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CS/HB 77, Engrossed 2

2013 Legislature

1  
2 An act relating to landlords and tenants; amending s.  
3 83.42, F.S.; revising exclusions from applicability of  
4 the Florida Residential Landlord and Tenant Act;  
5 amending s. 83.48, F.S.; providing that the right to  
6 attorney fees may not be waived in a lease agreement;  
7 providing that attorney fees may not be awarded in a  
8 claim for personal injury damages based on a breach of  
9 duty of premises maintenance; amending s. 83.49, F.S.;  
10 revising and providing landlord disclosure  
11 requirements with respect to security deposits and  
12 advance rent; providing requirements for the  
13 disbursement of advance rents; providing a limited  
14 rebuttable presumption of receipt of security  
15 deposits; providing for applicability of changes made  
16 by the act to certain disclosure requirements;  
17 amending s. 83.50, F.S.; removing certain landlord  
18 disclosure requirements relating to fire protection;  
19 amending s. 83.51, F.S.; revising a landlord's  
20 obligation to maintain a premises with respect to  
21 screens; amending s. 83.54, F.S.; providing that  
22 enforcement of a right or duty under the Florida  
23 Residential Landlord and Tenant Act by civil action  
24 does not preclude prosecution of a criminal offense;  
25 amending s. 83.56, F.S.; revising procedures for the  
26 termination of a rental agreement by a landlord;  
27 revising notice procedures; providing that a landlord  
28 does not waive the right to terminate the rental



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29 | agreement or to bring a civil action for noncompliance  
30 | by accepting partial rent, subject to certain notice;  
31 | requiring a landlord to follow specified procedures if  
32 | the landlord accepts partial rent after posting the  
33 | notice of nonpayment; providing that the period to  
34 | institute an action before an exemption involving rent  
35 | subsidies is waived begins upon actual knowledge;  
36 | amending s. 83.575, F.S.; revising requirements for  
37 | the termination of a tenancy having a specific  
38 | duration to provide for reciprocal notice provisions  
39 | in rental agreements; amending ss. 83.58 and 83.59,  
40 | F.S.; conforming cross-references; amending s. 83.60,  
41 | F.S.; providing that a landlord must be given an  
42 | opportunity to cure a deficiency in any notice or  
43 | pleadings before dismissal of an eviction action;  
44 | making technical changes; amending s. 83.62, F.S.;  
45 | revising procedures for the restoration of possession  
46 | to a landlord to provide that weekends and holidays do  
47 | not stay the applicable notice period; amending s.  
48 | 83.63, F.S.; conforming a cross-reference; amending s.  
49 | 83.64, F.S.; providing examples of conduct for which  
50 | the landlord may not retaliate; providing an effective  
51 | date.

52 |

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

54 |

55 | Section 1. Subsection (2) of section 83.42, Florida  
56 | Statutes, is amended to read:



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57 | 83.42 Exclusions from application of part.—This part does  
58 | not apply to:

59 | (2) Occupancy under a contract of sale of a dwelling unit  
60 | or the property of which it is a part in which the buyer has  
61 | paid at least 12 months' rent or in which the buyer has paid at  
62 | least 1 month's rent and a deposit of at least 5 percent of the  
63 | purchase price of the property.

64 | Section 2. Section 83.48, Florida Statutes, is amended to  
65 | read:

66 | 83.48 Attorney ~~Attorney's~~ fees.—In any civil action  
67 | brought to enforce the provisions of the rental agreement or  
68 | this part, the party in whose favor a judgment or decree has  
69 | been rendered may recover reasonable attorney fees and court  
70 | ~~costs, including attorney's fees,~~ from the nonprevailing party.  
71 | The right to attorney fees in this section may not be waived in  
72 | a lease agreement. However, attorney fees may not be awarded  
73 | under this section in a claim for personal injury damages based  
74 | on a breach of duty under s. 83.51.

