

# FLORIDA HOUSE OF REPRESENTATIVES

## BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [HB 213](#)

**TITLE:** Unlawful Actions Concerning Real Property

**SPONSOR(S):** Gossett-Seidman

**COMPANION BILL:** [CS/CS/SB 322](#) (Rodriguez)

**LINKED BILLS:** None

**RELATED BILLS:** None

### Committee References

[Civil Justice & Claims](#)

15 Y, 2 N



[Judiciary](#)

## SUMMARY

### Effect of the Bill:

HB 213 creates s. 82.037, F.S., to create a limited alternative remedy to remove unauthorized persons from commercial real property. The bill creates a process for the immediate removal of certain unauthorized persons from commercial property that mirrors the current process available to owners of residential real property. Under the bill, an owner of commercial property or his or her authorized agent may submit a verified complaint to the sheriff in the county where the commercial property is located to request the immediate removal of such unauthorized persons if certain conditions are met. The sheriff must verify the owner actually owns the property in question and must, without delay, serve notice to vacate upon all unauthorized persons occupying the commercial property. The bill authorizes the sheriff to collect a fee for such services and creates a cause of action for a person wrongfully removed from commercial property under the bill. The bill expands certain existing criminal offenses related to property to include the commission of such offenses against or upon commercial property.

The bill has an effective date of July 1, 2025.

### Fiscal or Economic Impact:

The bill may have an insignificant fiscal impact on local governments. The bill's expanded criminal penalties may also have an impact on jail or prison beds. Additionally, the bill may have a positive fiscal impact on owners of commercial real property.

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## ANALYSIS

### EFFECT OF THE BILL:

HB 213 creates [s. 82.037, F.S.](#), creating a limited alternative remedy for the removal of an unauthorized person or persons in addition to those [actions for possession of property](#) available under current law. The bill creates the limited alternative remedy to remove unauthorized persons from commercial real property. Under this process, an owner of [commercial real property](#) or his or her authorized agent may seek the immediate removal of such unauthorized persons from his or her commercial real property. (Section [1](#)).

To be eligible for the limited alternative remedy provided under the bill and to seek the immediate removal of such unauthorized persons from his or her property, all of the following conditions must be met:

- The requesting person is the property owner or authorized agent of the property owner.
- The real property that is being occupied includes commercial property.
- An unauthorized person or persons have unlawfully entered and remain in or continue to occupy the property owner's commercial real property.
- The commercial real property was not open to members of the public at the time the unauthorized person or persons entered.
- The property owner has directed the unauthorized person or persons to leave the commercial real property.

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**DATE:** 3/13/2025

- The unauthorized person or persons are not current or former tenants pursuant to a written or oral rental agreement authorized by the property owner.
- There is no litigation related to the commercial real property pending between the property owner and any known unauthorized person. (Section [1](#)).

The process established under the bill is similar to the process to [remove an unauthorized person unlawfully occupying residential real property](#), but tailored to commercial properties. To request the immediate removal of such unauthorized person or persons, a property owner or his or her authorized agent must submit a verified Complaint to Remove Persons Unlawfully Occupying Commercial Real Property to the sheriff of the county where the property is located. The verified complaint must state that the person requesting the removal of the unauthorized person or persons is the owner of the property or an authorized agent of the owner. He or she must declare under penalty of perjury that the above conditions have been met. (Section [1](#)).

Upon receipt of the verified complaint, the sheriff shall verify that the person submitting the complaint is the record owner, or authorized agent thereof, of the commercial property in question and appears otherwise entitled to relief provided by the bill. If such ownership is verified by the sheriff, the sheriff must, without delay, serve a notice to immediately vacate the property upon all unlawful occupants and must put the actual owner in possession of the commercial property. Service of such notice to vacate may be accomplished either by hand delivery to an occupant or by posting the notice on the front door or entrance of the property. While serving the notice to vacate, the sheriff must attempt to verify the identities of all persons occupying the property and note the same on the return of service. (Section [1](#)).

