

By Senator Grant

13-278-00

1                                   A bill to be entitled  
2           An act relating to landlord and tenant;  
3           amending s. 83.49, F.S.; prescribing amount of  
4           interest on rental deposits to be paid a  
5           tenant; providing for a landlord to retain  
6           remaining interest; providing conditions for  
7           payment to tenant; providing a condition for  
8           posting a surety bond by a landlord; modifying  
9           times for returning a security deposit to a  
10          tenant; notifying a tenant of his or her rights  
11          and objections by a tenant; amending s. 83.67,  
12          F.S.; providing that a landlord is not liable  
13          for storage or disposition of a tenant's  
14          personal property upon eviction if provided in  
15          the rental agreement; amending ss. 715.105,  
16          715.106, F.S.; increasing the value of  
17          abandoned property that may be kept, sold, or  
18          destroyed if not reclaimed on the form of  
19          notice to a former tenant and the form of  
20          notice to an owner other than a former tenant;  
21          amending s. 715.109, F.S.; authorizing a  
22          landlord to keep for his or her own use  
23          abandoned property of less than a specified  
24          value; providing an effective date.

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26 Be It Enacted by the Legislature of the State of Florida:

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28           Section 1. Subsection (1) and paragraphs (a) and (b)  
29          of subsection (3) of section 83.49, Florida Statutes, are  
30          amended to read:

31

1           83.49 Deposit money or advance rent; duty of landlord  
2 and tenant.--

3           (1) Whenever money is deposited or advanced by a  
4 tenant on a rental agreement as security for performance of  
5 the rental agreement or as advance rent for other than the  
6 next immediate rental period, the landlord or the landlord's  
7 agent shall either:

8           (a) Hold the total amount of such money in a separate  
9 non-interest-bearing account in a Florida banking institution  
10 for the benefit of the tenant or tenants. The landlord shall  
11 not commingle such moneys with any other funds of the landlord  
12 or hypothecate, pledge, or in any other way make use of such  
13 moneys until such moneys are actually due the landlord;

14           (b) Hold the total amount of such money in a separate  
15 interest-bearing account in a Florida banking institution for  
16 the benefit of the tenant or tenants, and unless otherwise  
17 agreed to in writing, in which case the tenant shall receive  
18 and collect interest in an amount of at least 50 ~~75~~ percent of  
19 the accumulated ~~annualized average~~ interest paid rate payable  
20 on such account or interest at the rate of 5 percent per year,  
21 simple interest, whichever the landlord elects. The landlord  
22 may retain the remaining interest. Interest payable to the  
23 tenant must be paid upon return of the security deposit.The  
24 landlord shall not commingle such moneys with any other funds  
25 of the landlord or hypothecate, pledge, or in any other way  
26 make use of such moneys until such moneys are actually due the  
27 landlord; or

28           (c) Post a surety bond, executed by the landlord as  
29 principal and a surety company authorized and licensed to do  
30 business in the state as surety, with the clerk of the circuit  
31 court in the county in which the dwelling unit is located in

1 the total amount of the security deposits and advance rent he  
2 or she holds on behalf of the tenants or \$50,000, whichever is  
3 less. The bond shall be conditioned upon the faithful  
4 compliance of the landlord with the provisions of this section  
5 and shall run to the Governor for the benefit of any tenant  
6 injured by the landlord's violation of the provisions of this  
7 section unless otherwise agreed to in writing. In addition to  
8 posting the surety bond, the landlord shall pay to the tenant  
9 interest at the rate of 5 percent per year, simple interest.  
10 A landlord, or the landlord's agent, engaged in the renting of  
11 dwelling units in five or more counties, who holds deposit  
12 moneys or advance rent and who is otherwise subject to the  
13 provisions of this section, may, in lieu of posting a surety  
14 bond in each county, elect to post a surety bond in the form  
15 and manner provided in this paragraph with the office of the  
16 Secretary of State. The bond shall be in the total amount of  
17 the security deposit or advance rent held on behalf of tenants  
18 or in the amount of \$250,000, whichever is less. The bond  
19 shall be conditioned upon the faithful compliance of the  
20 landlord with the provisions of this section and shall run to  
21 the Governor for the benefit of any tenant injured by the  
22 landlord's violation of this section unless otherwise agreed  
23 to in writing. In addition to posting a surety bond, the  
24 landlord shall pay to the tenant interest on the security  
25 deposit or advance rent held on behalf of that tenant at the  
26 rate of 5 percent per year simple interest.

