

1 A bill to be entitled
2 An act relating to landlords and tenants; amending s.
3 83.41, F.S.; providing application of certain eviction
4 procedures under part II of ch. 83, F.S., the "Florida
5 Residential Landlord and Tenant Act"; amending s.
6 83.42, F.S.; revising exclusions from application of
7 the part; amending s. 83.48, F.S.; providing that the
8 right to attorney fees may not be waived in a lease
9 agreement; providing that attorney fees may not be
10 awarded in a claim for personal injury damages based
11 on a breach of duty of premises maintenance; amending
12 s. 83.49, F.S.; revising and providing landlord
13 disclosure requirements with respect to deposit money
14 and advance rent; providing requirements for the
15 disbursement of advance rents; providing a rebuttable
16 presumption of receipt of security deposits and a
17 limitation on liability with respect to such deposits;
18 amending s. 83.50, F.S.; removing certain landlord
19 disclosure requirements relating to fire protection;
20 amending s. 83.51, F.S.; revising a landlord's
21 obligation to maintain premises with respect to
22 screens; requiring a landlord to pay assessments due
23 to a condominium, cooperative, or homeowners'
24 association; amending s. 83.56, F.S.; revising
25 procedures for the termination of a rental agreement
26 by a landlord; revising notice and payment procedures;
27 providing that a landlord does not waive the right to
28 terminate the rental agreement or to bring a civil

HB 921

2012

29 action for noncompliance by accepting partial rent,
30 subject to certain notice; increasing the period to
31 institute an action before an exemption involving rent
32 subsidies is waived; amending s. 83.575, F.S.;
33 revising requirements for the termination of tenancy
34 with specific duration to provide for reciprocal
35 notice provisions in rental agreements; amending ss.
36 83.58, 83.59, 83.60, and 83.63, F.S.; updating and
37 conforming cross-references; making editorial changes;
38 amending s. 83.62, F.S.; revising procedures for the
39 restoration of possession to a landlord to provide
40 that weekends and holidays do not stay the applicable
41 notice period; amending s. 83.64, F.S.; providing
42 examples of conduct for which the landlord may not
43 retaliate; creating s. 83.683, F.S.; providing that a
44 landlord is not required to notify a tenant of a
45 mortgage default; providing that a pending foreclosure
46 action involving the leased premises is not grounds
47 for a tenant to terminate a lease; providing an
48 effective date.

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. Section 83.41, Florida Statutes, is amended to
53 read:

54 83.41 Application.—

55 (1) This part applies to the rental of a dwelling unit.

56 (2) The eviction procedures in s. 83.62 apply to eviction

HB 921

2012

57 from a dwelling subsequent to a final judgment in foreclosure,
58 ejectment, quiet title, partition, or other cause of action in
59 which the court awards possession of a dwelling unit. The
60 eviction procedures in ss. 83.59, 83.60, 83.61, 83.62, 83.625,
61 and 83.681 apply to eviction from a dwelling based on nonpayment
association fees required to be paid to a condominium,
cooperative, or homeowners' association after demand. In such
64 cases, the prevailing party in the litigation shall be
65 considered a landlord for purposes of those sections. A
66 prevailing party awarded possession of a dwelling unit shall be
67 governed by s. 83.67(1), (5), (6), and (7).

68 Section 2. Subsection (2) of section 83.42, Florida
69 Statutes, is amended to read:

70 83.42 Exclusions from application of part.—This part does
71 not apply to:

72 (2) Occupancy under a bona fide contract of sale of a
73 dwelling unit or the property of which it is a part. A bona fide
74 contract of sale is one in which at least one month's rent has
75 been paid and the buyer has paid a deposit of at least 5 percent
76 of the value of the property, or in which the buyer has paid at
77 least 12 months' rent.

78 Section 3. Section 83.48, Florida Statutes, is amended to
79 read:

80 83.48 Attorney ~~Attorney's~~ fees.—In any civil action
81 brought to enforce the provisions of the rental agreement or
82 this part, the party in whose favor a judgment or decree has
83 been rendered may recover reasonable court costs, including
84 attorney ~~attorney's~~ fees, from the nonprevailing party. The

HB 921

2012

85 right to attorney fees in this section may not be waived in a
86 lease agreement. However, attorney fees may not be awarded under
87 this section in a claim for personal injury damages based on a
88 breach of duty under s. 83.51.