Under the bill, the sheriff is entitled to the same fee for service of the notice to vacate as he or she would receive for serving a writ of possession under [s. 30.231, F.S.](#), which is currently \$90. After serving the notice to vacate, the owner may request the sheriff to stand by and “keep the peace” while he or she changes the locks on the property and removes the personal property of the unauthorized person or persons. If such a request is made of the sheriff, the sheriff may charge a reasonable hourly rate for his or her services at the expense of the person requesting such services. The sheriff is not liable to the unauthorized person or persons or any other party for loss, destruction, or damage to their personal property. Similarly, the property owner or his or her authorized agent is not liable to an unauthorized person or persons or any other party for the loss, destruction, or damage to their personal property, unless the removal was not done in accordance with the provisions of the bill. (Section [1](#)).

To protect rightful occupants of commercial property, the bill creates a civil cause of action for wrongful removal. A person harmed by a wrongful removal under the bill may bring an action for such wrongful removal and may be restored to possession of the commercial real property. Additionally, a person wrongfully removed may recover actual costs and damages incurred, statutory damages equal to triple the fair market rent of the commercial real property, court costs, and reasonable attorney fees. (Section [1](#)).

Nothing in the bill limits the rights of a property owner or the authority of a law enforcement officer to arrest any unauthorized person for [trespassing](#), vandalism, theft, or [criminal offenses](#). (Section [1](#)).

The bill amends [s. 806.13\(4\), F.S.](#), to expand the application of [criminal mischief](#) to a person who unlawfully detains, occupies, or trespasses upon commercial real property and who intentionally causes \$1,000 or more in damage. Such criminal mischief is a second-degree felony punishable by up to 15 years in prison and up to a \$10,000 fine. (Section [2](#)).

The bill amends [s. 817.0311, F.S.](#), to expand the types of properties sold or leased in a fraudulent sale or lease of property to include all real property, rather than just residential real property. The fraudulent sale or lease of real property under the bill is a first-degree felony which is punishable by up to 30 years in prison and up to a \$10,000 fine. (Section [3](#)).

The bill has an effective date of July 1, 2025. (Section [4](#)).

## **FISCAL OR ECONOMIC IMPACT:**

## STATE GOVERNMENT:

The bill may have an indeterminate positive impact on prison beds due to the expansion of existing criminal offenses to include criminal acts upon commercial property.

## LOCAL GOVERNMENT:

The bill may have an indeterminate fiscal impact to local government revenues based on the ability of the sheriff to collect a fee for service of notice and for services provided to stand by and keep the peace. The bill may have an indeterminate fiscal impact on local government expenditures due to an increase in workload for law enforcement related to the requirement to verify complaints and restore possession of commercial property to a lawful owner. However, this increase in expenditures will likely be covered by the fee the sheriff is authorized to charge under the bill for such services. The bill may have an indeterminate positive impact on jail beds due to the expansion of existing criminal offenses to include criminal acts upon commercial property.

## PRIVATE SECTOR:

The bill may make the removal of an unlawful occupant on commercial property easier for a property owner. As such, the bill may have a positive economic impact on the private sector based upon the quicker and more efficient removal of such unlawful occupants.

# RELEVANT INFORMATION

## SUBJECT OVERVIEW:

### [Commercial Real Property](#)

Commercial real property generally means non-residential immovable property used for business or land that can generate income.<sup>1</sup> Such properties are often leased or rented to tenants to earn rental income.<sup>2</sup> Commercial real property includes shopping malls, hotels, hospitals, office spaces, warehouses, and land that can be converted for such use.<sup>3</sup> Additionally, apartment buildings are considered commercial real property, despite being used for residential purposes.<sup>4</sup> Under Florida law, “commercial property”<sup>5</sup> means real property other than residential property and includes, but is not limited to:

- A property zoned multifamily residential which is composed of five or more dwelling units; and
- Real property used for commercial, industrial, or agricultural purposes.<sup>6</sup>

Additionally, under Florida real estate law, commercial real estate means a fee simple interest or other possessory estate in real property, except an interest in real property that is:

