

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2666

SPONSOR: Senator Aronberg

SUBJECT: Landlords & Tenants

DATE: April 5, 2004

REVISED: 04/13/04 \_\_\_\_\_

|    | ANALYST       | STAFF DIRECTOR | REFERENCE | ACTION                 |
|----|---------------|----------------|-----------|------------------------|
| 1. | <u>Cibula</u> | <u>Lang</u>    | <u>JU</u> | <u>Fav/1 amendment</u> |
| 2. | _____         | _____          | <u>RI</u> | _____                  |
| 3. | _____         | _____          | _____     | _____                  |
| 4. | _____         | _____          | _____     | _____                  |
| 5. | _____         | _____          | _____     | _____                  |
| 6. | _____         | _____          | _____     | _____                  |

## I. Summary:

The bill clarifies that rental agreements with a specific duration may require liquidated damages to be paid by a tenant for failure to timely notify the landlord that the dwelling unit will be vacated at the end of the lease.

The bill requires a landlord to satisfy certain procedural requirements before the landlord may impose liquidated damages on a tenant who fails to timely notify the landlord that the dwelling unit will be vacated at the end of the rental agreement. Under the bill, a landlord must notify a tenant in writing of the obligations in the rental agreement to provide notice that the dwelling unit will be vacated at the end of the rental agreement. This notice must be provided to the tenant within 15 days before the date by which a notice of vacating the dwelling unit is due to the landlord. The notice must list all fees, penalties, and other charges that may be imposed for failing to timely notify the landlord that the dwelling unit will be vacated at the end of the rental agreement.

This bill substantially amends section 83.575, Florida Statutes.

## II. Present Situation:

### FLORIDA'S LANDLORD – TENANT LAW

Part II of chapter 83, F.S., entitled “Florida Residential Landlord and Tenant Act” (act) governs the relationship between landlords and tenants in a residential lease agreement.<sup>1</sup> The provision of the act specifically addresses the payment of rent,<sup>2</sup> duration of leases,<sup>3</sup> security deposits,<sup>4</sup> maintenance of the dwelling and premises,<sup>5</sup> and termination of rental agreements.<sup>6</sup>

Section 83.67, F.S., prohibits certain acts by a landlord in a residential lease. Specifically, the following acts are prohibited:

- Terminating or interrupting of any utility service furnished to the tenant;
- Denying tenant reasonable access to the dwelling, e.g., changing the locks;
- Discriminating against a service member in offering the dwelling for rent or in any of the terms in the rental agreement; and
- Removing outside doors, locks, roof, walls, windows, or removing the tenants’ personal property unless taken pursuant to surrender, abandonment or a lawful eviction.

A landlord who violates any of these provisions is liable for actual and consequential damages or three months’ rent, whichever is greater. The landlord is also liable for costs and attorney’s fees.<sup>7</sup>

Section 83.575, F.S., provides that a rental agreement with a specific duration may contain a provision requiring the tenant to notify the landlord before vacating the premises at the end of the agreement.<sup>8</sup> The rental agreement may not require more than 60 days’ notice before vacating the premises.<sup>9</sup>

Section 83.575(2), F.S., provides that the rental agreement may provide that the tenant may be liable for liquidated damages if the tenant fails to give the required notice before vacating the premises at the end of the rental agreement. The liquidated damages are determined as specified in the rental agreement.<sup>10</sup> Additionally, the section provides that if the tenant remains in the rental unit after the termination of the rental agreement with the landlord’s permission in a month to month tenancy and fails to give 15-days notice before vacating the dwelling unit, the tenant is liable to the landlord for one month’s rent.<sup>11</sup>

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<sup>1</sup> This part applies to the rental of a “dwelling unit” which is defined as a structure or part of a structure rented for use as a home, residence or sleeping place. It also includes mobile homes rented by a tenant. *See* s. 83.43, F.S.

<sup>2</sup> *See* 83.46, F.S.

<sup>3</sup> *Id.*

<sup>4</sup> *See* s. 83.49, F.S.

<sup>5</sup> *See* s. 83.51 and s. 83.52, F.S.

<sup>6</sup> *See* s. 83.56, F.S.

<sup>7</sup> *See* s. 83.67(5), F.S.

<sup>8</sup> *See* s. 83.575(1), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> *See* s. 83.575(2), F.S.

<sup>11</sup> *See* 83.575(3), F.S.

It has been reported that s. 83.575, F.S., provides for the potential abuse by landlords to employ predatory practices to impose and collect fees from tenants.<sup>12</sup> The section currently allows for a landlord to collect liquidated damages from a tenant if the tenant fails to give notice before vacating the premises if notice is required by the rental agreement.<sup>13</sup>

### **III. Effect of Proposed Changes:**

The bill clarifies that the rental agreements under which liquidated damages may be imposed on a tenant who fails to timely notify the landlord that the dwelling unit will be vacated at the end of the rental agreement are those agreements with a specific duration.

The bill requires a landlord to satisfy certain procedural requirements before the landlord may impose liquidated damages on a tenant who fails to timely notify the landlord that the dwelling unit will be vacated at the end of the rental agreement. Under the bill, a landlord must notify a tenant in writing of the obligations in the rental agreement to provide notice that the dwelling unit will be vacated at the end of the rental agreement. This notice must be provided to the tenant within 15 days before the date by which a notice of vacating the dwelling unit is due to the landlord and list all fees, penalties, and other charges that may be imposed for failing to timely notify the landlord that the dwelling unit will be vacated at the end of the rental agreement.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Economic Impact and Fiscal Note:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

This bill could have a negative fiscal impact on owners/operators of rental properties because it establishes a duty to provide written notice to the tenant of the tenants' obligations. To the extent that the owners/operators fail to meet the requirements of notice this bill requires, they may not be able to recover liquidated damages from tenants who move at the end of the rental agreement.

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<sup>12</sup> See "Well-heeled landlords have a new weapon." *The Sun-Sentinel*, Douglas C. Lyons, March 6, 2004.

<sup>13</sup> See s. 83.575(2), F.S.

However, the fiscal impact of this bill on owners/operators of rental properties is indeterminate because it is unknown how many of these parties are affected and what amounts are stated as liquidated damages in such rental agreements.

This bill could have a positive fiscal impact on tenants because they will receive a written notice of their obligations before any liquidated damages could potentially be assessed against them.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Judiciary:

Makes a technical amendment clarifying that the tenant is responsible for applicable liquidated damages.