89 Section 4. Subsections (2), (3), and (7) of section 83.49,
90 Florida Statutes, are amended to read:

91 83.49 Deposit money or advance rent; duty of landlord and
92 tenant.—

93 (2) The landlord shall, in the lease agreement or within
94 30 days after ~~of~~ receipt of advance rent or a security deposit,
95 furnish ~~notify~~ the tenant in writing with a disclosure regarding
96 ~~of the manner in which the landlord is holding the advance rent~~
97 ~~or security deposit and the rate of interest, if any, which the~~
98 ~~tenant is to receive and the time of interest payments to the~~
99 ~~tenant. Such written notice shall:~~

100 ~~(a) Be given in person or by mail to the tenant.~~

101 ~~(b) State the name and address of the depository where the~~
102 ~~advance rent or security deposit is being held, whether the~~
103 ~~advance rent or security deposit is being held in a separate~~
104 ~~account for the benefit of the tenant or is commingled with~~
105 ~~other funds of the landlord, and, if commingled, whether such~~
106 ~~funds are deposited in an interest-bearing account in a Florida~~
107 ~~banking institution.~~

108 ~~(c) Include a copy of the provisions of subsection (3).~~

109
110 Subsequent to providing such notice, if the landlord changes the
111 manner or location in which he or she is holding the advance
112 rent or security deposit, he or she shall notify the tenant

HB 921

2012

113 within 30 days after ~~of~~ the change according to the provisions
114 of paragraphs (a)-(d) herein set forth. The landlord is not
115 required to give a new notice solely because the depository has
116 merged with another financial institution, changed its name, or
117 transferred ownership to a different financial institution. This
118 subsection does not apply to any landlord who rents fewer than
119 five individual dwelling units. Failure to provide this notice
120 is shall not be a defense to the payment of rent when due. Such
121 written notice shall:

122 (a) Be given in person or by mail to the tenant;

123 (b) State the name and address of the depository where the
124 advance rent or security deposit is being held, or state that
125 the landlord has posted a surety bond as provided by law;

126 (c) State whether the tenant is entitled to interest on
127 the deposit; and

128 (d) Include the following disclosure:

129
130 YOUR LEASE REQUIRES PAYMENT OF CERTAIN DEPOSITS. THE
131 LANDLORD MAY TRANSFER ADVANCE RENTS AND NONREFUNDABLE
132 DEPOSITS TO THE LANDLORD'S ACCOUNT AS THEY ARE DUE AND
133 WITHOUT NOTICE. WHEN YOU MOVE OUT, YOU MUST GIVE THE
134 LANDLORD YOUR NEW ADDRESS SO THAT THE LANDLORD CAN
135 SEND YOU NOTICES REGARDING YOUR DEPOSIT. THE LANDLORD
136 MUST MAIL YOU NOTICE, WITHIN 30 DAYS AFTER YOU MOVE
137 OUT, OF THE LANDLORD'S INTENT TO IMPOSE A CLAIM
138 AGAINST THE DEPOSIT. IF YOU DO NOT REPLY TO THE
139 LANDLORD STATING YOUR OBJECTION TO THE CLAIM WITHIN 15
140 DAYS AFTER RECEIPT OF THE LANDLORD'S NOTICE, THE

HB 921

2012

LANDLORD WILL COLLECT THE CLAIM AND MUST MAIL YOU THE
REMAINING DEPOSIT, IF ANY. IF YOU TIMELY OBJECT, THE
LANDLORD MUST HOLD THE DEPOSIT AND EITHER YOU OR THE
LANDLORD WILL HAVE TO FILE A LAWSUIT SO THAT THE COURT
CAN RESOLVE THE DISPUTE.

IF THE LANDLORD FAILS TO TIMELY SEND YOU NOTICE, THE
LANDLORD MUST RETURN THE DEPOSIT BUT MAY LATER FILE A
LAWSUIT AGAINST YOU FOR DAMAGES. IF YOU FAIL TO TIMELY
OBJECT TO A CLAIM, THE LANDLORD MAY COLLECT FROM THE
DEPOSIT BUT YOU MAY LATER FILE A LAWSUIT CLAIMING A
REFUND.