- Improved with one single-family residential unit or one multifamily structure containing one to four residential units;
- Unimproved and the maximum permitted development is one to four residential units under any restrictive covenants, zoning regulations, or comprehensive plan applicable to that real property; or
- Improved with single-family residential units such as condominiums, townhouses, timeshares, mobile homes, or houses in a subdivision that may be legally sold, leased, or otherwise conveyed on a unit-by-unit basis, regardless of whether these units may be part of a larger building or parcel containing more than four residential units.<sup>7</sup>

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<sup>1</sup> Corporate Finance Institute, *What is Commercial Real Estate?*, <https://corporatefinanceinstitute.com/resources/commercial-real-estate/commercial-real-estate/> (last visited March 10, 2025).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> The term “commercial real property” is not specifically defined in current law; rather, the terms “commercial property” and “commercial real estate” are used throughout statute.

<sup>6</sup> S. [163.08\(1\), F.S.](#)

<sup>7</sup> S. [475.701\(5\), F.S.](#)

## Actions for Possession of Real Property

A property owner seeking a civil court order for removal of an unlawful occupant from the owner's property may file an action for possession in county or civil court. If the owner prevails in his or her case, the clerk of court will issue a writ of possession to the Sheriff commanding the Sheriff to return possession of the property to the owner. Without an order from the court, law enforcement is not necessarily required to remove unwanted persons from an owner's property.

Further, it is well-established that the "right to exclude others" is a universally held fundamental right of property ownership.<sup>8</sup> In recent news reports, there has been an increasing prevalence of "squatters" unlawfully entering residential property and refusing to leave when asked. By refusing to leave, a squatter violates the property owner's right to exclude and his or her freedom to enjoy the property as he or she desires.<sup>9</sup>

### *Eviction*

Part II of [ch. 83, F.S.](#), the "Florida Residential Landlord and Tenant Act" (FRLATA), governs the relationship between landlords and tenants under a residential lease agreement. A rental agreement includes any written or oral agreement regarding the duration and conditions of a tenant's occupation of a dwelling unit.<sup>10</sup> Section [83.57, F.S.](#), provides that a tenancy without a specific term may be terminated upon written notice of either party. The amount of notice required may range from 7 to 60 days.<sup>11</sup> A landlord may recover possession of a dwelling unit if the tenant does not vacate the premises after the rental agreement is terminated by filing an action for possession.<sup>12</sup> The FRLATA may apply to situations in which an invited guest made some minor contributions for the purchase of household goods or the payment of household expenses while residing in the property with the consent of the owner if a court decides that such an arrangement is a residential tenancy based on an agreement to pay "rent" in exchange for occupancy. However, if the court determines that possession is not based on residential tenancy (a landlord-tenant relationship), eviction is not the proper remedy and procedures under FRLATA are not available.<sup>13</sup>

### *Unlawful Detainer*

An unlawful detainer action can be filed to remove an unwanted guest who occupied residential property with the consent of the owner but who has refused to surrender possession of the property upon the expiration or revocation of the property owner's consent.<sup>14</sup> In such situation, the person unlawfully detaining the property ordinarily is not a tenant and claims no other right or interest in the property.

### *Ejectment*

An ejectment action can be filed to eject an unwanted guest who once may have had permission to live upon the property, but subsequently claimed that he or she had a legal right to be there and refused to leave when asked to do so by the property owner. To prevail in an ejectment action, the plaintiff must prove that he or she has good title to the property and has been deprived of its possession by the unwanted guest.<sup>15</sup>

The actions for eviction, unlawful detainer, and ejectment are similar, but a number of the respective pleading requirements differ, as may the forum in which the property owner is required to file the appropriate complaint.

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<sup>8</sup> Cf. *Cedar Point Nursery v. Hassid*, 141 S. Ct. 2063 (2021).

<sup>9</sup> See generally Jonathan Turley, *Fairly Big Problem: Squatters Invade Homes and Refuse to Leave. How is This Legal?*, USA Today (July 3, 2023), <https://www.usatoday.com/story/opinion/2023/07/03/squatters-rights-leave-homeowners-forgotten/70364321007/> (last visited Feb. 17, 2024).

<sup>10</sup> S. [83.43\(12\), F.S.](#) ("A rental agreement" means any written ... or oral agreement for a duration of less than 1 year, providing for use and occupancy of premises.")

