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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/16/2008	.	
	.	
	.	

1 The Committee on Judiciary (Geller) recommended the following
2 **substitute for amendment (803478):**

Senate Amendment (with title amendment)

5 Delete everything after the enacting clause
6 and insert:

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

10 83.43 Definitions.--As used in this part, the following
11 words and terms shall have the following meanings unless some
12 other meaning is plainly indicated:

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

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

23 (a) Unpaid rent and other accrued charges through the end
24 of the month in which the landlord retakes possession of the
25 dwelling unit.

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

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

29 Section 2. Section 83.595, Florida Statutes, is amended to
30 read:

31 83.595 Choice of remedies upon breach or early termination
32 by tenant.--

33 ~~(1)~~ If the tenant breaches the rental agreement ~~lease~~ for
34 the dwelling unit and the landlord has obtained a writ of
35 possession, or the tenant has surrendered possession of the
36 dwelling unit to the landlord, or the tenant has abandoned the
37 dwelling unit, the landlord may:

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

41 (2) ~~(b)~~ Retake possession of the dwelling unit for the
42 account of the tenant, holding the tenant liable for the
43 difference between the rent ~~rental~~ stipulated to be paid under
44 the rental ~~lease~~ agreement and what, ~~in good faith,~~ the landlord
45 is able to recover from a reletting. If the landlord retakes
46 possession, the landlord has a duty to exercise good faith in



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47 attempting to relet the premises, and any rent received by the
48 landlord as a result of the reletting must be deducted from the
49 balance of rent due from the tenant. For purposes of this
50 subsection, the term "good faith in attempting to relet the
51 premises" means that the landlord uses at least the same efforts
52 to relet the premises as were used in the initial rental or at
53 least the same efforts as the landlord uses in attempting to rent
54 other similar rental units, but does not require the landlord to
55 give a preference in renting the premises over other vacant
56 dwelling units that the landlord owns or has the responsibility
57 to rent; ~~or~~

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

60 (4) Charge liquidated damages, as provided in the rental
61 agreement, or an early termination fee to the tenant if the
62 landlord and tenant have agreed to liquidated damages or an early
63 termination fee, if the amount does not exceed 2 months' rent,
64 and if, in the case of an early termination fee, the tenant is
65 required to give no more than 60 days notice, as provided in the
66 rental agreement, prior to the proposed date of early
67 termination. This remedy is available only if the tenant and the
68 landlord, at the time the rental agreement was made, indicated
69 acceptance of liquidated damages or an early termination fee. The
70 tenant must indicate acceptance of liquidated damages or an early
71 termination fee by signing a separate addendum to the rental
72 agreement containing a provision in substantially the following
73 form:

74 I agree, as provided in the rental agreement, to pay \$
75 (an amount that does not exceed 2 months' rent) as
76 liquidated damages or an early termination fee, if I elect to



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77 terminate the rental agreement, and the landlord waives the right
 78 to seek additional rent beyond the month in which the landlord
 79 retakes possession.

80 I do not agree to liquidated damages or an early
 81 termination fee, and I acknowledge that the landlord may seek
 82 damages as provided by law.

83 (a) In addition to liquidated damages or an early
 84 termination fee, the landlord is entitled to the rent and other
 85 charges accrued through the end of the month in which the
 86 landlord retakes possession of the dwelling unit and charges for
 87 damages to the dwelling unit.

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

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

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

104
 105 ===== T I T L E A M E N D M E N T =====

106 And the title is amended as follows:

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107
108 Delete everything before the enacting clause
109 and insert:

110 A bill to be entitled
111 An act relating to residential tenancies; amending s.
112 83.43, F.S.; redefining the term "rental agreement";
113 defining the term "early termination fee"; amending s.
114 83.595, F.S.; allowing a landlord to terminate a rental
115 agreement and recover liquidated damages or charge the
116 tenant an early termination fee for breach of the
117 agreement, or both, under certain circumstances; requiring
118 the tenant to indicate acceptance of an early termination
119 fee or liquidated-damages provision in the rental
120 agreement in order for the provision to take effect;
121 providing a limit on the combined total of damages and
122 fees; providing liability of the tenant for rent, other
123 charges due, and rental concessions; providing an
124 effective date.

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