YOU SHOULD ATTEMPT TO INFORMALLY RESOLVE ANY DISPUTE
BEFORE FILING A LAWSUIT. GENERALLY, THE WINNING PARTY
IN ANY LAWSUIT BETWEEN YOU AND YOUR LANDLORD WILL BE
AWARDED COSTS AND ATTORNEY FEES PAYABLE BY THE LOSING
PARTY.

THIS DISCLOSURE IS BASIC. PLEASE REFER TO PART II OF
CHAPTER 83, FLORIDA STATUTES, TO DETERMINE YOUR LEGAL
RIGHTS AND OBLIGATIONS.

(3) The landlord may disburse advance re
deposit account to the landlord's benefit when the advance
rental period commences and without notice to the tenant. The
landlord may disburse a deposit designated as nonrefundable at
the conclusion of the lease and without notice to the tenant.

pursuant to the
terms of a written
lease

Page 6 of 21

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0921-00

Non refundable deposits shall be itemized and specifically described and designated as nonrefundable in the lease in **Bold Type**

HB 921

2012

169 For all other deposits:

170 (a) Upon the vacating of the premises for termination of
171 the lease, if the landlord does not intend to impose a claim on
172 the security deposit, the landlord shall have **15 days** to return
173 the security deposit together with interest if otherwise
174 required, or the landlord shall have **30 days** to give the tenant
175 written notice by certified mail to the tenant's last known
176 mailing address of his or her intention to impose a claim on the
177 deposit and the reason for imposing the claim. The notice shall
178 contain a statement in substantially the following form:

179
180 This is a notice of my intention to impose a claim for
181 damages in the amount of upon your security deposit, due to
182 It is sent to you as required by s. 83.49(3), Florida
183 Statutes. You are hereby notified that you must object in
184 writing to this deduction from your security deposit within 15
185 days from the time you receive this notice or I will be
186 authorized to deduct my claim from your security deposit. Your
187 objection must be sent to ...(landlord's address)....

188
189 If the landlord fails to give the required notice within the 30-
190 day period, he or she forfeits the right to impose a claim upon
191 the security deposit and may not seek setoff against the deposit
192 but may file an action for damages after return of the deposit.

193 (b) Unless the tenant objects to the imposition of the
194 landlord's claim or the amount thereof within 15 days after
195 receipt of the landlord's notice of intention to impose a claim,
196 the landlord may then deduct the amount of his or her claim and

HB 921

2012

197 shall remit the balance of the deposit to the tenant within 30
198 days after the date of the notice of intention to impose a claim
199 for damages. The failure of the tenant to make a timely
200 objection does not waive any rights of the tenant to seek
201 damages in a separate action.

202 (c) If either party institutes an action in a court of
203 competent jurisdiction to adjudicate the party's right to the
204 security deposit, the prevailing party is entitled to receive
205 his or her court costs plus a reasonable fee for his or her
206 attorney. The court shall advance the cause on the calendar.

207 (d) Compliance with this section by an individual or
208 business entity authorized to conduct business in this state,
209 including Florida-licensed real estate brokers and sales
210 associates, constitutes ~~shall constitute~~ compliance with all
211 other relevant Florida Statutes pertaining to security deposits
212 held pursuant to a rental agreement or other landlord-tenant
213 relationship. Enforcement personnel shall look solely to this
214 section to determine compliance. This section prevails over any
215 conflicting provisions in chapter 475 and in other sections of
216 the Florida Statutes, and shall operate to permit licensed real
217 estate brokers to disburse security deposits and deposit money
218 without having to comply with the notice and settlement
219 procedures contained in s. 475.25(1)(d).

220 (7) Upon the sale or transfer of title of the rental
221 property from one owner to another, or upon a change in the
222 designated rental agent, any and all security deposits or
223 advance rents being held for the benefit of the tenants shall be
224 transferred to the new owner or agent, together with any earned

2012

Why is there a limit? Why should the tenant be out if the landlord fails to perform pursuant to the statute? In other words the tenant does nothing wrong and he does not get his deposit in excess of 1 months rent. In what world would this be ok?

and with an accurate accounting showing the amounts to be credited to each tenant account. Upon the transfer of such records to the new owner or agent as stated herein, the transmittal of a written receipt therefor, the owner ~~or is~~ shall be free from the obligation imposed in section (1) to hold such moneys on behalf of the tenant on the basis of a rebuttable presumption that any new owner or agent shall be entitled to the security deposits from the previous owner or

a party that has been harmed by the failure of an owner to comply with this section shall be entitled to damages equal to 3 times the amount of deposit.