<sup>11</sup> S. [83.57, F.S.](#)

<sup>12</sup> S. [83.59, F.S.](#)

<sup>13</sup> *Grimm v. Huckabee*, 891 So. 2d 608 (Fla. 1st DCA 2005).

<sup>14</sup> S. [82.01\(4\), F.S.](#)

<sup>15</sup> S. [66.021, F.S.](#)

An eviction or unlawful detainer action must be filed in county court<sup>16</sup> and is entitled to the summary procedure of [s. 51.011, F.S.](#), which provides that a defendant must answer the action within 5 days.<sup>17</sup> Thus, an action for possession based upon eviction or unlawful detainer may only take a few weeks before entry of a judgment. Ejectment actions, however, are subject to the exclusive original jurisdiction of the circuit court<sup>18</sup> and are governed by the Florida Rules of Civil Procedure, which may result in a longer court process before a property owner may obtain a judgment for possession.

### [Limited Alternative Remedy to Remove Unauthorized Persons from Residential Real Property](#)

During the 2024 legislative session,<sup>19</sup> the Legislature created [s. 82.036, F.S.](#), to provide an alternative limited remedy to seek the immediate removal of certain unauthorized persons (commonly referred to as “squatters”) from residential property. The intent of the 2024 legislation was to quickly restore possession of residential real property to the lawful owner when such property is being unlawfully occupied and to, thereby, preserve property rights while limiting the opportunity for criminal activity.<sup>20</sup>

Pursuant to [s. 82.036, F.S.](#), a property owner or his or her authorized agent may request the sheriff in the county where the subject property is located to immediately remove the unauthorized persons from the property. In order to utilize this alternative remedy, all of the following conditions must be met:<sup>21</sup>

- The requesting person is the property owner or an authorized agent of the property owner.
- The real property that is being occupied includes a residential dwelling.
- An unauthorized person or persons have unlawfully entered and remain or continue to reside on the property.
- The real property was not open to members of the public at the time the unauthorized person or persons entered.
- The property owner has previously directed the unauthorized person to leave the property.
- The unauthorized person or persons are not current or former tenants pursuant to a written or oral rental agreement authorized by the property owner.
- The unauthorized person or persons are not immediate family members of the property owner.
- There is no pending litigation related to the real property between the property owner and any known unauthorized person.

If the above conditions are all met, the property owner, or his or her authorized agent, may request the immediate removal of an unauthorized person or persons from his or her property by submitting a complaint to the sheriff in the county in which the property is located. The complaint must be verified (meaning signed under the penalty of perjury) and must include sufficient information as prescribed in [s. 82.036\(3\), F.S.](#), to convey that the necessary requirements for such removal are met.

Upon receipt of the completed verified Complaint to Remove Persons Unlawfully Occupying Residential Real Property, the sheriff must verify that the person submitting the complaint is the actual owner, or an authorized agent thereof, of the property in question. Once ownership has been verified by the sheriff, the sheriff must serve a notice to immediately vacate the property on all unlawful occupants. Service of the notice to immediately vacate may be made either by hand delivery by the sheriff or by posting the notice on the front door of the entrance to the

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<sup>16</sup> [S. 34.011\(2\), F.S.](#)

<sup>17</sup> Under the summary procedure of [s. 51.011, F.S.](#), all defenses of law or fact are required to be contained in the defendant's answer which must be filed within five days after service of process of the plaintiff's complaint. If the answer incorporates a counterclaim, the plaintiff must include all defenses of law or fact in his or her answer to the counterclaim and serve it within five days after service of the counterclaim. No other pleadings are permitted, and all defensive motions, including motions to quash, are heard by the court prior to trial. Postponements are not permitted for discovery, and the procedure also provides for an immediate trial, if requested.

