

765-103AX-06

Bill No. CS for SB 838, 1st Eng.

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

11 Representative(s) Haridopolos offered the following:

**Amendment (with title amendment)**

14 Remove from the bill: Everything after the enacting clause  
15  
16 and insert in lieu thereof:

17 Section 1. Subsection (3) of section 83.49, Florida  
18 Statutes, is amended to read:

19 83.49 Deposit money or advance rent; duty of landlord  
20 and tenant.--

21 (3)(a) Upon the vacating of the premises for  
22 termination of the lease, if the landlord does not intend to  
23 impose a claim on the security deposit,the landlord shall  
24 have 15 days to return the security deposit together with  
25 interest if otherwise required, or the landlord shall have 30  
26 days in which to give the tenant written notice by certified  
27 mail to the tenant's last known mailing address of his or her  
28 intention to impose a claim on the deposit and the reason for  
29 imposing the claim. The notice shall contain a statement in  
30 substantially the following form:

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

10 If the landlord fails to give the required notice within the  
11 30-day ~~15-day~~ period, he or she forfeits the right to impose a  
12 claim upon the security deposit.

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

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

25           (d) Compliance with this section by an individual or  
26 business entity authorized to conduct business in this state,  
27 including Florida-licensed real estate brokers and  
28 salespersons, shall constitute compliance with all other  
29 relevant Florida Statutes pertaining to security deposits held  
30 pursuant to a rental agreement or other landlord-tenant  
31 relationship. Enforcement personnel shall look solely to this

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1 section to determine compliance. This section prevails over  
2 any conflicting provisions in chapter 475 and in other  
3 sections of the Florida Statutes, and shall operate to permit  
4 licensed real estate brokers to disburse security deposits and  
5 deposit money without having to comply with the notice and  
6 settlement procedures contained in s. 475.25(1)(d).

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

9 83.67 Prohibited practices.--

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

24  
25 BY SIGNING THIS RENTAL AGREEMENT THE TENANT AGREES THAT UPON  
26 SURRENDER OR ABANDONMENT, AS DEFINED BY CHAPTER 83, THE  
27 FLORIDA STATUTES, THE LANDLORD SHALL NOT BE LIABLE OR  
28 RESPONSIBLE FOR STORAGE OR DISPOSITION OF THE TENANT'S  
29 PERSONAL PROPERTY.

30

31 For the purposes of this section, abandonment shall be as set

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1 forth in s. 83.59(3)(c).

2 Section 3. Section 715.105, Florida Statutes, is  
3 amended to read:

4 715.105 Form of notice to former tenant.--

5 (1) A notice to the former tenant which is in  
6 substantially the following form satisfies the requirements of  
7 s. 715.104:

8  
9 Notice of Right to Reclaim Abandoned Property

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

11 ...(Address of former tenant)...

12 When you vacated the premises at ...(address of  
13 premises, including room or apartment number, if any)..., the  
14 following personal property remained: ...(insert description  
15 of personal property)....

16 You may claim this property at ...(address where  
17 property may be claimed)....

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

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

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

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

28 ...(Telephone number)...

29 ...(Address)...

30

31 (2) The notice set forth in subsection (1) shall also

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1 contain one of the following statements:

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

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

14 Section 4. Section 715.106, Florida Statutes, is  
15 amended to read:

16 715.106 Form of notice to owner other than former  
17 tenant.--

18 (1) A notice which is in substantially the following  
19 form given to a person who is not the former tenant and whom  
20 the landlord reasonably believes to be the owner of any of the  
21 abandoned personal property satisfies the requirements of s.  
22 715.104:

23  
24 Notice of Right to Reclaim Abandoned Property

25 To: ...(Name)...

26 ...(Address)...

27 When ...(name of former tenant)... vacated the premises  
28 at ...(address of premises, including room or apartment  
29 number, if any)..., the following personal property remained:  
30 ...(insert description of personal property)....

31 If you own any of this property, you may claim it at

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1 ...(address where property may be claimed).... Unless you pay  
 2 the reasonable costs of storage and advertising, if any, and  
 3 take possession of the property to which you are entitled, not  
 4 later than ...(insert date not fewer than 10 days after notice  
 5 is personally delivered or, if mailed, not fewer than 15 days  
 6 after notice is deposited in the mail)...., this property may  
 7 be disposed of pursuant to s. 715.109.

8 (Insert here the statement required by subsection (2))  
 9 Dated:.... ...(Signature of landlord)...  
 10 ...(Type or print name of landlord)...  
 11 ...(Telephone number)...  
 12 ...(Address)...

13

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

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

24 (b) "Because this property is believed to be worth  
 25 less than ~~\$500~~<sup>\$250</sup>, it may be kept, sold, or destroyed  
 26 without further notice if you fail to reclaim it within the  
 27 time indicated above."