75 | Section 3. Subsections (2), (3), and (7) of section 83.49,  
76 | Florida Statutes, are amended to read:

77 | 83.49 Deposit money or advance rent; duty of landlord and  
78 | tenant.—

79 | (2) The landlord shall, in the lease agreement or within  
80 | 30 days after ~~of~~ receipt of advance rent or a security deposit,  
81 | give written notice to notify the tenant which includes  
82 | disclosure of in writing of the manner in which the landlord is  
83 | ~~holding the advance rent or security deposit and the rate of~~  
84 | ~~interest, if any, which the tenant is to receive and the time of~~



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85 ~~interest payments to the tenant. Such written notice shall:~~  
 86 ~~(a) Be given in person or by mail to the tenant.~~  
 87 ~~(b) State the name and address of the depository where the~~  
 88 ~~advance rent or security deposit is being held, whether the~~  
 89 ~~advance rent or security deposit is being held in a separate~~  
 90 ~~account for the benefit of the tenant or is commingled with~~  
 91 ~~other funds of the landlord, and, if commingled, whether such~~  
 92 ~~funds are deposited in an interest-bearing account in a Florida~~  
 93 ~~banking institution.~~  
 94 ~~(c) Include a copy of the provisions of subsection (3).~~  
 95 Subsequent to providing such written notice, if the landlord  
 96 changes the manner or location in which he or she is holding the  
 97 advance rent or security deposit, he or she must ~~shall~~ notify  
 98 the tenant within 30 days after ~~of~~ the change as provided in  
 99 paragraphs (a)-(d). The landlord is not required to give new or  
 100 additional notice solely because the depository has merged with  
 101 another financial institution, changed its name, or transferred  
 102 ownership to a different financial institution ~~according to the~~  
 103 ~~provisions herein set forth.~~ This subsection does not apply to  
 104 any landlord who rents fewer than five individual dwelling  
 105 units. Failure to give ~~provide~~ this notice is ~~shall~~ not be a  
 106 defense to the payment of rent when due. The written notice  
 107 must:  
 108 (a) Be given in person or by mail to the tenant.  
 109 (b) State the name and address of the depository where the  
 110 advance rent or security deposit is being held or state that the  
 111 landlord has posted a surety bond as provided by law.  
 112 (c) State whether the tenant is entitled to interest on



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113 | the deposit.

114 |       (d) Contain the following disclosure:

115 |

116 |       YOUR LEASE REQUIRES PAYMENT OF CERTAIN DEPOSITS. THE

117 |       LANDLORD MAY TRANSFER ADVANCE RENTS TO THE LANDLORD'S

118 |       ACCOUNT AS THEY ARE DUE AND WITHOUT NOTICE. WHEN YOU

119 |       MOVE OUT, YOU MUST GIVE THE LANDLORD YOUR NEW ADDRESS

120 |       SO THAT THE LANDLORD CAN SEND YOU NOTICES REGARDING

121 |       YOUR DEPOSIT. THE LANDLORD MUST MAIL YOU NOTICE,

122 |       WITHIN 30 DAYS AFTER YOU MOVE OUT, OF THE LANDLORD'S

123 |       INTENT TO IMPOSE A CLAIM AGAINST THE DEPOSIT. IF YOU

124 |       DO NOT REPLY TO THE LANDLORD STATING YOUR OBJECTION TO

125 |       THE CLAIM WITHIN 15 DAYS AFTER RECEIPT OF THE

126 |       LANDLORD'S NOTICE, THE LANDLORD WILL COLLECT THE CLAIM

127 |       AND MUST MAIL YOU THE REMAINING DEPOSIT, IF ANY.

