

**AFFIDAVIT OF UNLAWFUL DETENTION BY TRANSIENT OCCUPANT
PURSUANT TO FLORIDA STATUTES SECTION 82.035**

BEFORE ME the undersigned personally appeared, and being duly sworn deposed on oath:

1. Affiant has personal knowledge of all facts asserted in this statement.

2. Affiant is the owner of residential property known as

_____ (property address)

by virtue of that deed recorded in Official Records Book _____ Page _____, or

Instrument No. _____

Public Records of _____ County, Florida [see attached deed as Exhibit "A"].

3. [] Affiant admitted _____ (name of transient)

[herinafter referred to as "transient"] into their residence as a transient occupant on or about

_____ (date)

or

[] TRANSIENT gained access to the premises without the knowledge or consent of the owner.

4. Affiant directed TRANSIENT to vacate the premises on or about _____ (date).

5. TRANSIENT has refused to vacate Affiant's residence, and remains in unlawful detention of the same.

6. TRANSIENT does not have an ownership interest, financial interest, or leasehold interest in the property entitling her to occupancy of the property.

7. TRANSIENT does not have any utility subscriptions for the property.

8. TRANSIENT does not use the property address as an address of record with any governmental agency, including, but not limited to, the Department of Highway Safety and Motor Vehicles or the supervisor of elections.

9. TRANSIENT does not receive mail at the property.

10. TRANSIENT pays no rent to stay at the property.

11. TRANSIENT does not have a designated room of their own, at the property.

12. TRANSIENT has minimal personal belongings at the property.

Florida Statutes § 82.045

Remedy for unlawful detention by a transient occupant of residential property.

(1) As used in this section, the term “transient occupant” means a person whose residency in a dwelling intended for residential use has occurred for a brief length of time, is not pursuant to a lease, and whose occupancy was intended as transient in nature.

(a) Factors that establish that a person is a transient occupant include, but are not limited to:

1. The person does not have an ownership interest, financial interest, or leasehold interest in the property entitling him or her to occupancy of the property.
2. The person does not have any property utility subscriptions.
3. The person does not use the property address as an address of record with any governmental agency, including, but not limited to, the Department of Highway Safety and Motor Vehicles or the supervisor of elections.
4. The person does not receive mail at the property.
5. The person pays minimal or no rent for his or her stay at the property.
6. The person does not have a designated space of his or her own, such as a room, at the property.
7. The person has minimal, if any, personal belongings at the property.
8. The person has an apparent permanent residence elsewhere.

(b) Minor contributions made for the purchase of household goods, or minor contributions towards other household expenses, do not establish residency.

(2) A transient occupant unlawfully detains a residential property if the transient occupant remains in occupancy of the residential property after the party entitled to possession of the property has directed the transient occupant to leave.

(3) Any law enforcement officer may, upon receipt of a sworn affidavit of the party entitled to possession that a person who is a transient occupant is unlawfully detaining residential property, direct a transient occupant to surrender possession of residential property. The sworn affidavit must set forth the facts, including the applicable factors listed in paragraph (1)(a), which establish that a transient occupant is unlawfully detaining residential property.

(a) A person who fails to comply with the direction of the law enforcement officer to surrender possession or occupancy violates s. 810.08. In any prosecution of a violation of s. 810.08 related to this section, whether the defendant was properly classified as a transient occupant is not an element of the offense, the state is not required to prove that the defendant was in fact a transient occupant, and the defendant’s status as a permanent resident is not an affirmative defense.

(b) A person wrongfully removed pursuant to this subsection has a cause of action for wrongful removal against the person who requested the removal, and may recover injunctive relief and compensatory damages. However, a wrongfully removed person does not have a cause of action against the law enforcement officer or the agency employing the law enforcement officer absent a showing of bad faith by the law enforcement officer.