate as if the sheriff were serving
 156 a writ of possession under s. 30.231. After the sheriff serves
 157 the notice to immediately vacate, the property owner or
 158 authorized agent may request that the sheriff stand by to keep
 159 the peace while the property owner or agent of the owner changes
 160 the locks and removes the personal property of the unlawful
 161 occupants from the premises to or near the property line. When
 162 such a request is made, the sheriff may charge a reasonable
 163 hourly rate, and the person requesting the sheriff to stand by
 164 and keep the peace is responsible for paying the reasonable
 165 hourly rate set by the sheriff. The sheriff is not liable to the
 166 unlawful occupant or any other party for loss, destruction, or
 167 damage of property. The property owner or his or her authorized
 168 agent is not liable to an unlawful occupant or any other party
 169 for the loss, destruction, or damage to the personal property
 170 unless the removal was wrongful.

171 (6) A person may bring a civil cause of action for
 172 wrongful removal under this section. A person harmed by a
 173 wrongful removal under this section may be restored to
 174 possession of the real property and may recover actual costs and
 175 damages incurred, statutory damages equal to triple the fair

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176 market rent of the dwelling, court costs, and reasonable
 177 attorney fees. The court shall advance the cause on the
 178 calendar.

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

183 Section 2. Subsections (4) through (11) of section 806.13,
 184 Florida Statutes, are redesignated as subsections (5) through
 185 (12), respectively, a new subsection (4) is added to that
 186 section, and present subsection (10) of that section is amended,
 187 to read:

188 806.13 Criminal mischief; penalties; penalty for minor.-

189 (4) A person who unlawfully detains or occupies or
 190 trespasses upon a residential dwelling and who intentionally
 191 damages the dwelling causing \$1,000 or more in damages commits a
 192 felony of the second degree, punishable as provided in s.
 193 775.082, s. 775.083, or s. 775.084.

194 (11)~~(10)~~ A minor whose driver license or driving privilege
 195 is revoked, suspended, or withheld under subsection (10) ~~(9)~~ may
 196 elect to reduce the period of revocation, suspension, or
 197 withholding by performing community service at the rate of 1 day
 198 for each hour of community service performed. In addition, if
 199 the court determines that due to a family hardship, the minor's
 200 driver license or driving privilege is necessary for employment

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201 or medical purposes of the minor or a member of the minor's
 202 family, the court shall order the minor to perform community
 203 service and reduce the period of revocation, suspension, or
 204 withholding at the rate of 1 day for each hour of community
 205 service performed. As used in this subsection, the term
 206 "community service" means cleaning graffiti from public
 207 property.

208 Section 3. Section 817.03, Florida Statutes, is amended to
 209 read:

210 817.03 Making false statement to obtain property or credit
 211 or to detain real property.-

212 (1) Any person who shall make or cause to be made any
 213 false statement, in writing, relating to his or her financial
 214 condition, assets or liabilities, or relating to the financial
 215 condition, assets or liabilities of any firm or corporation in
 216 which such person has a financial interest, or for whom he or
 217 she is acting, with a fraudulent intent of obtaining credit,
 218 goods, money or other property, and shall by such false
 219 statement obtain credit, goods, money or other property, commits
 220 ~~shall be guilty of~~ a misdemeanor of the first degree, punishable
 221 as provided in s. 775.082 or s. 775.083.

222 (2) Any person who, with the intent to detain or remain
 223 upon real property, knowingly and willfully presents to another
 224 person a false document purporting to be a valid lease
 225 agreement, deed, or other instrument conveying real property

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226 | rights commits a misdemeanor of the first degree, punishable as
 227 | provided in s. 775.082 or s. 775.083.

228 | Section 4. Section 817.0311, Florida Statutes, is created
 229 | to read:

230 | 817.0311 Fraudulent sale or lease of residential real
 231 | property.—A person who lists or advertises residential real
 232 | property for sale knowing that the purported seller has no legal
 233 | title or authority to sell the property, or rents or leases the
 234 | property to another person knowing that he or she has no lawful
 235 | ownership in the property or leasehold interest in the property,
 236 | commits a felony of the first degree, punishable as provided in
 237 | s. 775.082, s. 775.083, or s. 775.084.

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