

Bill No. SB 636

Barcode 852352

CHAMBER ACTION

Senate

House

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The Committee on Judiciary (Clary) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Subsection (7) of section 83.43, Florida Statutes, is amended, and subsection (17) is added to that section, to read:

83.43 Definitions.--As used in this part, the following words and terms shall have the following meanings unless some other meaning is plainly indicated:

(7) "Rental agreement" means any written agreement, including amendments or addenda, or oral agreement if for less duration than 1 year, providing for use and occupancy of premises.

(17) "Early termination fee" means any charge, fee, or forfeiture, contained in a written rental agreement, which is assessed to a tenant when a tenant vacates a dwelling unit before the end of the rental agreement. An early termination

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1 fee does not include:

2 (a) Charges for services actually rendered to the
3 tenant.

4 (b) Unpaid rent through the end of the month in which
5 the tenant occupied the dwelling unit.

6 (c) Charges for damages to the dwelling unit.

7 Section 2. Section 83.595, Florida Statutes, is
8 amended to read:

9 83.595 Choice of remedies upon breach or early
10 termination by tenant.--

11 (1) If the tenant breaches the rental agreement ~~lease~~
12 for the dwelling unit and the landlord has obtained a writ of
13 possession, or the tenant has surrendered possession of the
14 dwelling unit to the landlord, or the tenant has abandoned the
15 dwelling unit, the landlord may:

16 (a) Treat the rental agreement ~~lease~~ as terminated and
17 retake possession for his or her own account, thereby
18 terminating any further liability of the tenant; ~~or~~

19 (b) Retake possession of the dwelling unit for the
20 account of the tenant, holding the tenant liable for the
21 difference between the rent ~~rental~~ stipulated to be paid under
22 the rental ~~lease~~ agreement and what, in good faith, the
23 landlord is able to recover from a reletting; ~~or~~

24 (c) Stand by and do nothing, holding the lessee liable
25 for the rent as it comes due; or.

26 (d)1. If provided for in the rental agreement, recover
27 liquidated damages upon the breach or charge the tenant a fee
28 for early termination of the rental agreement upon the
29 tenant's giving the landlord notice as provided for in the
30 rental agreement. The landlord shall be entitled to both
31 liquidated damages and an early termination fee, provided the

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1 combined total charged for liquidated damages and the early
 2 termination fee does not exceed an amount equal to 2 months'
 3 rent. The landlord shall treat such a rental agreement as
 4 terminated and charge the tenant liquidated damages or the
 5 early termination fee as specified in the rental agreement. In
 6 such event, the remedies set forth in paragraphs (a), (b), and
 7 (c) are not available to the landlord. This subparagraph shall
 8 not apply when the breach is failure to give notice at the end
 9 of the rental agreement as provided in s. 83.575.

10 2. The tenant shall indicate acceptance of an early
 11 termination fee or liquidated damages provision in the rental
 12 agreement. Acceptance for purposes of this subparagraph shall
 13 include, but not be limited to, the tenant's placing his or
 14 her initials next to the provision or otherwise indicating his
 15 or her agreement with the provision. If acceptance is not
 16 indicated, the remedies in paragraph (a), paragraph (b), or
 17 paragraph (c) apply.

18 (2) The landlord may charge the tenant for any unpaid
 19 rent, other charges due under the rental agreement through the
 20 end of the month in which the landlord retakes possession of
 21 the dwelling unit, and any rental concessions that the tenant
 22 has received. For purposes of this subsection, the term
 23 "rental concessions" means any amount contained in the rental
 24 agreement by which all or a portion of the base rent or
 25 options is reduced or any service or thing of value is given
 26 in consideration for the tenant's entering into the rental
 27 agreement.

28 ~~(3)~~(2) If the landlord retakes possession of the
 29 dwelling unit for the account of the tenant pursuant to
 30 paragraph (1)(b), the landlord has a duty to exercise good
 31 faith in attempting to relet the premises, and any rent

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1 ~~rentals~~ received by the landlord as a result of the reletting
2 shall be deducted from the balance of rent due from the
3 tenant. For purposes of this section, "good faith in
4 attempting to relet the premises" means that the landlord
5 shall use at least the same efforts to relet the premises as
6 were used in the initial rental or at least the same efforts
7 as the landlord uses in attempting to rent ~~lease~~ other similar
8 rental units but does not require the landlord to give a
9 preference in leasing the premises over other vacant dwelling
10 units that the landlord owns or has the responsibility to
11 rent.

12 Section 3. This act applies to any rental agreement
13 entered into prior to the effective date of this act in which
14 the parties agree to the remedies authorized in this act,
15 except that s. 83.595(1)(d)2., Florida Statutes, applies to
16 any rental agreement entered into on or after the effective
17 date of this act. However, this act does not invalidate any
18 liquidated damages or early termination fee in any rental
19 agreement entered into prior to the effective date of this
20 act.

21 Section 4. This act shall take effect upon becoming a
22 law.

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25 ===== T I T L E A M E N D M E N T =====

26 And the title is amended as follows:

27 Delete everything before the enacting clause

28
29 and insert:

30 A bill to be entitled
31 An act relating to residential tenancies;

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1 amending s. 83.43, F.S.; revising and providing
2 definitions; amending s. 83.595, F.S.; allowing
3 a landlord to terminate a rental agreement and
4 recover liquidated damages for breach of the
5 agreement or charge the tenant an early
6 termination fee, or both, under certain
7 circumstances; providing a limit on the
8 combined total damages and fee; requiring the
9 tenant to indicate acceptance of an early
10 termination fee or liquidated damaged provision
11 in the rental agreement; specifying liability
12 of the tenant for rent, other charges otherwise
13 due, and rental concessions under certain
14 circumstances; providing applicability and
15 certain retroactive effect; providing that the
16 act does not invalidate any liquidated damages
17 or early termination fee in any rental
18 agreement entered into prior to the effective
19 date of the act; providing an effective date.

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