

By Senator Saunders

25-408-01

1 A bill to be entitled
2 An act relating to landlord and tenant;
3 amending s. 83.49, F.S.; increasing the time
4 period within which a landlord must return a
5 security deposit; amending s. 83.67, F.S.;
6 exempting certain landlords from a requirement
7 to give notice to former tenants regarding
8 personal property; amending ss. 715.105,
9 715.106, 715.109, F.S.; increasing the value of
10 abandoned personal property that may be kept,
11 sold, or destroyed by a landlord; conforming
12 notice provisions; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Subsection (3) of section 83.49, Florida
17 Statutes, is amended to read:

18 83.49 Deposit money or advance rent; duty of landlord
19 and tenant.--

20 (3)(a) Upon the vacating of the premises for
21 termination of the lease, the landlord shall have 30 ~~±5~~ days
22 to return the security deposit together with interest if
23 otherwise required, or in which to give the tenant written
24 notice by certified mail to the tenant's last known mailing
25 address of his or her intention to impose a claim on the
26 deposit and the reason for imposing the claim. The notice
27 shall contain a statement in substantially the following form:

28
29 This is a notice of my intention to impose a claim for
30 damages in the amount of upon your security deposit, due
31 to It is sent to you as required by s. 83.49(3), Florida

1 Statutes. You are hereby notified that you must object in
2 writing to this deduction from your security deposit within 15
3 days from the time you receive this notice or I will be
4 authorized to deduct my claim from your security deposit.
5 Your objection must be sent to ...(landlord's address)....

6
7 If the landlord fails to give the required notice within the
8 30-day ~~15-day~~ period, he or she forfeits the right to impose a
9 claim upon the security deposit.

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

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

22 (d) Compliance with this section by an individual or
23 business entity authorized to conduct business in this state,
24 including Florida-licensed real estate brokers and
25 salespersons, shall constitute compliance with all other
26 relevant Florida Statutes pertaining to security deposits held
27 pursuant to a rental agreement or other landlord-tenant
28 relationship. Enforcement personnel shall look solely to this
29 section to determine compliance. This section prevails over
30 any conflicting provisions in chapter 475 and in other
31 sections of the Florida Statutes, and shall operate to permit

1 licensed real estate brokers to disburse security deposits and
2 deposit money without having to comply with the notice and
3 settlement procedures contained in s. 475.25(1)(d).

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

6 83.67 Prohibited practices.--

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

21
22 BY SIGNING THIS RENTAL AGREEMENT THE TENANT AGREES THAT UPON
23 SURRENDER OR ABANDONMENT, AS DEFINED BY THE FLORIDA STATUTES,
24 THE LANDLORD SHALL NOT BE LIABLE OR RESPONSIBLE FOR STORAGE OR
25 DISPOSITION OF THE TENANT'S PERSONAL PROPERTY.

26
27 For the purposes of this section, abandonment shall be as set
28 forth in s. 83.59(3)(c).

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

31 715.105 Form of notice to former tenant.--

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

4
5 Notice of Right to Reclaim Abandoned Property

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

7 ...(Address of former tenant)...

8 When you vacated the premises at ...(address of
9 premises, including room or apartment number, if any)..., the
10 following personal property remained: ...(insert description
11 of personal property)....

12 You may claim this property at ...(address where
13 property may be claimed)....

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

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

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

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

24 ...(Telephone number)...

25 ...(Address)...

26
27 (2) The notice set forth in subsection (1) shall also
28 contain one of the following statements:

29 (a) "If you fail to reclaim the property, it will be
30 sold at a public sale after notice of the sale has been given
31 by publication. You have the right to bid on the property at

1 this sale. After the property is sold and the costs of
2 storage, advertising, and sale are deducted, the remaining
3 money will be paid over to the county. You may claim the
4 remaining money at any time within 1 year after the county
5 receives the money."

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

10 Section 4. Section 715.106, Florida Statutes, is
11 amended to read:

12 715.106 Form of notice to owner other than former
13 tenant.--

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

19
20 Notice of Right to Reclaim Abandoned Property

21 To: ...(Name)...

22 ...(Address)...

23 When ...(name of former tenant)... vacated the premises
24 at ...(address of premises, including room or apartment
25 number, if any)..., the following personal property remained:
26 ...(insert description of personal property)....

27 If you own any of this property, you may claim it at
28 ...(address where property may be claimed).... Unless you pay
29 the reasonable costs of storage and advertising, if any, and
30 take possession of the property to which you are entitled, not
31 later than ...(insert date not fewer than 10 days after notice

1 is personally delivered or, if mailed, not fewer than 15 days
2 after notice is deposited in the mail)..., this property may
3 be disposed of pursuant to s. 715.109.

4 (Insert here the statement required by subsection (2))
5 Dated:.... ...(Signature of landlord)...
6 ...(Type or print name of landlord)...
7 ...(Telephone number)...
8 ...(Address)...

9

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

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

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

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

26 715.109 Sale or disposition of abandoned property.--

27 (1) If the personal property described in the notice
28 is not released pursuant to s. 715.108, it shall be sold at
29 public sale by competitive bidding. However, if the landlord
30 reasonably believes that the total resale value of the
31 property not released is less than \$500~~\$250~~, she or he may

1 retain such property for her or his own use or dispose of it
2 in any manner she or he chooses. Nothing in this section
3 shall be construed to preclude the landlord or tenant from
4 bidding on the property at the public sale. The successful
5 bidder's title is subject to ownership rights, liens, and
6 security interests which have priority by law.

7 Section 6. This act shall take effect July 1, 2001.

8
9 *****

10 SENATE SUMMARY

11 Revises provisions relating to landlords and tenants.
12 Increases the time limit within which a landlord must
13 return a security deposit. Exempts certain landlords from
14 a notice requirement regarding personal property.
15 Increases the value of abandoned property that may be
16 kept, sold, or destroyed by a landlord and conforms
17 certain notice provisions to such changes.
18
19
20
21
22
23
24
25
26
27
28
29
30
31