

A. An act modifying Chapter 82.01—“The Forcible Entry and Unlawful Detainer statute; defining the terms “Unlawful entry and”, “Forcible entry” and “Unlawful detention”; limiting the action providing a cause of action for terminating possession due to unlawful entry or forcible entry”—or unlawful detention; limiting the actions and the effect of judgment; providing for service of process; providing for damages; and providing an effective date.

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82.01. Definitions

(1) “Unlawful entry” is defined. ~~No person shall enter~~ as entry into and possession of any lands or tenements ~~property~~ except when entry is given by the person entitled to possession thereof or as authorized by law, ~~nor shall even if the possession is temporary or of a portion of the property.~~

(2) “Forcible entry” is defined as entry into and possession of any person, when entry is given by law, ~~enter property with strong hand or with multitude of people, but only force, not in a peaceable, easy and open manner,~~ even when entry is authorized by the person entitled to possession thereof and even if the possession is temporary or of a portion of the property.

(3) “Unlawful detention” is defined as holding possession of property without the consent of the person entitled to possession or after consent is withdrawn, even if the possession is temporary or of a portion of the property.

(4) “Record title holder” is defined as the person or persons holding title to property evidenced by an instrument or instruments recorded in the public records of the county where the property is located.

(5) “Property” is defined as land, tenements, and hereditaments, including any building or structure thereon, or any part thereof, existing, built, erected, or placed on land or other property, permanently or temporary, and the appurtenant facilities, grounds, areas and property held out for the use of persons in possession generally.

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82.02—“Unlawful entry and unlawful detention” defined.— Applicability

(1) ~~No person who enters without consent in a peaceable, easy and open manner into any lands or tenements shall hold them afterwards against the consent of the party entitled to possession.~~

(2)

(1) ~~This section~~Chapter shall not apply with regard to possession under a residential tenancy governed by Chapter 83 Florida statutes.

(2) ~~This Chapter~~ shall not apply with regard to ~~residential tenancies~~possession under Chapters 66, 513 and 723.

82.03—Remedy for unlawful entry and forcible entry.— If any person enters or has entered into lands or tenements when entry is not given by law, or if any person enters or has entered into any lands or tenements with strong hand or with multitude of people, even when entry is given by law, the party turned out or deprived of possession by the unlawful or forcible entry, by whatever

~~right or title the party held possession, or whatever estate the party held or claimed in the lands or tenements of which he or she was so dispossessed, is entitled to the summary procedure under s. 51.011 within 3 years thereafter.~~

~~82.04 — Remedy for unlawful detention.—~~

~~(1) If any person enters or has entered in a peaceable manner into any lands or tenements when the entry is lawful and after the expiration of the person's right continues to hold them against the consent of the party entitled to possession, the party so entitled to possession is entitled to the summary procedure under s. 51.011, at any time within 3 years after the possession has been withheld from the party against his or her consent.~~

~~(2) This section shall not apply with regard to residential tenancies.~~

82.045

82.03. Remedies

(1) By an action under this Chapter, a party entitled to possession of property, including constructive possession by a record title holder, may terminate the possession of all or of any portion of said property, by any person holding possession by "Unlawful entry" or "Forcible entry" or "Unlawful detention".

(2) A plaintiff is not required to give a defendant any pre-suit notice as a condition precedent to maintaining an action under this Chapter.

(3) The actions for possession and damages may be bifurcated. If the plaintiff recovers possession, the plaintiff shall recover from the defendant or defendants damages of double the reasonable rental value of the property for the time from the beginning of the "Unlawful entry" or "Forcible entry" or "Unlawful detention" until possession is delivered, if the trier of fact finds that the detention is willful and knowingly wrongful. Plaintiff may recover other damages to the property or for waste.

(3) All actions under this Chapter shall be conducted according to the summary procedure provided in s. 51.011, and the court shall advance the cause on the calendar.

82.04. Questions involved in this proceeding

In actions under this Chapter, the court shall determine the right of possession and damages and no question of title of the property shall be determined, other than as necessary to determine the right of possession or the record title holder.

82.05. Process, Service

(1) After at least two attempts to obtain service as provided by law, if the defendant cannot be found in the county in which the action is pending and either the defendant has no usual place of abode in the county or there is no person 15 years of age or older residing at the defendant's usual place of abode in the county, the sheriff shall serve the summons by attaching it to some

part of the property involved in the proceeding. The minimum time delay between the two attempts to obtain service shall be 6 hours.

(2) If a plaintiff causes, or anticipates causing, a defendant to be served with a summons and complaint solely by attaching them to some conspicuous part of the property involved in the proceeding, the plaintiff shall provide the clerk of the court with two additional copies of the complaint and two prestamped envelopes addressed to the defendant. One envelope shall be addressed to the residence of the defendant, if known. The second envelope shall be addressed to the last known business address of the defendant, if known. The clerk of the court shall immediately mail the copies of the summons and complaint by first-class mail, note the fact of mailing in the docket, and file a certificate in the court file of the fact and date of mailing. Service shall be effective on the date of posting or mailing, whichever occurs later; and at least 5 days from the date of service must have elapsed before a judgment for final removal of the defendant may be entered.