128 |

129 |       IF THE LANDLORD FAILS TO TIMELY MAIL YOU NOTICE, THE

130 |       LANDLORD MUST RETURN THE DEPOSIT BUT MAY LATER FILE A

131 |       LAWSUIT AGAINST YOU FOR DAMAGES. IF YOU FAIL TO TIMELY

132 |       OBJECT TO A CLAIM, THE LANDLORD MAY COLLECT FROM THE

133 |       DEPOSIT, BUT YOU MAY LATER FILE A LAWSUIT CLAIMING A

134 |       REFUND.

135 |

136 |       YOU SHOULD ATTEMPT TO INFORMALLY RESOLVE ANY DISPUTE

137 |       BEFORE FILING A LAWSUIT. GENERALLY, THE PARTY IN WHOSE

138 |       FAVOR A JUDGMENT IS RENDERED WILL BE AWARDED COSTS AND

139 |       ATTORNEY FEES PAYABLE BY THE LOSING PARTY.

140 |



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141           THIS DISCLOSURE IS BASIC. PLEASE REFER TO PART II OF  
 142           CHAPTER 83, FLORIDA STATUTES, TO DETERMINE YOUR LEGAL  
 143           RIGHTS AND OBLIGATIONS.

144  
 145           (3) The landlord or the landlord's agent may disburse  
 146 advance rents from the deposit account to the landlord's benefit  
 147 when the advance rental period commences and without notice to  
 148 the tenant. For all other deposits:

149           (a) Upon the vacating of the premises for termination of  
 150 the lease, if the landlord does not intend to impose a claim on  
 151 the security deposit, the landlord shall have 15 days to return  
 152 the security deposit together with interest if otherwise  
 153 required, or the landlord shall have 30 days to give the tenant  
 154 written notice by certified mail to the tenant's last known  
 155 mailing address of his or her intention to impose a claim on the  
 156 deposit and the reason for imposing the claim. The notice shall  
 157 contain a statement in substantially the following form:

158  
 159           This is a notice of my intention to impose a claim for  
 160 damages in the amount of .... upon your security deposit, due to  
 161 ..... It is sent to you as required by s. 83.49(3), Florida  
 162 Statutes. You are hereby notified that you must object in  
 163 writing to this deduction from your security deposit within 15  
 164 days from the time you receive this notice or I will be  
 165 authorized to deduct my claim from your security deposit. Your  
 166 objection must be sent to ...(landlord's address)....

167  
 168 If the landlord fails to give the required notice within the 30-



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169 day period, he or she forfeits the right to impose a claim upon  
170 the security deposit and may not seek a setoff against the  
171 deposit but may file an action for damages after return of the  
172 deposit.

173 (b) Unless the tenant objects to the imposition of the  
174 landlord's claim or the amount thereof within 15 days after  
175 receipt of the landlord's notice of intention to impose a claim,  
176 the landlord may then deduct the amount of his or her claim and  
177 shall remit the balance of the deposit to the tenant within 30  
178 days after the date of the notice of intention to impose a claim  
179 for damages. The failure of the tenant to make a timely  
180 objection does not waive any rights of the tenant to seek  
181 damages in a separate action.

182 (c) If either party institutes an action in a court of  
183 competent jurisdiction to adjudicate the party's right to the  
184 security deposit, the prevailing party is entitled to receive  
185 his or her court costs plus a reasonable fee for his or her  
186 attorney. The court shall advance the cause on the calendar.

187 (d) Compliance with this section by an individual or  
188 business entity authorized to conduct business in this state,  
189 including Florida-licensed real estate brokers and sales  
190 associates, constitutes ~~shall constitute~~ compliance with all  
191 other relevant Florida Statutes pertaining to security deposits  
192 held pursuant to a rental agreement or other landlord-tenant  
193 relationship. Enforcement personnel shall look solely to this  
194 section to determine compliance. This section prevails over any  
195 conflicting provisions in chapter 475 and in other sections of  
196 the Florida Statutes, and shall operate to permit licensed real



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197 | estate brokers to disburse security deposits and deposit money  
 198 | without having to comply with the notice and settlement  
 199 | procedures contained in s. 475.25(1)(d).

