

By the Committee on Judiciary and Senator Grant

308-1135-00

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; notifying  
9           a tenant of his or her rights and objections by  
10          a tenant; providing time for payment of  
11          interest to tenant; amending s. 83.67, F.S.;  
12          providing that a landlord is not required to  
13          comply with s. 715.104, F.S.; amending ss.  
14          715.105, 715.106, F.S.; increasing the value of  
15          abandoned property that may be kept, sold, or  
16          destroyed if not reclaimed on the form of  
17          notice to a former tenant and the form of  
18          notice to an owner other than a former tenant;  
19          amending s. 715.109, F.S.; authorizing a  
20          landlord to keep for his or her own use  
21          abandoned property of less than a specified  
22          value; providing an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

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26           Section 1. Subsection (1), paragraphs (a) and (b) of  
27 subsection (3), and subsection (9) of section 83.49, Florida  
28 Statutes, are amended to read:

29           83.49 Deposit money or advance rent; duty of landlord  
30 and tenant.--

31

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

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

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

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

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

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

1 deposit and the reason for imposing the claim. The notice  
2 shall contain a statement in substantially the following form:

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

12  
13 If the landlord fails to give the required notice within the  
14 30-day ~~15-day~~ period, he or she forfeits the right to impose a  
15 claim upon the security deposit.

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

23 (9) In those cases in which interest is required to be  
24 paid to the tenant, the landlord shall pay the interest owed  
25 directly to the tenant upon return of the security deposit, ~~or~~  
26 ~~credit against the current month's rent, the interest due to~~  
27 ~~the tenant at least once annually.~~ However, no interest shall  
28 be due a tenant who wrongfully terminates his or her tenancy  
29 prior to the end of the rental term.

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

1           83.67 Prohibited practices.--

2           (3) No landlord of any dwelling unit governed by this  
3 part shall remove the outside doors, locks, roof, walls, or  
4 windows of the unit except for purposes of maintenance,  
5 repair, or replacement; nor shall the landlord remove the  
6 tenant's personal property from the dwelling unit unless said  
7 action is taken after surrender, abandonment, or a lawful  
8 eviction. If provided in the rental agreement or a written  
9 agreement separate from the rental agreement, upon surrender  
10 or abandonment by the tenant, the landlord is ~~shall~~ not  
11 required to comply with s. 715.104 and is not ~~be~~ liable or  
12 responsible for storage or disposition of the tenant's  
13 personal property; if provided in the rental agreement there  
14 must ~~shall~~ be printed or clearly stamped on such rental  
15 agreement a legend in substantially the following form:

16

17 BY SIGNING THIS RENTAL AGREEMENT THE TENANT AGREES THAT UPON  
18 SURRENDER OR ABANDONMENT, AS DEFINED BY THE FLORIDA STATUTES,  
19 THE LANDLORD SHALL NOT BE LIABLE OR RESPONSIBLE FOR STORAGE OR  
20 DISPOSITION OF THE TENANT'S PERSONAL PROPERTY.

21

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

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

25           715.105 Form of notice to former tenant.--

26           (1) A notice to the former tenant which is in  
27 substantially the following form satisfies the requirements of  
28 s. 715.104:

29

30           Notice of Right to Reclaim Abandoned Property

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

1       ...(Address of former tenant)...

2               When you vacated the premises at ...(address of  
3 premises, including room or apartment number, if any)..., the  
4 following personal property remained: ...(insert description  
5 of personal property)....

6               You may claim this property at ...(address where  
7 property may be claimed)....

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

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

20  
21               (2) The notice set forth in subsection (1) shall also  
22 contain one of the following statements:

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

31

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

5 Section 4. Section 715.106, Florida Statutes, is  
6 amended to read:

7 715.106 Form of notice to owner other than former  
8 tenant.--

9 (1) A notice which is in substantially the following  
10 form given to a person who is not the former tenant and whom  
11 the landlord reasonably believes to be the owner of any of the  
12 abandoned personal property satisfies the requirements of s.  
13 715.104:

14  
15 Notice of Right to Reclaim Abandoned Property

16 To: ...(Name)...

17 ...(Address)...

18 When ...(name of former tenant)... vacated the premises  
19 at ...(address of premises, including room or apartment  
20 number, if any)..., the following personal property remained:  
21 ...(insert description of personal property)....

22 If you own any of this property, you may claim it at  
23 ...(address where property may be claimed).... Unless you pay  
24 the reasonable costs of storage and advertising, if any, and  
25 take possession of the property to which you are entitled, not  
26 later than ...(insert date not fewer than 10 days after notice  
27 is personally delivered or, if mailed, not fewer than 15 days  
28 after notice is deposited in the mail)..., this property may  
29 be disposed of pursuant to s. 715.109.

30 (Insert here the statement required by subsection (2))

31 Dated:.... ...(Signature of landlord)...

1           ...(Type or print name of landlord)...

2           ...(Telephone number)...

3           ...(Address)...

4

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

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

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

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

21           715.109 Sale or disposition of abandoned property.--

22           (1) If the personal property described in the notice  
23 is not released pursuant to s. 715.108, it shall be sold at  
24 public sale by competitive bidding. However, if the landlord  
25 reasonably believes that the total resale value of the  
26 property not released is less than ~~\$500~~\$250, she or he may  
27 retain such property for her or his own use or dispose of it  
28 in any manner she or he chooses. Nothing in this section  
29 shall be construed to preclude the landlord or tenant from  
30 bidding on the property at the public sale. The successful  
31



1 bidder's title is subject to ownership rights, liens, and  
2 security interests which have priority by law.

3 Section 6. This act shall take effect July 1, 2000.

4  
5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
6 COMMITTEE SUBSTITUTE FOR  
7 SB 696

8 Clarifies the bill's provision that landlords and tenants can  
9 agree to provisions regarding interest on security deposits  
10 other than those stated in s. 83.49(1)(b), F.S., when they  
11 agree to do so in a written instrument separate from the  
12 rental agreement.

13 Removes the provisions from the bill which would allow  
14 landlords and tenants to agree in writing to conditions, other  
15 than those specified in s. 83.49(1)(c), F.S., on bonds for  
16 security deposits.

17 Removes the provisions from the bill which would change the  
18 time a tenant has to object to a landlord's claim on the  
19 tenant's security deposit. The committee substitute does not  
20 change the existing time of 15 days currently provided for in  
21 s. 83.49(3)(b), F.S. Also, the committee substitute removes  
22 the provision from the bill which would require landlords to  
23 return security deposits to tenants within 45 days of the  
24 notice to impose a claim on the security deposit and restores  
25 the 30 days currently provided for in s. 83.49(3)(b), F.S.

26 Conforms subsection (9) of s. 83.49, F.S., with the bill's  
27 provision in subsection (1)(b) of s. 83.49, F.S., which  
28 requires landlords to pay interest on security deposits to the  
29 tenant when the security deposit is returned to the tenant.

30 Removes the bill's provision in s. 83.67(3), F.S., which would  
31 have allowed landlords, after a tenant has been evicted, to  
avoid liability for the storage or disposition of the tenant's  
personal property if written notice of the same is given to  
the tenant.