

1                                   A bill to be entitled  
 2       An act relating to residential tenancies; amending s.  
 3       83.43, F.S.; revising and providing definitions; amending  
 4       s. 83.56, F.S.; revising language with respect to waiver  
 5       of the right to terminate a rental agreement or bring a  
 6       civil action for noncompliance; amending s. 83.595, F.S.;  
 7       allowing a landlord to terminate a rental agreement and  
 8       recover liquidated damages or charge the tenant an early  
 9       termination fee for breach of the agreement, or both,  
 10      under certain circumstances; requiring the tenant to  
 11      indicate acceptance of an early termination fee or  
 12      liquidated-damages provision in the rental agreement in  
 13      order for the provision to take effect; providing a limit  
 14      on the combined total of damages and fee; providing  
 15      liability of the tenant for rent, other charges otherwise  
 16      due, and rental concessions; providing an effective date.

17  
 18 Be It Enacted by the Legislature of the State of Florida:  
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20           Section 1. Subsection (7) of section 83.43, Florida  
 21 Statutes, is amended, and subsection (17) is added to that  
 22 section, to read:

23           83.43 Definitions.--As used in this part, the following  
 24 words and terms shall have the following meanings unless some  
 25 other meaning is plainly indicated:

26           (7) "Rental agreement" means any written agreement,  
 27 including amendments or addenda, or oral agreement ~~if for a less~~  
 28 duration of less than 1 year, providing for use and occupancy of

29 premises.

30 (17) "Early termination fee" means any charge, fee, or  
 31 forfeiture that is provided for in a written rental agreement  
 32 and is assessed to a tenant when a tenant vacates a dwelling  
 33 unit before the end of the rental agreement. An early  
 34 termination fee does not include:

35 (a) Unpaid rent through the end of the month in which the  
 36 tenant occupied the dwelling unit.

37 (b) Charges for damages to the dwelling unit.

38 Section 2. Subsection (5) of section 83.56, Florida  
 39 Statutes, is amended to read:

40 83.56 Termination of rental agreement.--

41 (5) If the landlord accepts rent with actual knowledge of  
 42 a noncompliance by the tenant or accepts performance by the  
 43 tenant of any other provision of the rental agreement that is at  
 44 variance with its provisions, or if the tenant pays rent with  
 45 actual knowledge of a noncompliance by the landlord or accepts  
 46 performance by the landlord of any other provision of the rental  
 47 agreement that is at variance with its provisions, the landlord  
 48 or tenant waives his or her right to terminate the rental  
 49 agreement or to bring a civil action for that noncompliance, but  
 50 not for any subsequent or continuing noncompliance. Any tenant  
 51 who wishes to defend against an action by the landlord for  
 52 possession of the unit for noncompliance of the rental agreement  
 53 or of relevant statutes shall comply with the provisions in s.  
 54 83.60(2). The court may not set a date for mediation or trial  
 55 unless the provisions of s. 83.60(2) have been met, but shall  
 56 enter a default judgment for removal of the tenant with a writ

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57 of possession to issue immediately if the tenant fails to comply  
 58 with s. 83.60(2). This subsection does not apply to that portion  
 59 of rent subsidies or operating subsidies received from a local,  
 60 state, or national government or an agency of local, state, or  
 61 national government; however, waiver will occur if the landlord  
 62 does not serve initial statutory and regulatory notice to the  
 63 tenant of the noncompliance ~~an action has not been instituted~~  
 64 within 45 days after the landlord has discovered, or should have  
 65 reasonably discovered, of the noncompliance and instituted the  
 66 action within 15 days after expiration of the notice attached to  
 67 the complaint and exhaustion of all hearing rights.

68 Section 3. Section 83.595, Florida Statutes, is amended to  
 69 read:

70 83.595 Choice of remedies upon breach or early termination  
 71 by tenant.--

72 ~~(1)~~ If the tenant breaches the rental agreement ~~lease~~ for  
 73 the dwelling unit and the landlord has obtained a writ of  
 74 possession, or the tenant has surrendered possession of the  
 75 dwelling unit to the landlord, or the tenant has abandoned the  
 76 dwelling unit, the landlord may:

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

80 (2)(b) Retake possession of the dwelling unit for the  
 81 account of the tenant, holding the tenant liable for the  
 82 difference between the rent ~~rental~~ stipulated to be paid under  
 83 the rental ~~lease~~ agreement and what, ~~in good faith,~~ the landlord  
 84 is able to recover from a reletting. If the landlord retakes

85 possession, the landlord has a duty to exercise good faith in  
86 attempting to relet the premises, and any rent received by the  
87 landlord as a result of the reletting shall be deducted from the  
88 balance of rent due from the tenant. For purposes of this  
89 subsection, the term "good faith in attempting to relet the  
90 premises" means that the landlord uses at least the same efforts  
91 to relet the premises as were used in the initial rental or at  
92 least the same efforts as the landlord uses in attempting to  
93 rent other similar rental units but does not require the  
94 landlord to give a preference in renting the premises over other  
95 vacant dwelling units that the landlord owns or has the  
96 responsibility to rent; or

97 (3)(e) Stand by and do nothing, holding the lessee liable  
98 for the rent as it comes due; or

99 (4) If liquidated damages or an early termination fee is  
100 provided for in the rental agreement, treat the rental agreement  
101 as terminated and recover liquidated damages or charge an early  
102 termination fee upon the tenant's giving notice. This remedy is  
103 available only if the tenant, at the time the rental agreement  
104 was made, indicated acceptance of liquidated damages or an early  
105 termination fee by placing his or her signature or initials next  
106 to the provision in the agreement. If acceptance is not  
107 indicated, only the remedies available in subsection (1),  
108 subsection (2), or subsection (3) apply.

109 (a) The landlord is entitled to both liquidated damages  
110 and an early termination fee if the combined total charge does  
111 not exceed an amount equal to 2 months' rent.

112 (b) In addition to liquidated damages or an early

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113 termination fee, the landlord may charge the tenant for any  
114 unpaid rent and other charges due under the rental agreement  
115 through the end of the month in which the landlord retakes  
116 possession of the dwelling unit and any rent concessions that  
117 the tenant has received up to the maximum of 1 month's rent. For  
118 purposes of this paragraph, the term "rent concessions" means  
119 any amount contained in the rental agreement by which all or a  
120 portion of the base rent is reduced in consideration for the  
121 tenant's entering into the rental agreement.

122 (c) This subsection does not apply if the breach is  
123 failure to give notice as provided in s. 83.575.

124 ~~(2) If the landlord retakes possession of the dwelling~~  
125 ~~unit for the account of the tenant, the landlord has a duty to~~  
126 ~~exercise good faith in attempting to relet the premises, and any~~  
127 ~~rentals received by the landlord as a result of the reletting~~  
128 ~~shall be deducted from the balance of rent due from the tenant.~~  
129 ~~For purposes of this section, "good faith in attempting to relet~~  
130 ~~the premises" means that the landlord shall use at least the~~  
131 ~~same efforts to relet the premises as were used in the initial~~  
132 ~~rental or at least the same efforts as the landlord uses in~~  
133 ~~attempting to lease other similar rental units but does not~~  
134 ~~require the landlord to give a preference in leasing the~~  
135 ~~premises over other vacant dwelling units that the landlord owns~~  
136 ~~or has the responsibility to rent.~~

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