200 |       (7) Upon the sale or transfer of title of the rental  
 201 | property from one owner to another, or upon a change in the  
 202 | designated rental agent, any and all security deposits or  
 203 | advance rents being held for the benefit of the tenants shall be  
 204 | transferred to the new owner or agent, together with any earned  
 205 | interest and with an accurate accounting showing the amounts to  
 206 | be credited to each tenant account. Upon the transfer of such  
 207 | funds and records to the new owner or agent ~~as stated herein,~~  
 208 | and upon transmittal of a written receipt therefor, the  
 209 | transferor is ~~shall be~~ free from the obligation imposed in  
 210 | subsection (1) to hold such moneys on behalf of the tenant.  
 211 | There is a rebuttable presumption that any new owner or agent  
 212 | received the security deposit from the previous owner or agent;  
 213 | however, this presumption is limited to 1 month's rent. This  
 214 | subsection does not ~~However, nothing herein shall~~ excuse the  
 215 | landlord or agent for a violation of other ~~the~~ provisions of  
 216 | this section while in possession of such deposits.

217 |       Section 4. The Legislature recognizes that landlords may  
 218 | have stocks of preprinted lease forms that comply with the  
 219 | notice requirements of current law. Accordingly, for leases  
 220 | entered into on or before December 31, 2013, a landlord may give  
 221 | notice that contains the disclosure required in the changes made  
 222 | by this act to s. 83.49, Florida Statutes, or the former notice  
 223 | required in s. 83.49, Florida Statutes 2012. In any event, the  
 224 | disclosure required by this act is only required for all leases





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225 | entered into under this part on or after January 1, 2014.

226 |       Section 5. Section 83.50, Florida Statutes, is amended to  
227 | read:

228 |       83.50 Disclosure of landlord's address.—

229 |       ~~(1)~~ In addition to any other disclosure required by law,  
230 | the landlord, or a person authorized to enter into a rental  
231 | agreement on the landlord's behalf, shall disclose in writing to  
232 | the tenant, at or before the commencement of the tenancy, the  
233 | name and address of the landlord or a person authorized to  
234 | receive notices and demands in the landlord's behalf. The person  
235 | so authorized to receive notices and demands retains authority  
236 | until the tenant is notified otherwise. All notices of such  
237 | names and addresses or changes thereto shall be delivered to the  
238 | tenant's residence or, if specified in writing by the tenant, to  
239 | any other address.

240 |       ~~(2) The landlord or the landlord's authorized~~  
241 | ~~representative, upon completion of construction of a building~~  
242 | ~~exceeding three stories in height and containing dwelling units,~~  
243 | ~~shall disclose to the tenants initially moving into the building~~  
244 | ~~the availability or lack of availability of fire protection.~~

245 |       Section 6. Subsection (1) and paragraph (a) of subsection  
246 | (2) of section 83.51, Florida Statutes, are amended to read:

247 |       83.51 Landlord's obligation to maintain premises.—

248 |       (1) The landlord at all times during the tenancy shall:

249 |       (a) Comply with the requirements of applicable building,  
250 | housing, and health codes; or

251 |       (b) Where there are no applicable building, housing, or  
252 | health codes, maintain the roofs, windows, ~~screens,~~ doors,



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253 | floors, steps, porches, exterior walls, foundations, and all  
 254 | other structural components in good repair and capable of  
 255 | resisting normal forces and loads and the plumbing in reasonable  
 256 | working condition. The landlord, at commencement of the tenancy,  
 257 | must ensure that screens are installed in a reasonable  
 258 | condition. Thereafter, the landlord must repair damage to  
 259 | screens once annually, when necessary, until termination of the  
 260 | rental agreement. ~~However,~~

261 |  
 262 | The landlord is ~~shall~~ not ~~be~~ required to maintain a mobile home  
 263 | or other structure owned by the tenant. The landlord's  
 264 | obligations under this subsection may be altered or modified in  
 265 | writing with respect to a single-family home or duplex.

