

ENROLLED
 HB 1489, Engrossed 1

2008 Legislature

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

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Subsection (7) of section 83.43, Florida
 20 Statutes, is amended, and subsection (17) is added to that
 21 section, to read:

22 83.43 Definitions.--As used in this part, the following
 23 words and terms shall have the following meanings unless some
 24 other meaning is plainly indicated:

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

ENROLLED
 HB 1489, Engrossed 1

2008 Legislature

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

35 (a) Unpaid rent and other accrued charges through the end
 36 of the month in which the landlord retakes possession of the
 37 dwelling unit.

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

39 (c) Charges associated with a rental agreement settlement,
 40 release, buy-out, or accord and satisfaction agreement.

41 Section 2. Section 83.595, Florida Statutes, is amended to
 42 read:

43 83.595 Choice of remedies upon breach or early termination
 44 by tenant.--

45 ~~(1)~~ If the tenant breaches the rental agreement ~~lease~~ for
 46 the dwelling unit and the landlord has obtained a writ of
 47 possession, or the tenant has surrendered possession of the
 48 dwelling unit to the landlord, or the tenant has abandoned the
 49 dwelling unit, the landlord may:

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

53 ~~(2)(b)~~ Retake possession of the dwelling unit for the
 54 account of the tenant, holding the tenant liable for the
 55 difference between the rent ~~rental~~ stipulated to be paid under
 56 the rental ~~lease~~ agreement and what, ~~in good faith,~~ the landlord

ENROLLED
 HB 1489, Engrossed 1

2008 Legislature

57 is able to recover from a reletting. If the landlord retakes
 58 possession, the landlord has a duty to exercise good faith in
 59 attempting to relet the premises, and any rent received by the
 60 landlord as a result of the reletting must be deducted from the
 61 balance of rent due from the tenant. For purposes of this
 62 subsection, the term "good faith in attempting to relet the
 63 premises" means that the landlord uses at least the same efforts
 64 to relet the premises as were used in the initial rental or at
 65 least the same efforts as the landlord uses in attempting to
 66 rent other similar rental units but does not require the
 67 landlord to give a preference in renting the premises over other
 68 vacant dwelling units that the landlord owns or has the
 69 responsibility to rent; ~~or~~

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

72 (4) Charge liquidated damages, as provided in the rental
 73 agreement, or an early termination fee to the tenant if the
 74 landlord and tenant have agreed to liquidated damages or an
 75 early termination fee, if the amount does not exceed 2 months'
 76 rent, and if, in the case of an early termination fee, the
 77 tenant is required to give no more than 60 days' notice, as
 78 provided in the rental agreement, prior to the proposed date of
 79 early termination. This remedy is available only if the tenant
 80 and the landlord, at the time the rental agreement was made,
 81 indicated acceptance of liquidated damages or an early
 82 termination fee. The tenant must indicate acceptance of
 83 liquidated damages or an early termination fee by signing a

ENROLLED
 HB 1489, Engrossed 1

2008 Legislature

84 separate addendum to the rental agreement containing a provision
 85 in substantially the following form:

86 [] I agree, as provided in the rental agreement, to pay
 87 \$ (an amount that does not exceed 2 months' rent) as
 88 liquidated damages or an early termination fee if I elect to
 89 terminate the rental agreement, and the landlord waives the
 90 right to seek additional rent beyond the month in which the
 91 landlord retakes possession.

92 [] I do not agree to liquidated damages or an early
 93 termination fee, and I acknowledge that the landlord may seek
 94 damages as provided by law.

95 (a) In addition to liquidated damages or an early
 96 termination fee, the landlord is entitled to the rent and other
 97 charges accrued through the end of the month in which the
 98 landlord retakes possession of the dwelling unit and charges for
 99 damages to the dwelling unit.

100 (b) This subsection does not apply if the breach is
 101 failure to give notice as provided in s. 83.575.

102 ~~(2) If the landlord retakes possession of the dwelling~~
 103 ~~unit for the account of the tenant, the landlord has a duty to~~
 104 ~~exercise good faith in attempting to relet the premises, and any~~
 105 ~~rentals received by the landlord as a result of the reletting~~
 106 ~~shall be deducted from the balance of rent due from the tenant.~~
 107 ~~For purposes of this section, "good faith in attempting to relet~~
 108 ~~the premises" means that the landlord shall use at least the~~
 109 ~~same efforts to relet the premises as were used in the initial~~
 110 ~~rental or at least the same efforts as the landlord uses in~~
 111 ~~attempting to lease other similar rental units but does not~~

ENROLLED

HB 1489, Engrossed 1

2008 Legislature

112 ~~require the landlord to give a preference in leasing the~~
113 ~~premises over other vacant dwelling units that the landlord owns~~
114 ~~or has the responsibility to rent.~~

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