27 (3)(a) Upon the vacating of the premises for  
28 termination of the lease, the landlord shall have 30 ~~±5~~ days  
29 to return the security deposit together with interest if  
30 otherwise required, or in which to give the tenant written  
31 notice by certified mail to the tenant's last known mailing

1 address of his or her intention to impose a claim on the  
2 deposit and the reason for imposing the claim. The notice  
3 shall contain a statement in substantially the following form:

4  
5 This is a notice of my intention to impose a claim for  
6 damages in the amount of .... upon your security deposit, due  
7 to ....., It is sent to you as required by s. 83.49(3), Florida  
8 Statutes. You are hereby notified that you must object in  
9 writing to this deduction from your security deposit within 15  
10 days from the time you receive this notice or I will be  
11 authorized to deduct my claim from your security deposit.  
12 Your objection must be sent to ...(landlord's address)....

13  
14 If the landlord fails to give the required notice within the  
15 30-day ~~15-day~~ period, he or she forfeits the right to impose a  
16 claim upon the security deposit.

17 (b) Unless the tenant objects to the imposition of the  
18 landlord's claim or the amount thereof within 30 ~~15~~ days after  
19 receipt of the landlord's notice of intention to impose a  
20 claim, the landlord may then deduct the amount of his or her  
21 claim and shall remit the balance of the deposit to the tenant  
22 within 45 ~~30~~ days after the date of the notice of intention to  
23 impose a claim for damages.

24 Section 2. Subsection (3) of section 83.67, Florida  
25 Statutes, is amended to read:

26 83.67 Prohibited practices.--

27 (3) No landlord of any dwelling unit governed by this  
28 part shall remove the outside doors, locks, roof, walls, or  
29 windows of the unit except for purposes of maintenance,  
30 repair, or replacement; nor shall the landlord remove the  
31 tenant's personal property from the dwelling unit unless said

1 action is taken after surrender, abandonment, or a lawful  
2 eviction. If provided in the rental agreement or a written  
3 agreement separate from the rental agreement, upon surrender,  
4 ~~or~~ abandonment by the tenant, or eviction, the landlord is  
5 ~~shall~~ not required to comply with s. 715.104 and is not be  
6 liable or responsible for storage or disposition of the  
7 tenant's personal property; if provided in the rental  
8 agreement there must ~~shall~~ be printed or clearly stamped on  
9 such rental agreement a legend in substantially the following  
10 form:

11

12 BY SIGNING THIS RENTAL AGREEMENT THE TENANT AGREES THAT UPON  
13 SURRENDER, ~~OR~~ ABANDONMENT, OR EVICTION, AS DEFINED BY THE  
14 FLORIDA STATUTES, THE LANDLORD SHALL NOT BE LIABLE OR  
15 RESPONSIBLE FOR STORAGE OR DISPOSITION OF THE TENANT'S  
16 PERSONAL PROPERTY.

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18 For the purposes of this section, abandonment shall be as set  
19 forth in s. 83.59(3)(c).

20 Section 3. Section 715.105, F.S., is amended to read:

21 715.105 Form of notice to former tenant.--

22 (1) A notice to the former tenant which is in  
23 substantially the following form satisfies the requirements of  
24 s. 715.104:

25

26 Notice of Right to Reclaim Abandoned Property

27 To: ...(Name of former tenant)...

28 ...(Address of former tenant)...

29 When you vacated the premises at ...(address of  
30 premises, including room or apartment number, if any)..., the

31

1 following personal property remained: ...(insert description  
2 of personal property)....

3       You may claim this property at ...(address where  
4 property may be claimed)....

5       Unless you pay the reasonable costs of storage and  
6 advertising, if any, for all the above-described property and  
7 take possession of the property which you claim, not later  
8 than ...(insert date not fewer than 10 days after notice is  
9 personally delivered or, if mailed, not fewer than 15 days  
10 after notice is deposited in the mail)..., this property may  
11 be disposed of pursuant to s. 715.109.

12       (Insert here the statement required by subsection (2))  
13       Dated:....                               ...(Signature of landlord)...  
14       ...(Type or print name of landlord)...  
15       ...(Telephone number)...  
16       ...(Address)...