266 | (2) (a) Unless otherwise agreed in writing, in addition to  
 267 | the requirements of subsection (1), the landlord of a dwelling  
 268 | unit other than a single-family home or duplex shall, at all  
 269 | times during the tenancy, make reasonable provisions for:

270 | 1. The extermination of rats, mice, roaches, ants, wood-  
 271 | destroying organisms, and bedbugs. When vacation of the premises  
 272 | is required for such extermination, the landlord is ~~shall~~ not ~~be~~  
 273 | liable for damages but shall abate the rent. The tenant must  
 274 | ~~shall be required to~~ temporarily vacate the premises for a  
 275 | period of time not to exceed 4 days, on 7 days' written notice,  
 276 | if necessary, for extermination pursuant to this subparagraph.

277 | 2. Locks and keys.

278 | 3. The clean and safe condition of common areas.

279 | 4. Garbage removal and outside receptacles therefor.

280 | 5. Functioning facilities for heat during winter, running



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281 water, and hot water.

282 Section 7. Section 83.54, Florida Statutes, is amended to  
283 read:

284 83.54 Enforcement of rights and duties; civil action;  
285 criminal offenses.—Any right or duty declared in this part is  
286 enforceable by civil action. A right or duty enforced by civil  
287 action under this section does not preclude prosecution for a  
288 criminal offense related to the lease or leased property.

289 Section 8. Subsections (2) through (5) of section 83.56,  
290 Florida Statutes, are amended to read:

291 83.56 Termination of rental agreement.—

292 (2) If the tenant materially fails to comply with s. 83.52  
293 or material provisions of the rental agreement, other than a  
294 failure to pay rent, or reasonable rules or regulations, the  
295 landlord may:

296 (a) If such noncompliance is of a nature that the tenant  
297 should not be given an opportunity to cure it or if the  
298 noncompliance constitutes a subsequent or continuing  
299 noncompliance within 12 months of a written warning by the  
300 landlord of a similar violation, deliver a written notice to the  
301 tenant specifying the noncompliance and the landlord's intent to  
302 terminate the rental agreement by reason thereof. Examples of  
303 noncompliance which are of a nature that the tenant should not  
304 be given an opportunity to cure include, but are not limited to,  
305 destruction, damage, or misuse of the landlord's or other  
306 tenants' property by intentional act or a subsequent or  
307 continued unreasonable disturbance. In such event, the landlord  
308 may terminate the rental agreement, and the tenant shall have 7



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309 days from the date that the notice is delivered to vacate the  
 310 premises. The notice shall be ~~adequate if it is~~ in substantially  
 311 the following form:

312  
 313 You are advised that your lease is terminated effective  
 314 immediately. You shall have 7 days from the delivery of this  
 315 letter to vacate the premises. This action is taken because  
 316 ... (cite the noncompliance)....

317  
 318 (b) If such noncompliance is of a nature that the tenant  
 319 should be given an opportunity to cure it, deliver a written  
 320 notice to the tenant specifying the noncompliance, including a  
 321 notice that, if the noncompliance is not corrected within 7 days  
 322 from the date that the written notice is delivered, the landlord  
 323 shall terminate the rental agreement by reason thereof. Examples  
 324 of such noncompliance include, but are not limited to,  
 325 activities in contravention of the lease or this part ~~act~~ such  
 326 as having or permitting unauthorized pets, guests, or vehicles;  
 327 parking in an unauthorized manner or permitting such parking; or  
 328 failing to keep the premises clean and sanitary. If such  
 329 noncompliance recurs within 12 months after notice, an eviction  
 330 action may commence without delivering a subsequent notice  
 331 pursuant to paragraph (a) or this paragraph. The notice shall be  
 332 ~~adequate if it is~~ in substantially the following form:

333  
 334 You are hereby notified that ... (cite the  
 335 noncompliance).... Demand is hereby made that you remedy the  
 336 noncompliance within 7 days of receipt of this notice or your



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337 | lease shall be deemed terminated and you shall vacate the  
 338 | premises upon such termination. If this same conduct or conduct  
 339 | of a similar nature is repeated within 12 months, your tenancy  
 340 | is subject to termination without further warning and without  
 341 | your being given an opportunity to cure the noncompliance.

