

ENROLLED

CS/HB 1277, Engrossed 1

2007 Legislature

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A bill to be entitled  
 An act relating to residential tenancies; amending s.  
 83.43, F.S.; revising and providing definitions; amending  
 s. 83.595, F.S.; allowing a landlord to terminate a rental  
 agreement and recover liquidated damages or charge the  
 tenant an early termination fee for breach of the  
 agreement, or both, under certain circumstances; requiring  
 the tenant to indicate acceptance of an early termination  
 fee or liquidated-damages provision in the rental  
 agreement in order for the provision to take effect;  
 providing a limit on the combined total of damages and  
 fee; providing liability of the tenant for rent, other  
 charges otherwise due, and rental concessions; providing  
 an effective date.

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

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 a less~~  
duration of less than 1 year, providing for use and occupancy of  
 premises.

(17) "Early termination fee" means any charge, fee, or

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29 forfeiture that is provided for in a written rental agreement  
 30 and is assessed to a tenant when a tenant vacates a dwelling  
 31 unit before the end of the rental agreement. An early  
 32 termination fee does not include:

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

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

36 Section 2. Section 83.595, Florida Statutes, is amended to  
 37 read:

38 83.595 Choice of remedies upon breach or early termination  
 39 by tenant.--

40 ~~(1)~~ If the tenant breaches the rental agreement lease for  
 41 the dwelling unit and the landlord has obtained a writ of  
 42 possession, or the tenant has surrendered possession of the  
 43 dwelling unit to the landlord, or the tenant has abandoned the  
 44 dwelling unit, the landlord may:

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

48 (2)(b) Retake possession of the dwelling unit for the  
 49 account of the tenant, holding the tenant liable for the  
 50 difference between the rent rental stipulated to be paid under  
 51 the rental lease agreement and what, ~~in good faith,~~ the landlord  
 52 is able to recover from a reletting. If the landlord retakes  
 53 possession, the landlord has a duty to exercise good faith in  
 54 attempting to relet the premises, and any rent received by the  
 55 landlord as a result of the reletting shall be deducted from the  
 56 balance of rent due from the tenant. For purposes of this

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57 subsection, the term "good faith in attempting to relet the  
 58 premises" means that the landlord uses at least the same efforts  
 59 to relet the premises as were used in the initial rental or at  
 60 least the same efforts as the landlord uses in attempting to  
 61 rent other similar rental units but does not require the  
 62 landlord to give a preference in renting the premises over other  
 63 vacant dwelling units that the landlord owns or has the  
 64 responsibility to rent; or

65 (3)~~(e)~~ Stand by and do nothing, holding the lessee liable  
 66 for the rent as it comes due; ~~or-~~

67 (4) If liquidated damages or an early termination fee are  
 68 provided for in the rental agreement, treat the rental agreement  
 69 as terminated and recover liquidated damages or charge an early  
 70 termination fee upon the tenant's giving notice. This remedy is  
 71 available only if the tenant, at the time the rental agreement  
 72 was made, indicated acceptance of liquidated damages or an early  
 73 termination fee by placing his or her signature or initials next  
 74 to the provision in the agreement. If acceptance is not  
 75 indicated, only the remedies available in subsection (1),  
 76 subsection (2), or subsection (3) apply.

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

80 (b) In addition to liquidated damages or an early  
 81 termination fee, the landlord may charge the tenant for any  
 82 unpaid rent and other charges due under the rental agreement  
 83 through the end of the month in which the landlord retakes  
 84 possession of the dwelling unit, and any rent concessions that

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85 the tenant has received up to the maximum of 1 month's rent. For  
86 purposes of this paragraph, the term "rent concessions" means  
87 any amount contained in the rental agreement by which all or a  
88 portion of the base rent is reduced in consideration for the  
89 tenant's entering into the rental agreement.

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

92 ~~(2) If the landlord retakes possession of the dwelling~~  
93 ~~unit for the account of the tenant, the landlord has a duty to~~  
94 ~~exercise good faith in attempting to relet the premises, and any~~  
95 ~~rentals received by the landlord as a result of the reletting~~  
96 ~~shall be deducted from the balance of rent due from the tenant.~~  
97 ~~For purposes of this section, "good faith in attempting to relet~~  
98 ~~the premises" means that the landlord shall use at least the~~  
99 ~~same efforts to relet the premises as were used in the initial~~  
100 ~~rental or at least the same efforts as the landlord uses in~~  
101 ~~attempting to lease other similar rental units but does not~~  
102 ~~require the landlord to give a preference in leasing the~~  
103 ~~premises over other vacant dwelling units that the landlord owns~~  
104 ~~or has the responsibility to rent.~~

105 Section 3. This act shall take effect upon becoming a law.