233 however, the new owner or agent is not liable to a tenant
 234 deposits in excess of 1 month's rent. This subsection does not
 235 ~~However, nothing herein shall~~ excuse the landlord or agent for a
 236 violation of other ~~the~~ provisions of this section while in
 237 possession of such deposits.

238 Section 5. Section 83.50, Florida Statutes, is amended to
 239 read:

240 83.50 Disclosure.—

to the tenant in writing.

and

241 ~~(1)~~ The landlord, or a person authorized to enter into a
 242 rental agreement on the landlord's behalf, shall disclose in
 243 writing to the tenant, at or before the commencement of the
 244 tenancy, the name and address of the landlord or a person
 245 authorized to receive notices and demands in the landlord's
 246 behalf. The person so authorized to receive notices and demands
 247 retains authority until the tenant is notified otherwise. All
 248 notices of such names and addresses or changes thereto shall be
 249 delivered to the tenant's residence or, if specified in writing
 250 by the tenant, to any other address.

251 ~~(2) The landlord or the landlord's authorized~~
 252 ~~representative, upon completion of construction of a building~~

HB 921

2012

253 ~~exceeding three stories in height and containing dwelling units,~~
254 ~~shall disclose to the tenants initially moving into the building~~
255 ~~the availability or lack of availability of fire protection.~~

256 Section 6. Subsection (1) and paragraph (a) of subsection
257 (2) of section 83.51, Florida Statutes, are amended, and
258 subsection (5) is added to that section, to read:

259 83.51 Landlord's obligation to maintain premises and pay
260 assessments.—

261 (1) The landlord at all times during the tenancy shall:

262 (a) Comply with the requirements of applicable building,
263 housing, and health codes; or

264 (b) Where there are no applicable building, housing, or
265 health codes, maintain the roofs, windows, ~~screens~~, doors,
266 floors, steps, porches, exterior walls, foundations, and all
267 other structural components in good repair and capable of
268 resisting normal forces and loads and the plumbing in reasonable
269 working condition. ~~However,~~

270
271 The landlord is ~~shall~~ not ~~be~~ required to maintain a mobile home
272 or other structure owned by the tenant. The landlord's
273 obligations under this subsection may be altered or modified in
274 writing with respect to a single-family home or duplex.

275 (2) (a) Unless otherwise agreed in writing, in addition to
276 the requirements of subsection (1), the landlord of a dwelling
277 unit other than a single-family home or duplex shall, at all
278 times during the tenancy, make reasonable provisions for:

279 1. The extermination of rats, mice, ~~roaches~~, ants, wood-
280 destroying organisms, and bedbugs. When vacation of the premises

Page 10 of 21

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

Reasoning: One tenant can not be responsible for bugs from other tenant's apartment. If it is mandatory for the landlord to exterminate bugs etc. it is more cost effective and the landlord can get into all the apartments in the case of an infestation. The landlord may also evict someone that is not keeping the apartment sanitary and causing the infestation

hb0921-00

HB 921

2012

is required for such extermination, the landlord is ~~shall~~ not be liable for damages but shall abate the rent. The tenant must ~~shall be required to~~ temporarily vacate the premises for a period of time not to exceed 4 days, on 7 days' written notice, if necessary, for extermination pursuant to this subparagraph.

2. Locks and keys.

3. The clean and safe condition of common areas.

4. Garbage removal and outside receptacles therefor.

5. Functioning facilities for heat during winter, running water, and hot water.

6. Screens.

The reading of this paragraph makes it so the landlord can chose not to provide heat and hot water if the landlord puts it in writing. Are we going backwards?

(5) The landlord shall pay assessments due to a condominium, cooperative, or homeowners' association.

