

By the Committee on Judiciary; and Senator Aronberg

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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:

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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.

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

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30 forfeiture that is provided for in a written rental agreement and
31 is assessed to a tenant when a tenant elects to terminate the
32 rental agreement, as provided in the agreement, and vacates a
33 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 terminating
52 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
57 is able to recover from a reletting. If the landlord retakes
58 possession, the landlord has a duty to exercise good faith in

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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 rent
66 other similar rental units, but does not require the landlord to
67 give a preference in renting the premises over other vacant
68 dwelling units that the landlord owns or has the responsibility
69 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 early
75 termination fee, if the amount does not exceed 2 months' rent,
76 and if, in the case of an early termination fee, the tenant is
77 required to give no more than 60 days' notice, as provided in the
78 rental agreement, prior to the proposed date of early
79 termination. This remedy is available only if the tenant and the
80 landlord, at the time the rental agreement was made, indicated
81 acceptance of liquidated damages or an early termination fee. The
82 tenant must indicate acceptance of liquidated damages or an early
83 termination fee by signing a separate addendum to the rental
84 agreement containing a provision in substantially the following
85 form:

86 I agree, as provided in the rental agreement, to pay \$
87 (an amount that does not exceed 2 months' rent) as

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88 liquidated damages or an early termination fee, if I elect to
89 terminate the rental agreement, and the landlord waives the right
90 to seek additional rent beyond the month in which the landlord
91 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 failure
101 to give notice as provided in s. 83.575.

102 ~~(2) If the landlord retakes possession of the dwelling unit~~
103 ~~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 same~~
109 ~~efforts to relet the premises as were used in the initial rental~~
110 ~~or at least the same efforts as the landlord uses in attempting~~
111 ~~to lease other similar rental units but does not require the~~
112 ~~landlord to give a preference in leasing the premises over other~~
113 ~~vacant dwelling units that the landlord owns or has the~~
114 ~~responsibility to rent.~~

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