

HB182 ENGROSSED



1 HB182
2 TENZ595-2
3 By Representative Lipscomb
4 RFD: Judiciary
5 First Read: 15-Feb-24



HB182 Engrossed

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A BILL
TO BE ENTITLED
AN ACT

Relating to crimes and offenses; to amend Sections 13A-7-7 and 13A-10-102, Code of Alabama 1975; to further provide for the crimes of burglary in the third degree and perjury in the second degree; to provide for the crime of fraudulent sale or lease of residential real property; to provide penalties for violations; to provide a method for the owner of a dwelling to request the removal of an unauthorized individual; to provide a procedure for law enforcement to remove an unauthorized individual from a dwelling in certain circumstances; to exclude certain individuals from landlord-tenant actions; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The Legislature finds that the fundamental rights of owning property include the right of the owner to exclude others from entering or remaining unlawfully on the property. The Legislature further finds that squatting, or the unauthorized entry into or remaining in a dwelling, is a



HB182 Engrossed

violation of the rights of property owners and is against the public interest. The intent of this act is to ensure that squatting is considered a crime, to adequately protect the rights of property owners, and to provide a timely and effective mechanism for removing squatters while protecting the rights of legitimate occupants.

Section 2. Sections 13A-7-7 and 13A-10-102, Code of Alabama 1975, are amended to read as follows:

"§13A-7-7

(a) A person commits the crime of burglary in the third degree if any of the following occur:

(1) He or she knowingly enters or remains unlawfully in a dwelling with the intent to commit a crime therein~~+~~.

(2) He or she knowingly enters or remains unlawfully in an occupied building with the intent to commit a crime therein~~;~~~~or~~.

(3) He or she knowingly enters or remains unlawfully in an unoccupied building with the intent to commit a crime therein.

(4) He or she knowingly enters or remains unlawfully in a dwelling and intentionally causes one thousand dollars (\$1,000) or more in damage to the dwelling.

(b) Burglary in the third degree is a Class C felony."

"§13A-10-102

(a) A person commits the crime of perjury in the second degree ~~when~~ if he or she does either of the following:

(1) he swears Swears with intent to mislead a public servant in the performance of ~~his~~ the public servant's duty



HB182 Engrossed

and his or her false statement is material to the action, proceeding, or matter involved.

(2) Knowingly presents a false document purporting to be a lease agreement, deed, or other instrument conveying or providing a right to or in real property to another person with the intent to civilly detain or to remain upon the real property.

(b) Perjury in the second degree is a Class A misdemeanor."

Section 3. (a) A person commits the crime of fraudulent sale or lease of residential real property if he or she does either of the following:

(1) Lists or advertises residential real property for sale knowing that he or she or the purported seller has no legal title or authority to sell the property.

(2) Rents or leases residential real property to another person knowing that he or she or the purported lessor has no legal ownership or other authority to lease the property.

(b) Fraudulent sale or lease of residential real property is a Class A misdemeanor.

Section 4. (a) For the purposes of this section, the term "dwelling" has the same meaning as provided in Section 13A-7-1, Code of Alabama 1975.

(b) The owner of a dwelling or the agent of the owner of a dwelling may request the removal of an unauthorized individual from the dwelling by submitting a sworn affidavit to a law enforcement agency in the county where the dwelling is located containing all of the following elements:



HB182 Engrossed

(1) The affiant is the owner of the dwelling or the agent of the owner of the dwelling.

(2) An individual has entered and is remaining unlawfully in the dwelling.

(3) The individual was not authorized to enter the dwelling or remain in the dwelling.

(4) The individual is not a tenant, as defined in Section 35-9A-141, Code of Alabama 1975, or a holdover tenant, as defined in Section 34-9A-441, Code of Alabama 1975.

(5) The affiant has requested that the unauthorized individual vacate the dwelling as provided under this section and the individual has not done so.

(6) The unauthorized individual is not an immediate family member of the property owner.

(7) There is no pending litigation related to the dwelling between the property owner and the unauthorized individual.

(c) The sworn affidavit requesting the removal of an unauthorized individual from a dwelling must be substantially in the following form:

Affidavit to Remove An Individual Unauthorized to
Occupy Dwelling

I, the owner, or authorized agent of the owner, of the dwelling located at _____ declare under the penalty of perjury that:

1. I am the owner of the dwelling or the authorized agent of the owner of the dwelling.

2. The real property is a dwelling.



HB182 Engrossed

113 3. An unauthorized individual has unlawfully entered or
114 remained in the dwelling.

115 4. The unauthorized individual is not a tenant, a
116 holdover tenant, or an immediate family member of the owner,
117 and any lease that may be produced by the unauthorized
118 individual is fraudulent.