Section 7. Subsections (2) through (5) of section 83.56, Florida Statutes, are amended to read:

83.56 Termination of rental agreement.—

(2) If the tenant materially fails to comply with s. 83.52 or material provisions of the rental agreement, other than a failure to pay rent, or reasonable rules or regulations, the landlord may:

(a) If such noncompliance is of a nature that the tenant should not be given an opportunity to cure it ~~or if the noncompliance constitutes a subsequent or continuing noncompliance within 12 months of a written warning by the landlord of a similar violation~~, deliver a written notice to the tenant specifying the noncompliance and the landlord's intent to terminate the rental agreement by reason thereof. Examples of noncompliance which are of a nature that the tenant should not

HB 921

acts that are
considered to be
detrimental to the
health, safety or
welfare of other
residents and
illegal drug use if
prohibited in the
lease.

be given an opportunity to cure include, but are not limited to, destruction, damage, or misuse of the landlord's or tenants' property by intentional act or a subsequent continued unreasonable disturbance. In such event, the landlord may terminate the rental agreement, and the tenant shall have 7 days from the date that the notice is delivered to vacate the premises. The notice shall be ~~adequate if it is~~ in substantially the following form:

You are advised that your lease is terminated effective immediately. You shall have 7 days from the delivery of this letter to vacate the premises. This action is taken because ... (cite the noncompliance)

(b) If such noncompliance is of a nature that the tenant should be given an opportunity to cure it, deliver a written notice to the tenant specifying the noncompliance, including a notice that, if the noncompliance is not corrected within 7 days from the date the written notice is delivered, the landlord shall terminate the rental agreement by reason thereof. Examples of such noncompliance include, but are not limited to, activities in contravention of the lease or this part ~~act~~ such as having or permitting unauthorized pets, guests, or vehicles; parking in an unauthorized manner or permitting such parking; or failing to keep the premises clean and sanitary. An eviction action filed pursuant to this paragraph does not require a subsequent notice pursuant to paragraph (a). The notice shall be ~~adequate if it is~~ in substantially the following form:

337
338 You are hereby notified that ...(cite the
339 noncompliance).... Demand is hereby made that you remedy the
340 noncompliance within 7 days of receipt of this notice or your
341 lease shall be deemed terminated and you shall vacate the
342 premises upon such termination. If this same conduct or conduct
343 of a similar nature is repeated within 12 months, your tenancy
344 is subject to termination without further warning and without
345 your being given an opportunity to cure the noncompliance.
346

347 (3) If the tenant fails to pay rent when due and the
348 default continues for 3 days, excluding Saturday, Sunday, and
349 legal holidays, after delivery of written demand by the landlord
350 for payment of the rent or possession of the premises, the
351 landlord may terminate the rental agreement. Legal holidays for
352 the purpose of this section shall be court-observed holidays
353 only. After service of the 3-day notice, the landlord may
354 require payment of the rent to be by cash, money order, or
355 certified funds. The total amount claimed may include all moneys
356 owed to the landlord through the date of the notice, including
357 late fees. The 3-day notice shall contain a statement in
358 substantially the following form:
359

360 You are hereby notified that you are indebted to me in the
361 sum of dollars for the rent and use of the premises
362 ...(address of leased premises, including county)..., Florida,
363 now occupied by you and that I demand payment of the rent or
364 possession of the premises within 3 days (excluding Saturday,

HB 921

2012

Sunday, and legal holidays) from the date of delivery of this notice, to wit: on or before the day of, ...(year)....
...(landlord's name, address and phone number)...

(4) The delivery of the written notices required by subsections (1), (2), and (3) shall be by mailing or delivery of a true copy thereof or, if the tenant is absent from the premises, by leaving a copy thereof at the residence. The notice requirements of subsections (1), (2), and (3) may not be waived in the lease.

(5) (a) If the landlord accepts rent with actual knowledge of a noncompliance by the tenant or accepts performance by the tenant of any other provision of the rental agreement that is at variance with its provisions, or if the tenant pays rent with actual knowledge of a noncompliance by the landlord or accepts performance by the landlord of any other provision of the rental agreement that is at variance with its provisions, the landlord or tenant waives his or her right to terminate the rental agreement or to bring a civil action for that noncompliance, but not for any subsequent or continuing noncompliance. However, a landlord does not waive the right to terminate the rental agreement or to bring a civil action for that noncompliance simply by accepting partial rent for the period if the landlord notifies the tenant ~~that the landlord is reserving the right to enforce the rental agreement.~~ in writing

(b) Any tenant who wishes to defend against an action by the landlord for possession of the unit for noncompliance of the rental agreement or of relevant statutes must ~~shall~~ comply with

However if the tenant pays the rental amount due including any late fees, court costs, and attorney's fees, the Court may, for good cause, deny the order of eviction, provided such nonpayment has not occurred more than twice.

