

By Senator Joyner

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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.

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

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

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

9 Section 2. Section 83.595, Florida Statutes, is
10 amended to read:

11 83.595 Choice of remedies upon breach or early
12 termination by tenant.--

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

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

21 ~~(2)(b)~~ Retake possession of the dwelling unit for the
22 account of the tenant, holding the tenant liable for the
23 difference between the rent rental stipulated to be paid under
24 the rental lease agreement and what, ~~in good faith,~~ the
25 landlord is able to recover from a reletting. If the landlord
26 retakes possession, the landlord has a duty to exercise good
27 faith in attempting to relet the premises, and any rentals
28 received by the landlord as a result of the reletting shall be
29 deducted from the balance of rent due from the tenant. For
30 purposes of this subsection, the term "good faith in
31 attempting to relet the premises" means that the landlord uses

1 at least the same efforts to relet the premises as were used
2 in the initial rental or at least the same efforts as the
3 landlord uses in attempting to lease other similar rental
4 units but does not require the landlord to give a preference
5 in leasing the premises over other vacant dwelling units that
6 the landlord owns or has the responsibility to rent. ~~or~~

7 (3)(c) Stand by and do nothing, holding the lessee
8 liable for the rent as it comes due.

9 (4) If liquidated damages or an early termination fee
10 are provided for in the rental agreement, treat the rental
11 agreement as terminated and recover liquidated damages or
12 charge an early termination fee upon the tenant's giving
13 notice. This remedy is available only if the tenant, at the
14 time the rental agreement was made, indicated acceptance of
15 liquidated damages or an early termination fee by placing his
16 or her signature or initials next to the provision in the
17 agreement. If acceptance is not indicated, only the remedies
18 available in subsection (1), subsection (2), or subsection (3)
19 apply.

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

23 (b) In addition to liquidated damages or an early
24 termination fee, the landlord may charge the tenant for any
25 unpaid rent, other charges due under the rental agreement
26 through the end of the month in which the landlord retakes
27 possession of the dwelling unit, and any rent concessions that
28 the tenant has received up to the maximum of 1 month's rent.
29 For purposes of this paragraph, the term "rent concessions"
30 means any amount contained in the rental agreement by which
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1 all or a portion of the base rent is reduced in consideration
2 for the tenant's entering into the rental agreement.

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

5 ~~(2) If the landlord retakes possession of the dwelling~~
6 ~~unit for the account of the tenant, the landlord has a duty to~~
7 ~~exercise good faith in attempting to relet the premises, and~~
8 ~~any rentals received by the landlord as a result of the~~
9 ~~reletting shall be deducted from the balance of rent due from~~
10 ~~the tenant. For purposes of this section, "good faith in~~
11 ~~attempting to relet the premises" means that the landlord~~
12 ~~shall use at least the same efforts to relet the premises as~~
13 ~~were used in the initial rental or at least the same efforts~~
14 ~~as the landlord uses in attempting to lease other similar~~
15 ~~rental units but does not require the landlord to give a~~
16 ~~preference in leasing the premises over other vacant dwelling~~
17 ~~units that the landlord owns or has the responsibility to~~
18 ~~rent.~~

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

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23 SENATE SUMMARY

24 Provides for including both a liquidated damages or early
25 termination fee provision in a rental agreement. Requires
26 the provisions to be initialed by the tenant in order for
the provisions to take effect upon breach. Allows the
landlord to also charge for other costs.