119 5. The unauthorized individual does not have an
120 ownership interest in the property and is not listed on the
121 title to the property unless the individual has engaged in
122 title fraud.

123 6. There is no litigation related to the dwelling
124 pending between the owner, or his or her agent, and any
125 unauthorized individual.

126 7. Notice was provided by hand delivery to the
127 unauthorized individual occupying the dwelling or by posting
128 notice on the front door or entrance of the dwelling, and
129 evidence of the notice, including the date and time of
130 delivery, is attached.

131 8. I understand that an individual removed from the
132 property pursuant to this affidavit may bring a cause of
133 action against me for any false statements made in this
134 affidavit, or for wrongfully using this procedure, and that,
135 as a result of such action, I may be held liable for actual
136 damages, penalties, costs, and reasonable attorney fees.

137 9. I am requesting law enforcement to remove, as soon
138 as possible, the unauthorized individual from the dwelling.

139 10. A copy of my valid government-issued identification
140 is attached, or I am an agent of the property owner, and

HB182 Engrossed



documents evidencing my authority to act on the property owner's behalf are attached.

I have read and assert the truth of every statement made in this affidavit. I understand that my statements in this affidavit are being made under penalty of perjury as provided in Section 13A-10-9, Code of Alabama 1975.

[Signature of Property Owner or Agent of Property Owner]

[Contact Information of Property Owner or Agent of Property Owner]

(d) Upon receipt of the affidavit, the law enforcement agency shall verify that the affiant is the record owner of the dwelling or the authorized agent of the owner of the dwelling and appears otherwise entitled to relief. Upon verification and after at least 24 hours from receipt of the affidavit, the law enforcement agency shall serve a notice to immediately vacate on the unauthorized individual. Service may be accomplished by hand delivery of the notice to any unauthorized individual occupying the dwelling or by posting notice on the front door or entrance of the dwelling. Law enforcement shall also attempt to verify the identities of all individuals occupying the dwelling and note the identities on the return of service. If appropriate, a law enforcement officer may arrest any individual found in the dwelling for trespass, burglary, theft, or any other criminal act, or for an outstanding warrant.

(e) The affiant must provide notice at the dwelling notifying the unauthorized individual that he or she has no



HB182 Engrossed

right to the dwelling and must vacate immediately. The notice must include the street address of the law enforcement agency where the affidavit will be delivered. A copy of the notice with the date and time of delivery must be attached to the affidavit.

(f) An affiant who knowingly provides a false affidavit to law enforcement pursuant to this section may be prosecuted for false reporting to law enforcement authorities pursuant to Section 13A-10-9, Code of Alabama 1975.

(g) No law enforcement officer, governmental entity, or political subdivision of the state may be held liable for any action or omission made in good faith pursuant to this section, to the extent that state immunity provides. A law enforcement officer is not liable to an unauthorized individual or any other party for loss, destruction, or damage of property.

(h) An individual may bring a civil cause of action for wrongful removal under this section against the affiant. An individual harmed by a wrongful removal under this section may have the possession of the dwelling restored and may recover actual costs and damages incurred, as well as punitive damages of triple the fair market rent of the dwelling, plus court costs and reasonable attorney fees.

(i) This section does not limit the rights of a property owner or limit the authority of a law enforcement officer to arrest an unlawful occupant for trespassing, theft, burglary, or other crimes.

(j) A law enforcement agency may charge a fee of not



HB182 Engrossed

more than fifty dollars (\$50) to process an affidavit filed pursuant to this section.

Section 5. (a) For the purposes of this section, the term "squatter" means a person occupying a dwelling who is not entitled to occupy the dwelling under a lease or rental agreement nor authorized by a tenant to occupy the dwelling. The term does not include a tenant who holds over in periodic tenancy as described in Section 35-9A-441, Code of Alabama 1975.

(b) Occupancy by a squatter is excluded from the application of Chapters 9 and 9A of Title 35 of the Code of Alabama 1975, and the removal of a squatter shall not require the use of an eviction action under those chapters.

Section 6. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Section 111.05 of the Constitution of Alabama of 2022, because the bill defines a new crime or amends the definition of an existing crime.

Section 7. This act shall become effective on June 1, 2024.



HB182 Engrossed

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House of Representatives

221 Read for the first time and referred15-Feb-24
222 to the House of Representatives
223 committee on Judiciary
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225 Read for the second time and placed21-Mar-24
226 on the calendar:
227 0 amendments
228
229 Read for the third time and passed04-Apr-24
230 as amended
231 Yeas 101
232 Nays 0
233 Abstains 0
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John Treadwell
Clerk