HB 921

2012

~~the provisions in~~ s. 83.60(2). The court may not set a date for mediation or trial unless the provisions of s. 83.60(2) have been met, but shall enter a default judgment for removal of the tenant with a writ of possession to issue immediately if the tenant fails to comply with s. 83.60(2). This subsection does not apply to that portion of rent subsidies received from a local, state, or national government or an agency of local, state, or national government; however, waiver will occur if an action has not been instituted within ~~90~~ 45 days ~~after~~ of the noncompliance.

Section 8. Section 83.575, Florida Statutes, is read:

83.575 Termination of tenancy with specific duration.—

(1) A rental agreement with a specific duration may contain a provision requiring the tenant to notify the landlord before vacating the premises at the end of the rental agreement if the provision also requires that the landlord notify the tenant if the rental agreement will not be renewed on the same terms; however, a rental agreement may not require more than 60 days' notice from either the tenant or the landlord ~~before vacating the premises~~.

(2) A rental agreement with a specific duration may provide that if a tenant fails to give the required notice before vacating the premises at the end of the rental agreement, the tenant may be liable for liquidated damages as specified in the rental agreement if the landlord provides written notice to the tenant specifying the tenant's obligations under the notification provision contained in the lease and the date the

60 days. More time invites government mismanagement.

HB 921

2012

rental agreement is terminated. The landlord must provide such written notice to the tenant within 15 days before the start of the notification period contained in the lease. The written notice shall list all fees, penalties, and other charges applicable to the tenant under this subsection. The rental agreement must provide a reciprocal agreement that if the landlord fails to give the tenant the required timely notice of nonrenewal, the tenant may elect to continue the tenancy for up to 60 days after the tenant's receipt of notice of nonrenewal.

(3) If the tenant remains on the premises with the permission of the landlord after the rental agreement has terminated and fails to give notice required under s. 83.57(3), the tenant is liable to the landlord for an additional 1 month's rent.

Section 9. Section 83.58, Florida Statutes, is amended to read:

83.58 Remedies; tenant holding over.—If the tenant holds over and continues in possession of the dwelling unit or any part thereof after the expiration of the rental agreement without the permission of the landlord, the landlord may recover possession of the dwelling unit in the manner provided for in s. 83.59 ~~[F.S. 1973]~~. The landlord may also recover double the amount of rent due on the dwelling unit, or any part thereof, for the period during which the tenant refuses to surrender possession.

Section 10. Subsection (2) of section 83.59, Florida Statutes, is amended to read:

83.59 Right of action for possession.—

HB 921

2012

drafting a notice
required by 83.56
(3) and

(2) A landlord, the landlord's attorney, or the landlord's agent, applying for the removal of a tenant, shall file in the county court of the county where the premises are situated a complaint describing the dwelling unit and stating the facts that authorize its recovery. A landlord's agent is not permitted to take any action other than the initial filing of the complaint, unless the landlord's agent is an attorney. The landlord is entitled to the summary procedure provided in s. 51.011 ~~{F.S. 1971}~~, and the court shall advance the cause on the calendar.

Section 11. Section 83.60, Florida Statutes, is amended to read:

83.60 Defenses to action for rent or possession; procedure.—

(1) In an action by the landlord for possession of a dwelling unit based upon nonpayment of rent or in an action by the landlord under s. 83.55 seeking to recover unpaid rent, the tenant may defend upon the ground of a material noncompliance with s. 83.51(1) ~~{F.S. 1973}~~, or may raise any other defense, whether legal or equitable, that he or she may have, including the defense of retaliatory conduct in accordance with s. 83.64. The defense of a material noncompliance with s. 83.51(1) ~~{F.S. 1973}~~ may be raised by the tenant if 7 days have elapsed after the delivery of written notice by the tenant to the landlord, specifying the noncompliance and indicating the intention of the tenant not to pay rent by reason thereof. Such notice by the tenant may be given to the landlord, the landlord's representative as designated pursuant to s. 83.50~~(1)~~, a resident

HB 921

2012

477 manager, or the person or entity who collects the rent on behalf
478 of the landlord. A material noncompliance with s. 83.51(1) ~~[F.S.~~
479 ~~1973]~~ by the landlord is a complete defense to an action for
480 possession based upon nonpayment of rent, and, upon hearing, the
481 court or the jury, as the case may be, shall determine the
482 amount, if any, by which the rent is to be reduced to reflect
483 the diminution in value of the dwelling unit during the period
484 of noncompliance with s. 83.51(1) ~~[F.S. 1973]~~. After
485 consideration of all other relevant issues, the court shall
486 enter appropriate judgment.

