

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

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

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

37 "§13A-7-7

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

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

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

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

48 (4) He or she knowingly enters or remains unlawfully in
49 a dwelling and intentionally causes one thousand dollars
50 (\$1,000) or more in damage to the dwelling.

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

52 "§13A-10-102

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

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



HB182 Engrossed

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

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

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

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

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

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

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

77 Section 4. (a) For the purposes of this section, the
78 term "dwelling" has the same meaning as provided in Section
79 13A-7-1, Code of Alabama 1975.

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



HB182 Engrossed

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

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

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

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

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

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

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

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

105 Affidavit to Remove An Individual Unauthorized to
106 Occupy Dwelling

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

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

112 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

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

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

147 [Signature of Property Owner or Agent of Property
148 Owner]

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

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

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



HB182 Engrossed

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

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

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

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

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



HB182 Engrossed

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.



HB182 Engrossed

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House of Representatives

Read for the first time and referred15-Feb-24
to the House of Representatives
committee on Judiciary

Read for the second time and placed21-Mar-24
on the calendar:
0 amendments

Read for the third time and passed04-Apr-24
as amended
Yeas 101
Nays 0
Abstains 0

John Treadwell
Clerk