342 |  
 343 |         (3) If the tenant fails to pay rent when due and the  
 344 | default continues for 3 days, excluding Saturday, Sunday, and  
 345 | legal holidays, after delivery of written demand by the landlord  
 346 | for payment of the rent or possession of the premises, the  
 347 | landlord may terminate the rental agreement. Legal holidays for  
 348 | the purpose of this section shall be court-observed holidays  
 349 | only. The 3-day notice shall contain a statement in  
 350 | substantially the following form:

351 |  
 352 |         You are hereby notified that you are indebted to me in the  
 353 | sum of .... dollars for the rent and use of the premises  
 354 | ...(address of leased premises, including county)..., Florida,  
 355 | now occupied by you and that I demand payment of the rent or  
 356 | possession of the premises within 3 days (excluding Saturday,  
 357 | Sunday, and legal holidays) from the date of delivery of this  
 358 | notice, to wit: on or before the .... day of ....., ...(year)....  
 359 |                 ...(landlord's name, address and phone number)...

360 |  
 361 |         (4) The delivery of the written notices required by  
 362 | subsections (1), (2), and (3) shall be by mailing or delivery of  
 363 | a true copy thereof or, if the tenant is absent from the  
 364 | premises, by leaving a copy thereof at the residence. The notice



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365 requirements of subsections (1), (2), and (3) may not be waived  
366 in the lease.

367 (5)(a) If the landlord accepts rent with actual knowledge  
368 of a noncompliance by the tenant or accepts performance by the  
369 tenant of any other provision of the rental agreement that is at  
370 variance with its provisions, or if the tenant pays rent with  
371 actual knowledge of a noncompliance by the landlord or accepts  
372 performance by the landlord of any other provision of the rental  
373 agreement that is at variance with its provisions, the landlord  
374 or tenant waives his or her right to terminate the rental  
375 agreement or to bring a civil action for that noncompliance, but  
376 not for any subsequent or continuing noncompliance. However, a  
377 landlord does not waive the right to terminate the rental  
378 agreement or to bring a civil action for that noncompliance by  
379 accepting partial rent for the period. If partial rent is  
380 accepted after posting the notice for nonpayment, the landlord  
381 must:

382 1. Provide the tenant with a receipt stating the date and  
383 amount received and the agreed upon date and balance of rent due  
384 before filing an action for possession;

385 2. Place the amount of partial rent accepted from the  
386 tenant in the registry of the court upon filing the action for  
387 possession; or

388 3. Post a new 3-day notice reflecting the new amount due.

389 (b) Any tenant who wishes to defend against an action by  
390 the landlord for possession of the unit for noncompliance of the  
391 rental agreement or of relevant statutes must ~~shall~~ comply with  
392 ~~the provisions in~~ s. 83.60(2). The court may not set a date for



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393 mediation or trial unless the provisions of s. 83.60(2) have  
 394 been met, but must ~~shall~~ enter a default judgment for removal of  
 395 the tenant with a writ of possession to issue immediately if the  
 396 tenant fails to comply with s. 83.60(2).

397 (c) This subsection does not apply to that portion of rent  
 398 subsidies received from a local, state, or national government  
 399 or an agency of local, state, or national government; however,  
 400 waiver will occur if an action has not been instituted within 45  
 401 days after the landlord obtains actual knowledge of the  
 402 noncompliance.