487 (2) In an action by the landlord for possession of a
488 dwelling unit, if the tenant interposes any defense other than
489 payment, the tenant shall pay into the registry of the court the
490 accrued rent as alleged in the complaint or as determined by the
491 court and the rent that ~~which~~ accrues during the pendency of the
492 proceeding, when due. The clerk shall notify the tenant of such
493 requirement in the summons. Failure of the tenant to pay the
494 rent into the registry of the court or to file a motion to
495 determine the amount of rent to be paid into the registry within
496 5 days, excluding Saturdays, Sundays, and legal holidays, after
497 the date of service of process constitutes an absolute waiver of
498 the tenant's defenses other than payment, and the landlord is
499 entitled to an immediate default judgment for removal of the
500 tenant with a writ of possession to issue without further notice
501 or hearing thereon. If ~~In the event~~ a motion to determine rent
502 is filed, documentation in support of the allegation that the
503 rent as alleged in the complaint is in error is required. Public
504 housing tenants or tenants receiving rent subsidies are ~~shall be~~

HB 921

2012

required to deposit only that portion of the full rent for which
they are ~~the tenant is~~ responsible pursuant to the federal,
state, or local program in which they are participating.

Section 12. Subsection (1) of section 83.62, Florida
Statutes, is amended to read:

83.62 Restoration of possession to landlord.—

(1) In an action for possession, after entry of judgment
in favor of the landlord, the clerk shall issue a writ to the
sheriff describing the premises and commanding the sheriff to
put the landlord in possession after 24 hours' notice
conspicuously posted on the premises. Weekends and legal
holidays do not stay the 24-hour notice period.

Section 13. Section 83.63, Florida Statutes, is amended to
read:

83.63 Casualty damage.—If the premises are damaged or
destroyed other than by the wrongful or negligent acts of the
tenant so that the enjoyment of the premises is substantially
impaired, the tenant may terminate the rental agreement and
immediately vacate the premises. The tenant may vacate the part
of the premises rendered unusable by the casualty, in which case
the tenant's liability for rent shall be reduced by the fair
rental value of that part of the premises damaged or destroyed.
If the rental agreement is terminated, the landlord shall comply
with s. 83.49(3) ~~{F.S. 1973}~~.

Section 14. Subsection (1) of section 83.64, Florida
Statutes, is amended to read:

83.64 Retaliatory conduct.—

(1) It is unlawful for a landlord to discriminatorily

If the landlord is found to have not acted in good faith and fair dealings the Court shall award costs and attorney fees and a penalty in the amount equal to one months rent.

HB 921

2012

increase a tenant's rent or decrease services to a tenant, or to bring or threaten to bring an action for possession or other civil action, primarily because the landlord is retaliating against the tenant. In order for the tenant to raise the defense of retaliatory conduct, the tenant must have acted in good faith. Examples of conduct for which the landlord may not

retaliate include, but are not limited to, situations where:

(a) The tenant has complained to a governmental agency charged with responsibility for enforcement of a building, housing, or health code of a suspected violation applicable to the premises;

(b) The tenant has organized, encouraged, or participated in a tenants' organization;

(c) The tenant has complained to the landlord pursuant to s. 83.56(1); ~~or~~ 

Sought the aid of an attorney to enforce the tenant's rights under this chapter or under the terms of the lease.

(d) The tenant is a servicemember who has terminated a rental agreement pursuant to s. 83.682;

(e) The tenant has paid the rent to a condominium, cooperative, or homeowners' association after demand from the association in order to pay the landlord's obligation to the association; or

(f) The tenant has exercised his or her rights under local, state, or federal fair housing laws. 

I assume that subsection (2), (3), and (4) will remain or should remain.

Section 15. Section 83.683, Florida Statutes, is created to read:

83.683 Foreclosure of leased property.—

(1) A landlord is not required to notify a tenant of a mortgage default.

HB 921

2012

561 (2) A pending foreclosure action involving the leased
562 premises is not grounds for a tenant to terminate a lease.
563 Section 16. This act shall take effect July 1, 2012.