

1                                   A bill to be entitled  
 2           An act relating to unlawful detention by a transient  
 3           occupant; creating s. 82.045, F.S.; defining the term  
 4           "transient occupant"; providing factors that establish  
 5           a transient occupancy; providing for removal of a  
 6           transient occupant by a law enforcement officer;  
 7           providing a cause of action for wrongful removal;  
 8           limiting actions for wrongful removal; providing a  
 9           civil action for removal of a transient occupant;  
 10          providing an effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14           Section 1.   Section 82.045, Florida Statutes, is created to  
 15           read:

16           82.045 Remedy for unlawful detention by a transient  
 17           occupant of residential property.--

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

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

25           1. The person does not have ownership or financial interest  
 26           in the property entitling him or her to occupancy of the

27 property.

28 2. The person does not have any property utility  
 29 subscriptions.

30 3. The person does not use the property address as an  
 31 address of record with any governmental agency, including, but  
 32 not limited to, the Department of Highway Safety and Motor  
 33 Vehicles or the supervisor of elections.

34 4. The person does not receive mail at the property.

35 5. The person pays minimal or no rent for his or her stay  
 36 at the property.

37 6. The person does not have a designated space of his or  
 38 her own, such as a room, at the property.

39 7. The person has minimal, if any, personal belongings at  
 40 the property.

41 8. The person has an apparent permanent residence  
 42 elsewhere.

43 (b) Minor contributions made for the purchase of household  
 44 goods, or minor contributions towards other household expenses,  
 45 do not establish residency.

46 (2) A transient occupant unlawfully detains a residential  
 47 property if the transient occupant remains in occupancy of the  
 48 residential property after the party entitled to possession of  
 49 the property has directed the transient occupant to leave.

50 (3) Any law enforcement officer may, upon receipt of a  
 51 sworn affidavit of the party entitled to possession that a  
 52 person who is a transient occupant is unlawfully detaining

53 residential property, direct a transient occupant to surrender  
54 possession of residential property. A person who fails to comply  
55 with the direction of the law enforcement officer to surrender  
56 possession or occupancy violates s. 810.08. In any prosecution  
57 of a violation of s. 810.08 related to this section, whether the  
58 defendant was properly classified as a transient occupant is not  
59 an element of the offense, the state is not required to prove  
60 that the defendant was in fact a transient occupant, and the  
61 status as a permanent resident is not an affirmative defense. A  
62 person wrongfully removed pursuant to this subsection has a  
63 cause of action for wrongful removal against the person who  
64 requested the removal, and may recover injunctive relief and  
65 compensatory damages. However, a wrongfully removed person does  
66 not have a cause of action against the law enforcement officer  
67 or the agency employing the law enforcement officer absent a  
68 showing of bad faith by the law enforcement officer.

69 (4) A party entitled to possession of a dwelling has a  
70 cause of action for unlawful detainer and removal of a transient  
71 occupant. The party entitled to possession is entitled to the  
72 summary procedure of s. 51.011 to remove a transient occupant.  
73 The party entitled to possession is not required to notify the  
74 transient occupant before filing the action. If the court finds  
75 that the defendant is a transient occupant the court shall order  
76 the clerk to issue a writ of possession placing the plaintiff in  
77 possession of the premises, and may award compensatory damages.  
78 If the court finds the defendant is not a transient occupant but

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79 is instead a tenant of residential property entitled to the  
80 protections of part II of ch. 83, the court may not dismiss the  
81 action without first allowing the plaintiff to give notice  
82 required by that part and to thereafter amend the complaint to  
83 pursue eviction under that part. County courts have jurisdiction  
84 over actions authorized under this subsection. The filing fee  
85 for an action under this subsection is the fee established in s.  
86 34.041(1)(a)7. for removal of a tenant.

87 Section 2. This act shall take effect July 1, 2015.