403 Section 9. Subsection (1) of section 83.575, Florida  
 404 Statutes, is amended to read:

405 83.575 Termination of tenancy with specific duration.—

406 (1) A rental agreement with a specific duration may  
 407 contain a provision requiring the tenant to notify the landlord  
 408 within a specified period before vacating the premises at the  
 409 end of the rental agreement, if such provision requires the  
 410 landlord to notify the tenant within such notice period if the  
 411 rental agreement will not be renewed; however, a rental  
 412 agreement may not require more than 60 days' notice from either  
 413 the tenant or the landlord before vacating the premises.

414 Section 10. Section 83.58, Florida Statutes, is amended to  
 415 read:

416 83.58 Remedies; tenant holding over.—If the tenant holds  
 417 over and continues in possession of the dwelling unit or any  
 418 part thereof after the expiration of the rental agreement  
 419 without the permission of the landlord, the landlord may recover  
 420 possession of the dwelling unit in the manner provided for in s.



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421 83.59 ~~{F.S. 1973}~~. The landlord may also recover double the  
 422 amount of rent due on the dwelling unit, or any part thereof,  
 423 for the period during which the tenant refuses to surrender  
 424 possession.

425 Section 11. Subsection (2) of section 83.59, Florida  
 426 Statutes, is amended to read:

427 83.59 Right of action for possession.—

428 (2) A landlord, the landlord's attorney, or the landlord's  
 429 agent, applying for the removal of a tenant, shall file in the  
 430 county court of the county where the premises are situated a  
 431 complaint describing the dwelling unit and stating the facts  
 432 that authorize its recovery. A landlord's agent is not permitted  
 433 to take any action other than the initial filing of the  
 434 complaint, unless the landlord's agent is an attorney. The  
 435 landlord is entitled to the summary procedure provided in s.  
 436 51.011 ~~{F.S. 1971}~~, and the court shall advance the cause on the  
 437 calendar.

438 Section 12. Section 83.60, Florida Statutes, is amended to  
 439 read:

440 83.60 Defenses to action for rent or possession;  
 441 procedure.—

442 (1) (a) In an action by the landlord for possession of a  
 443 dwelling unit based upon nonpayment of rent or in an action by  
 444 the landlord under s. 83.55 seeking to recover unpaid rent, the  
 445 tenant may defend upon the ground of a material noncompliance  
 446 with s. 83.51(1) ~~{F.S. 1973}~~, or may raise any other defense,  
 447 whether legal or equitable, that he or she may have, including  
 448 the defense of retaliatory conduct in accordance with s. 83.64.





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449 | The landlord must be given an opportunity to cure a deficiency  
 450 | in a notice or in the pleadings before dismissal of the action.

451 |       **(b)** The defense of a material noncompliance with s.  
 452 | 83.51(1) ~~{F.S. 1973}~~ may be raised by the tenant if 7 days have  
 453 | elapsed after the delivery of written notice by the tenant to  
 454 | the landlord, specifying the noncompliance and indicating the  
 455 | intention of the tenant not to pay rent by reason thereof. Such  
 456 | notice by the tenant may be given to the landlord, the  
 457 | landlord's representative as designated pursuant to s. 83.50~~(1)~~,  
 458 | a resident manager, or the person or entity who collects the  
 459 | rent on behalf of the landlord. A material noncompliance with s.  
 460 | 83.51(1) ~~{F.S. 1973}~~ by the landlord is a complete defense to an  
 461 | action for possession based upon nonpayment of rent, and, upon  
 462 | hearing, the court or the jury, as the case may be, shall  
 463 | determine the amount, if any, by which the rent is to be reduced  
 464 | to reflect the diminution in value of the dwelling unit during  
 465 | the period of noncompliance with s. 83.51(1) ~~{F.S. 1973}~~. After  
 466 | consideration of all other relevant issues, the court shall  
 467 | enter appropriate judgment.

