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SYNOPSIS:

Under existing law, a person commits the crime of burglary in the third degree if he or she knowingly enters or remains unlawfully in a dwelling with the intent to commit a crime therein, knowingly enters or remains unlawfully in an occupied building with the intent to commit a crime therein, or knowingly enters or remains unlawfully in an unoccupied building with the intent to commit a crime therein.

This bill would further provide that a person commits the crime of burglary in the third degree if he or she knowingly enters or remains unlawfully in a dwelling and intentionally causes \$1,000 or more in damage to the dwelling.

Under existing law, a person commits the crime of perjury in the second degree if he or she swears with intent to mislead a public servant in the performance of the public servant's duty and his or her false statement is material to the action, proceeding, or matter involved.

This bill would further provide that a person commits the crime of perjury in the second degree if he or she 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



29 to another person with the intent to civilly detain or
30 to remain upon the real property.

31 This bill would establish the crime of
32 fraudulent sale or lease of residential real property
33 and provide penalties for violations.

34 This bill would provide a method for the owner
35 of a dwelling, or his or her agent, to request the
36 removal of an unauthorized individual from the dwelling
37 by providing a sworn affidavit to a law enforcement
38 officer.

39 This bill would provide a procedure for a law
40 enforcement officer to remove an unauthorized
41 individual from a dwelling within 24 hours of receipt
42 of a sworn affidavit.

43 This bill would also exclude squatters from
44 landlord-tenant actions.

45 Section 111.05 of the Constitution of Alabama of
46 2022, prohibits a general law whose purpose or effect
47 would be to require a new or increased expenditure of
48 local funds from becoming effective with regard to a
49 local governmental entity without enactment by a 2/3
50 vote unless: it comes within one of a number of
51 specified exceptions; it is approved by the affected
52 entity; or the Legislature appropriates funds, or
53 provides a local source of revenue, to the entity for
54 the purpose.

55 The purpose or effect of this bill would be to
56 require a new or increased expenditure of local funds



57 within the meaning of the section. However, the bill
58 does not require approval of a local governmental
59 entity or enactment by a 2/3 vote to become effective
60 because it comes within one of the specified exceptions
61 contained in the section.

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63

64

A BILL

65

TO BE ENTITLED

66

AN ACT

67

68 Relating to crimes and offenses; to amend Sections
69 13A-7-7 and 13A-10-102, Code of Alabama 1975; to further
70 provide for the crimes of burglary in the third degree and
71 perjury in the second degree; to provide for the crime of
72 fraudulent sale or lease of residential real property; to
73 provide penalties for violations; to provide a method for the
74 owner of a dwelling to request the removal of an unauthorized
75 individual; to provide a procedure for law enforcement to
76 remove an unauthorized individual from a dwelling in certain
77 circumstances; to exclude certain individuals from
78 landlord-tenant actions; and in connection therewith would
79 have as its purpose or effect the requirement of a new or
80 increased expenditure of local funds within the meaning of
81 Section 111.05 of the Constitution of Alabama of 2022.

82 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

83 Section 1. The Legislature finds that the fundamental
84 rights of owning property include the right of the owner to



85 exclude others from entering or remaining unlawfully on the
86 property. The Legislature further finds that squatting, or the
87 unauthorized entry into or remaining in a dwelling, is a
88 violation of the rights of property owners and is against the
89 public interest. The intent of this act is to ensure that
90 squatting is considered a crime, to adequately protect the
91 rights of property owners, and to provide a timely and
92 effective mechanism for removing squatters while protecting
93 the rights of legitimate occupants.

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

96 "§13A-7-7

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

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

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

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

107 (4) He or she knowingly enters or remains unlawfully in
108 a dwelling and intentionally causes one thousand dollars
109 (\$1,000) or more in damage to the dwelling.

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

111 "§13A-10-102

112 (a) A person commits the crime of perjury in the second



113 degree ~~when~~ if he or she does either of the following:

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

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

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

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

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

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

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

136 Section 4. (a) For the purposes of this section, the
137 term "dwelling" has the same meaning as provided in Section
138 13A-7-1, Code of Alabama 1975.

139 (b) The owner of a dwelling or the agent of the owner
140 of a dwelling may request the removal of an unauthorized



141 individual from the dwelling by submitting a sworn affidavit
142 to a law enforcement agency in the county where the dwelling
143 is located containing all of the following elements:

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

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

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

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

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

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

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

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

164 Affidavit to Remove An Individual Unauthorized to
165 Occupy Dwelling

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



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

171 2. The real property is a dwelling.

172 3. An unauthorized individual has unlawfully entered or
173 remained in the dwelling.

174 4. The unauthorized individual is not a tenant, a
175 holdover tenant, or an immediate family member of the owner,
176 and any lease that may be produced by the unauthorized
177 individual is fraudulent.

178 5. The unauthorized individual does not have an
179 ownership interest in the property and is not listed on the
180 title to the property unless the individual has engaged in
181 title fraud.

182 6. There is no litigation related to the dwelling
183 pending between the owner, or his or her agent, and any
184 unauthorized individual.

185 7. Notice was provided by hand delivery to the
186 unauthorized individual occupying the dwelling or by posting
187 notice on the front door or entrance of the dwelling, and
188 evidence of the notice, including the date and time of
189 delivery, is attached.

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

196 9. I am requesting law enforcement to remove, as soon



197 as possible, the unauthorized individual from the dwelling.

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

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

206 [Signature of Property Owner or Agent of Property
207 Owner]

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

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



225 an outstanding warrant.

226 (e) The affiant must provide notice at the dwelling
227 notifying the unauthorized individual that he or she has no
228 right to the dwelling and must vacate immediately. The notice
229 must include the street address of the law enforcement agency
230 where the affidavit will be delivered. A copy of the notice
231 with the date and time of delivery must be attached to the
232 affidavit.

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

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

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

251 (i) This section does not limit the rights of a
252 property owner or limit the authority of a law enforcement



253 officer to arrest an unlawful occupant for trespassing, theft,
254 burglary, or other crimes.

255 (j) A law enforcement agency may charge a fee of not
256 more than fifty dollars (\$50) to process an affidavit filed
257 pursuant to this section.

258 Section 5. (a) For the purposes of this section, the
259 term "squatter" means a person occupying a dwelling who is not
260 entitled to occupy the dwelling under a lease or rental
261 agreement nor authorized by a tenant to occupy the dwelling
262 The term does not include a tenant who holds over in periodic
263 tenancy as described in Section 35-9A-441, Code of Alabama
264 1975.

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

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

275 Section 7. This act shall become effective on June 1,
276 2024.