17  
18       (2) The notice set forth in subsection (1) shall also  
19 contain one of the following statements:

20       (a) "If you fail to reclaim the property, it will be  
21 sold at a public sale after notice of the sale has been given  
22 by publication. You have the right to bid on the property at  
23 this sale. After the property is sold and the costs of  
24 storage, advertising, and sale are deducted, the remaining  
25 money will be paid over to the county. You may claim the  
26 remaining money at any time within 1 year after the county  
27 receives the money."

28       (b) "Because this property is believed to be worth  
29 less than \$500~~\$250~~, it may be kept, sold, or destroyed  
30 without further notice if you fail to reclaim it within the  
31 time indicated above."

1           Section 4. Section 715.106, Florida Statutes, is  
2 amended to read:  
3           715.106 Form of notice to owner other than former  
4 tenant.--  
5           (1) A notice which is in substantially the following  
6 form given to a person who is not the former tenant and whom  
7 the landlord reasonably believes to be the owner of any of the  
8 abandoned personal property satisfies the requirements of s.  
9 715.104:  
10  
11           Notice of Right to Reclaim Abandoned Property  
12           To:   ...(Name)...  
13           ...(Address)...  
14           When ...(name of former tenant)... vacated the premises  
15 at ...(address of premises, including room or apartment  
16 number, if any)..., the following personal property remained:  
17 ...(insert description of personal property)....  
18           If you own any of this property, you may claim it at  
19 ...(address where property may be claimed).... Unless you pay  
20 the reasonable costs of storage and advertising, if any, and  
21 take possession of the property to which you are entitled, not  
22 later than ...(insert date not fewer than 10 days after notice  
23 is personally delivered or, if mailed, not fewer than 15 days  
24 after notice is deposited in the mail)..., this property may  
25 be disposed of pursuant to s. 715.109.  
26           (Insert here the statement required by subsection (2))  
27           Dated:....                           ...(Signature of landlord)...  
28           ...(Type or print name of landlord)...  
29           ...(Telephone number)...  
30           ...(Address)...  
31

1           (2) The notice set forth in subsection (1) shall also  
2 contain one of the following statements:

3           (a) "If you fail to reclaim the property, it will be  
4 sold at a public sale after notice of the sale has been given  
5 by publication. You have the right to bid on the property at  
6 this sale. After the property is sold and the costs of  
7 storage, advertising, and sale are deducted, the remaining  
8 money will be paid over to the county. You may claim the  
9 remaining money at any time within 1 year after the county  
10 receives the money."

11           (b) "Because this property is believed to be worth  
12 less than \$500~~\$250~~, it may be kept, sold, or destroyed  
13 without further notice if you fail to reclaim it within the  
14 time indicated above."

15           Section 5. Subsection (1) of section 715.109, Florida  
16 Statutes, is amended to read:

17           715.109 Sale or disposition of abandoned property.--

18           (1) If the personal property described in the notice  
19 is not released pursuant to s. 715.108, it shall be sold at  
20 public sale by competitive bidding. However, if the landlord  
21 reasonably believes that the total resale value of the  
22 property not released is less than \$500~~\$250~~, she or he may  
23 retain such property for her or his own use or dispose of it  
24 in any manner she or he chooses. Nothing in this section  
25 shall be construed to preclude the landlord or tenant from  
26 bidding on the property at the public sale. The successful  
27 bidder's title is subject to ownership rights, liens, and  
28 security interests which have priority by law.

29           Section 6. This act shall take effect July 1, 2000.  
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SENATE SUMMARY

Modifies various provisions relating to rights of landlords and tenants. Provides that, unless otherwise agreed to in writing, a tenant shall receive at least 50 percent of accumulated interest paid on security deposits or 5 percent per year simple interest as the landlord chooses. Provides that a landlord may keep remaining interest. Provides that a landlord's surety bond must be for the benefit of the tenant unless otherwise agreed to in writing. Increases the number of days a landlord has to return a tenant's security deposit. Specifies such time in the notice to the tenant. Increases the tenant's time to object. Provides that a landlord is not responsible for storage or disposition of a tenant's personal property upon the tenant's eviction if provided in the rental agreement. Increases to \$500 the value of abandoned property that may be kept, sold, or destroyed if not reclaimed by a tenant on the form of notice to a former tenant and the form of notice to an owner other than a former tenant. Authorizes a landlord to keep abandoned property valued at less than \$500.