

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1073 Military Support

SPONSOR(S): Civil Justice Subcommittee; Van Zant and others

TIED BILLS: None **IDEN./SIM. BILLS:** SB 1656

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	12 Y, 0 N, As CS	Bond	Bond
2) Veteran & Military Affairs Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

America's servicemembers face many challenges related to their service to the country. This bill addresses one of those challenges, related to the challenges of leasing a new residence where an application and background check is required.

The bill requires that, if an application and review is required for a prospective tenant who is a servicemember, it must be completed within 7 days. Absent a rejection of the rental application within 7 days of its submission, the landlord must offer to lease the property to the servicemember. Condominiums, cooperatives, and homeowners associations who require a background check of prospective tenants must also complete the background check within 7 days for a servicemember or waive the requirement.

The bill does not appear to have a fiscal impact on state or local governments.

The effective date of the bill is July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Residential tenancies are governed by Part II of ch. 83, F.S., known as the Florida Residential Landlord and Tenant Act. The Act generally applies to the rental of a dwelling unit, but does not apply to residence or detention in a facility, temporary occupancy related to a contract for purchase and sale, transient occupancy in a hotel or motel, a mobile home park tenancy, or occupancy by the owner of a cooperative or condominium.¹

While the Act regulates portions of the landlord-tenant relationship, many parts of that relationship are unregulated and left to the marketplace to regulate. One such area is that of rental application and tenant review prior to the landlord agreeing to offer a lease to a prospective tenant. Increasingly, landlords require every prospective tenant to submit to one or more reviews, including a criminal history background check, sexual offender check, credit check, or employment verification.

America's servicemembers face many challenges related to their service to the country. One such challenge is related to the frequent transfers between bases that are common to all servicemembers, referred to as a Permanent Change of Station (PCS). Relevant to this bill, the military will only authorize 10 days of temporary lodging expense (TLE) for transfers within the continental United States to the servicemember searching for new housing pursuant to a PCS.² When landlords do not approve the servicemember's rental application while awaiting results of a background check or checks, servicemembers report these delays sometimes far exceed the days authorized for TLE reimbursement.

This bill creates s. 83.683, F.S., to provide that, if a landlord requires a prospective tenant to complete a rental application before residing in a rental unit, the landlord must complete processing of the rental application submitted by a prospective tenant who is a servicemember within 7 days after submission of the application. Absent a timely denial of the rental application, the landlord must lease the rental unit to the servicemember provided that all other terms of the application and lease are complied with.³

Many community associations (condominium associations, cooperative associations, and homeowners associations) require review and approval of a prospective tenant of a condominium unit, cooperative unit, or parcel within the association's control. Similar to landlords, associations may require a rental application and review process. The bill provides that a community association must process the rental application submitted by a prospective tenant who is a servicemember within 7 days after submission. Absent a timely denial of the rental application, the association must allow the unit or parcel owner to lease to the servicemember and the landlord must lease the rental unit to the servicemember provided that all other terms of the application and lease are complied with.

To prevent coercion by landlords and associations, the bill provides that its provisions may not be waived or modified by the agreement of the parties under any circumstances.

B. SECTION DIRECTORY:

Section 1 creates s. 83.683, F.S., regarding rental application by a servicemember.

Section 2 provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

¹ ss. 83.41 and 83.42, F.S.

² <http://www.defensetravel.dod.mil/site/faqpcs.cfm> (last accessed January 28, 2016).

³ Other requirements typically include signing of the lease, payment of a security deposit, and payment of initial rent.

These requirements are not waived or excluded by the bill.

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill does not appear to have any impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 1, 2016, the Civil Justice Subcommittee adopted a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute differs from the bill as filed by removal of a provision that would have prohibited a residential landlord from charging an application fee to a servicemember, adding that a residential landlord must approve or deny a rental application of a servicemember within 7 days, and adding cooperatives to provisions regarding condominium and homeowner associations. This analysis is drafted to the committee substitute as passed by the Civil Justice Subcommittee.