

HB182 ENROLLED



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



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1 Enrolled, An Act,

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3 Relating to crimes and offenses; to amend Sections
4 13A-7-7 and 13A-10-102, Code of Alabama 1975; to further
5 provide for the crimes of burglary in the third degree and
6 perjury in the second degree; to provide for the crime of
7 fraudulent sale or lease of residential real property; to
8 provide penalties for violations; to provide a method for the
9 owner of a dwelling to request the removal of an unauthorized
10 individual; to provide a procedure for law enforcement to
11 remove an unauthorized individual from a dwelling in certain
12 circumstances; to exclude certain individuals from
13 landlord-tenant actions; and in connection therewith would
14 have as its purpose or effect the requirement of a new or
15 increased expenditure of local funds within the meaning of
16 Section 111.05 of the Constitution of Alabama of 2022.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. The Legislature finds that the fundamental
19 rights of owning property include the right of the owner to
20 exclude others from entering or remaining unlawfully on the
21 property. The Legislature further finds that squatting, or the
22 unauthorized entry into or remaining in a dwelling, is a
23 violation of the rights of property owners and is against the
24 public interest. The intent of this act is to ensure that
25 squatting is considered a crime, to adequately protect the
26 rights of property owners, and to provide a timely and
27 effective mechanism for removing squatters while protecting
28 the rights of legitimate occupants.



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

31 "§13A-7-7

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

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

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

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

42 (4) He or she knowingly enters or remains unlawfully in
43 a dwelling and intentionally causes one thousand dollars
44 (\$1,000) or more in damage to the dwelling.

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

46 "§13A-10-102

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

49 (1) he swears Swears with intent to mislead a public
50 servant in the performance of ~~his~~ the public servant's duty
51 and his or her false statement is material to the action,
52 proceeding, or matter involved.

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



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57 property.

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

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

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

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

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

71 Section 4. (a) For the purposes of this section, the
72 term "dwelling" has the same meaning as provided in Section
73 13A-7-1, Code of Alabama 1975.

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

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

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

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



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

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

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

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

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

99 Affidavit to Remove An Individual Unauthorized to
100 Occupy Dwelling

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

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

106 2. The real property is a dwelling.

107 3. An unauthorized individual has unlawfully entered or
108 remained in the dwelling.

109 4. The unauthorized individual is not a tenant, a
110 holdover tenant, or an immediate family member of the owner,
111 and any lease that may be produced by the unauthorized
112 individual is fraudulent.



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113 5. The unauthorized individual does not have an
114 ownership interest in the property and is not listed on the
115 title to the property unless the individual has engaged in
116 title fraud.

117 6. There is no litigation related to the dwelling
118 pending between the owner, or his or her agent, and any
119 unauthorized individual.

120 7. Notice was provided by hand delivery to the
121 unauthorized individual occupying the dwelling or by posting
122 notice on the front door or entrance of the dwelling, and
123 evidence of the notice, including the date and time of
124 delivery, is attached.

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

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

133 10. A copy of my valid government-issued identification
134 is attached, or I am an agent of the property owner, and
135 documents evidencing my authority to act on the property
136 owner's behalf are attached.

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



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141 [Signature of Property Owner or Agent of Property
142 Owner]

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

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

161 (e) The affiant must provide notice at the dwelling
162 notifying the unauthorized individual that he or she has no
163 right to the dwelling and must vacate immediately. The notice
164 must include the street address of the law enforcement agency
165 where the affidavit will be delivered. A copy of the notice
166 with the date and time of delivery must be attached to the
167 affidavit.

168 (f) An affiant who knowingly provides a false affidavit



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169 to law enforcement pursuant to this section may be prosecuted
170 for false reporting to law enforcement authorities pursuant to
171 Section 13A-10-9, Code of Alabama 1975.

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

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

186 (i) A utility may rely upon or require a writ of
187 possession under Chapter 9 or 9A of Title 35 of the Code of
188 Alabama 1975, when discontinuing or refusing to discontinue
189 service at a dwelling, dwelling unit, or premises, and the
190 utility shall not be liable for an action if based upon a writ
191 of possession.

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

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



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

199 Section 5. (a) For the purposes of this section, the
200 term "squatter" means a person occupying a dwelling who is not
201 entitled to occupy the dwelling under a lease or rental
202 agreement nor authorized by a tenant to occupy the dwelling
203 The term does not include a tenant who holds over in periodic
204 tenancy as described in Section 35-9A-441, Code of Alabama
205 1975.

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

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

216 Section 7. This act shall become effective on June 1,
217 2024.



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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 04-Apr-24, as amended.

John Treadwell
Clerk

Senate

25-Apr-24

Amended and Passed

House

25-Apr-24

Concurred in Senate
Amendment