<sup>18</sup> [S. 26.012\(2\)\(f\), F.S.](#)

<sup>19</sup> [2024-44, L.O.F.](#)

<sup>20</sup> [S. 82.036\(1\), F.S.](#)

<sup>21</sup> [S. 82.036\(2\), F.S.](#)

residence. If at all possible, the sheriff must attempt to verify the identities of all persons occupying the residence.<sup>22</sup> If needed, the property owner may request the sheriff to stand by and “keep the peace” while he or she changes the locks on the property and removes the unlawful occupants’ belongings from the property.<sup>23</sup>

In the case of a wrongful termination under this limited alternative remedy, [s. 82.036\(6\), F.S.](#), provides for a civil cause of action for such wrongful removal. A person who is wrongfully removed may be restored possession of the real property and may recover actual costs and damages incurred, statutory damages equal to three times the fair market rent of the dwelling, court costs, and reasonable attorney fees.

## [Criminal Offenses](#)

### [Trespass](#)

Section [810.08, F.S.](#), provides that a person commits the criminal offense of trespass in a structure or conveyance if the person, without being authorized, licensed, or invited, willfully enters or remains in any structure or conveyance, or, having been authorized, licensed, or invited, is warned by the owner or lessee of the premises, or by a person authorized by the owner or lessee, to depart and refuses to do so.<sup>24</sup> Generally, trespass is a second-degree misdemeanor; however, the severity of the offense increases in certain situations such as when a person is present in the structure at the time of the trespass. A trespass with a person present in the structure is a first-degree misdemeanor.<sup>25</sup> A first-degree misdemeanor is punishable by up to one year in jail and a fine up to \$1,000. Similarly, a trespass committed while the trespasser is armed with a firearm or a dangerous weapon constitutes a third-degree felony.<sup>26</sup> A third-degree felony is punishable by up to 5 years in prison and a fine of up to \$5,000.

Where a criminal trespass is occurring, a law enforcement officer arrests the trespasser and immediately restores the real property owner to possession of the real property, without cost. However, where the criminal trespass offense is not readily observable because the trespasser claims ownership or lease rights, a law enforcement officer may decline to arrest or remove the person from the property and view the dispute as a “civil matter.” In that situation, the law enforcement officer may decide not to force the unwanted person to surrender possession of the property without a court order.

### [Property Crimes](#)

Florida criminalizes various behavior related to fraudulently obtaining or damaging property that a person does not own. Section [817.03, F.S.](#), provides that any person who makes or causes to be made any false written statement relating to his or her financial condition, assets or liabilities, or relating to the financial condition, assets or liabilities of any firm or corporation in which such person has a financial interest, or for whom he or she is acting, with a fraudulent intent of obtaining credit, goods, money or other property, and by such false statement obtains credit, goods, money or other property, commits a first-degree misdemeanor.<sup>27</sup> A first-degree misdemeanor is punishable by up to one year in jail and up to a \$1,000 fine.

### [Criminal Mischief](#)

Further, section [806.13, F.S.](#), provides criminal penalties for acts of criminal mischief. A person commits criminal mischief if he or she willfully and maliciously injures or damages real or personal property belonging to another, and includes placing graffiti or doing other acts of vandalism. The severity of the crime and the penalties associated with criminal mischief vary depending on the amount of damage caused.

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<sup>22</sup> The sheriff is entitled to the same fee for service that he or she would receive if serving a writ of possession under [s. 30.231, F.S.](#), which is currently \$90.

<sup>23</sup> Pursuant to [s. 82.036\(5\), F.S.](#), the sheriff may charge a reasonable hourly rate for such services to be paid by the person requesting the services.

<sup>24</sup> S. [810.08\(1\), F.S.](#)

<sup>25</sup> S. [810.08\(2\).](#)

<sup>26</sup> S. [82.08\(2\)\(c\), F.S.](#)

<sup>27</sup> Sections [775.082, F.S.](#), and [775.083, F.S.](#)

RECENT LEGISLATION:

YEAR	BILL #	HOUSE SPONSOR(S)	SENATE SPONSOR	OTHER INFORMATION
2024	<a href="#">CS/CS/HB 621</a>	Steele	Perry	The bill became effective on July 1, 2024.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<a href="#">Civil Justice &amp; Claims Subcommittee</a>	15 Y, 2 N	3/13/2025	Jones	Mathews
<a href="#">Judiciary Committee</a>				