82.06 Judgment and execution

If the court shall enter judgment for plaintiff, plaintiff shall recover possession of the property to which plaintiff is entitled, and plaintiff's damages and costs, and the judgment shall award a writ of possession forthwith to be executed without delay and execution for plaintiff's damages and costs. If the judgment is for defendant, the court shall enter judgment against plaintiff and order that defendant recover costs.

82.07. Effect of judgment

No judgment rendered either for plaintiff or defendant bars any action of trespass for injury to the property or ejectment or quiet title action between the same parties respecting the same property. No judgment is conclusive as to the facts therein in any future action for trespass or ejectment or quiet title. A judgment rendered either for plaintiff or defendant under this Chapter may be superseded, in whole or in part, by a subsequent judgment in an action for trespass for injury to the property or ejectment or quiet title action involving the same parties respecting the same property.

82.08 Remedy for unlawful detention by a transient occupant of residential property.—

(1) As used in this section, the term “transient occupant” means a person whose residency in a dwell~~ing~~property intended for residential use has occurred for a brief length of time, is not pursuant to a lease, and whose occupancy was intended as transient in nature.

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

1. The person does not have an ownership interest, financial interest, or leasehold interest in the property entitling him or her to occupancy of the property.
2. The person does not have any property utility subscriptions.

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3. The person does not use the property address as an address of record with any governmental agency, including, but not limited to, the Department of Highway Safety and Motor Vehicles or the supervisor of elections.
4. The person does not receive mail at the property.
5. The person pays minimal or no rent for his or her stay at the property.
6. The person does not have a designated space of his or her own, such as a room, at the property.
7. The person has minimal, if any, personal belongings at the property.
8. The person has an apparent permanent residence elsewhere.

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

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

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

(a) A person who fails to comply with the direction of the law enforcement officer to surrender possession or occupancy violates s. 810.08. In any prosecution of a violation of s. 810.08 related to this section, whether the defendant was properly classified as a transient occupant is not an element of the offense, the state is not required to prove that the defendant was in fact a transient occupant, and the defendant's status as a permanent resident is not an affirmative defense.

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

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(4) A party entitled to possession of a ~~dwelling~~property has a cause of action for unlawful detainer against a transient occupant pursuant to s. 82.0403. The party entitled to possession is not required to notify the transient occupant before filing the action. If the court finds that the defendant is not a transient occupant but is instead a tenant of residential property governed by part II of chapter 83, the court may not dismiss the action without first allowing the plaintiff to give the transient occupant the notice required by that part and to thereafter amend the complaint to pursue eviction under that part.

~~82.05 — Questions involved in this proceeding. — No question of title, but only right of possession and damages, is involved in the action.~~

~~82.061—Process.—If no person can be found at the usual place of residence of defendant, summons may be served by posting a copy in a conspicuous place on the property, described in the complaint and summons.~~

~~Note.—Former s. 82.08.~~

~~82.071—Trial; evidence as to damages.—At trial evidence shall be admitted about the monthly rental value of the premises and if plaintiff recovers, the jury shall fix the plaintiff's damages at double the rental value of the premises from the time of the unlawful or wrongful holding, but the damages in no action of detainer shall be fixed at more than rental value of the premises unless the jury is satisfied that such detention is willful and knowingly wrongful.~~

~~Note.—Former s. 82.14.~~

~~82.081—Trial; form of verdict.—~~

~~(1)—IN CASES OF FORCIBLE OR UNLAWFUL ENTRY.—In forcible or unlawful entry the form of verdict shall be substantially as follows:~~

~~We, the jury, find that defendant did (or did not), within 3 years next before the filing of the complaint, forcibly (or unlawfully) enter upon the real estate mentioned in the complaint and turn plaintiff out of possession; that defendant did (or did not) continue to hold possession at the date of the complaint; and we assess the damages of plaintiff at —dollars.~~

~~(2)—IN CASES OF UNLAWFUL DETAINER.—The form of verdict in unlawful detainer shall be substantially as follows:~~

~~We, the jury, find that the defendant did (or did not), at the time of filing the complaint, wrongfully hold possession of the real estate mentioned in the complaint against the consent of plaintiff that defendant has (or has not) so held possession thereof against the consent of plaintiff, within 3 years next before the filing of the complaint; and that plaintiff has (or has not) the right of possession in the real estate, and we assess the damage of plaintiff at —dollars.~~

~~This subsection shall not apply with regard to residential tenancies.~~

~~Note.—Former s. 82.15.~~

~~82.091—Judgment and execution.—If the verdict is in favor of plaintiff, the court shall enter judgment that plaintiff recover possession of the property described in the complaint with his or her damages and costs, and shall award a writ of possession to be executed without delay and execution for plaintiff's damages and costs. If the verdict is for defendant, the court shall enter judgment against plaintiff dismissing the complaint and order that defendant recover costs.~~

~~Note.—Former s. 82.16.~~

~~82.101—Effect of judgment.—No judgment rendered either for plaintiff or defendant bars any action of trespass for injury to the property or ejectment between the same parties respecting the same property. No verdict is conclusive of the facts therein found in any action of trespass or ejectment.~~

| ~~Note.—Former s. 82.17.~~