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

30 715.109 Sale or disposition of abandoned property.--

31 (1) If the personal property described in the notice

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1 is not released pursuant to s. 715.108, it shall be sold at  
2 public sale by competitive bidding. However, if the landlord  
3 reasonably believes that the total resale value of the  
4 property not released is less than ~~\$500~~~~\$250~~, she or he may  
5 retain such property for her or his own use or dispose of it  
6 in any manner she or he chooses. Nothing in this section  
7 shall be construed to preclude the landlord or tenant from  
8 bidding on the property at the public sale. The successful  
9 bidder's title is subject to ownership rights, liens, and  
10 security interests which have priority by law.

11 Section 6. (1) Any member of the United States Armed  
12 Forces who is required to move pursuant to permanent change of  
13 station orders to depart 35 miles or more from the location of  
14 a rental premises or who is prematurely or involuntarily  
15 discharged or released from active duty with the United States  
16 Armed Forces may terminate his or her rental agreement by  
17 providing the landlord with a written notice of termination to  
18 be effective on the date stated in the notice that is at least  
19 30 days after the landlord's receipt of the notice. The notice  
20 to the landlord must be accompanied by either a copy of the  
21 official military orders or a written verification signed by  
22 the member's commanding officer.

23 (2) Upon termination of a rental agreement under this  
24 section, the tenant is liable for the rent due under the  
25 rental agreement prorated to the effective date of the  
26 termination payable at such time as would have otherwise been  
27 required by the terms of the rental agreement. The tenant is  
28 not liable for any other rent or damages due to the early  
29 termination of the tenancy except the liquidated damages  
30 provided in this section. If a tenant terminates the rental  
31 agreement pursuant to this section 14 or more days prior to

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1 occupancy, no damages or penalties of any kind are due.  
2 (3) In consideration of early termination of the  
3 rental agreement, the tenant is liable to the landlord for  
4 liquidated damages provided the tenant has completed less than  
5 9 months of the tenancy and the landlord has suffered actual  
6 damages due to loss of the tenancy. The liquidated damages  
7 must be no greater than 1 month's rent if the tenant has  
8 completed less than 6 months of the tenancy as of the  
9 effective date of termination, or one-half of 1 month's rent  
10 if the tenant has completed at least 6 but not less than 9  
11 months of the tenancy as of the effective date of termination.

12 (4) The provisions of this section may not be waived  
13 or modified by the agreement of the parties under any  
14 circumstances.

15 Section 7. Subsection (13) is added to section  
16 475.011, Florida Statutes, to read:

17 475.011 Exemptions.--This part does not apply to:

18 (13) Any property management firm or any owner of an  
19 apartment complex for the act of paying a finder's fee or  
20 referral fee to an unlicensed person who is a tenant in such  
21 apartment complex provided the value of the fee does not  
22 exceed \$50 per transaction. Nothing in this subsection  
23 authorizes an unlicensed person to advertise or otherwise  
24 promote the person's services in procuring or assisting in  
25 procuring prospective lessees or tenants of apartment units.  
26 For purposes of this subsection, "finder's fee" or "referral  
27 fee" means a fee paid, credit towards rent, or some other  
28 thing of value provided to a person for introducing or  
29 arranging an introduction between parties to a transaction  
30 involving the rental or lease of an apartment unit. It is a  
31 violation of s. 475.25(1)(h) and punishable under s. 475.42



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1 for a property management firm or any owner of an apartment  
2 complex to pay a finder's fee or a referral fee to an  
3 unlicensed person unless expressly authorized by this  
4 subsection.

5 Section 8. This act shall take effect July 1, 2001.

6  
7  
8 ===== T I T L E A M E N D M E N T =====

9 And the title is amended as follows:

10 On page 1, lines 2-13,  
11 remove from the title of the bill: all of said lines  
12  
13 and insert in lieu thereof:

14 An act relating to landlord and tenant;  
15 amending s. 83.49, F.S.; increasing the time  
16 period within which a landlord must notify a  
17 tenant of the intention to impose a claim on a  
18 security deposit; amending s. 83.67, F.S.;  
19 exempting certain landlords from a requirement  
20 to give notice to former tenants regarding  
21 personal property; amending ss. 715.105,  
22 715.106, and 715.109, F.S.; increasing the  
23 value of abandoned personal property that may  
24 be kept, sold, or destroyed by a landlord;  
25 conforming notice provisions; providing for  
26 termination of a rental agreement by a member  
27 of the United States Armed Forces; amending s.  
28 475.011, F.S.; providing an additional  
29 exemption for certain activities; providing an  
30 effective date.

31