468 |       (2) In an action by the landlord for possession of a  
 469 | dwelling unit, if the tenant interposes any defense other than  
 470 | payment, including, but not limited to, the defense of a  
 471 | defective 3-day notice, the tenant shall pay into the registry  
 472 | of the court the accrued rent as alleged in the complaint or as  
 473 | determined by the court and the rent that ~~which~~ accrues during  
 474 | the pendency of the proceeding, when due. The clerk shall notify  
 475 | the tenant of such requirement in the summons. Failure of the  
 476 | tenant to pay the rent into the registry of the court or to file



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477 a motion to determine the amount of rent to be paid into the  
 478 registry within 5 days, excluding Saturdays, Sundays, and legal  
 479 holidays, after the date of service of process constitutes an  
 480 absolute waiver of the tenant's defenses other than payment, and  
 481 the landlord is entitled to an immediate default judgment for  
 482 removal of the tenant with a writ of possession to issue without  
 483 further notice or hearing thereon. If ~~In the event~~ a motion to  
 484 determine rent is filed, documentation in support of the  
 485 allegation that the rent as alleged in the complaint is in error  
 486 is required. Public housing tenants or tenants receiving rent  
 487 subsidies are ~~shall be~~ required to deposit only that portion of  
 488 the full rent for which they are ~~the tenant is~~ responsible  
 489 pursuant to the federal, state, or local program in which they  
 490 are participating.

491 Section 13. Subsection (1) of section 83.62, Florida  
 492 Statutes, is amended to read:

493 83.62 Restoration of possession to landlord.—

494 (1) In an action for possession, after entry of judgment  
 495 in favor of the landlord, the clerk shall issue a writ to the  
 496 sheriff describing the premises and commanding the sheriff to  
 497 put the landlord in possession after 24 hours' notice  
 498 conspicuously posted on the premises. Saturdays, Sundays, and  
 499 legal holidays do not stay the 24-hour notice period.

500 Section 14. Section 83.63, Florida Statutes, is amended to  
 501 read:

502 83.63 Casualty damage.—If the premises are damaged or  
 503 destroyed other than by the wrongful or negligent acts of the  
 504 tenant so that the enjoyment of the premises is substantially



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505 | impaired, the tenant may terminate the rental agreement and  
506 | immediately vacate the premises. The tenant may vacate the part  
507 | of the premises rendered unusable by the casualty, in which case  
508 | the tenant's liability for rent shall be reduced by the fair  
509 | rental value of that part of the premises damaged or destroyed.  
510 | If the rental agreement is terminated, the landlord shall comply  
511 | with s. 83.49(3) ~~{F.S. 1973}~~.

512 |       Section 15. Subsection (1) of section 83.64, Florida  
513 | Statutes, is amended to read:

514 |       83.64 Retaliatory conduct.—

515 |       (1) It is unlawful for a landlord to discriminatorily  
516 | increase a tenant's rent or decrease services to a tenant, or to  
517 | bring or threaten to bring an action for possession or other  
518 | civil action, primarily because the landlord is retaliating  
519 | against the tenant. In order for the tenant to raise the defense  
520 | of retaliatory conduct, the tenant must have acted in good  
521 | faith. Examples of conduct for which the landlord may not  
522 | retaliate include, but are not limited to, situations where:

523 |       (a) The tenant has complained to a governmental agency  
524 | charged with responsibility for enforcement of a building,  
525 | housing, or health code of a suspected violation applicable to  
526 | the premises;

527 |       (b) The tenant has organized, encouraged, or participated  
528 | in a tenants' organization;

529 |       (c) The tenant has complained to the landlord pursuant to  
530 | s. 83.56(1); ~~or~~

531 |       (d) The tenant is a servicemember who has terminated a  
532 | rental agreement pursuant to s. 83.682;



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533       (e) The tenant has paid rent to a condominium,  
534 cooperative, or homeowners' association after demand from the  
535 association in order to pay the landlord's obligation to the  
536 association; or

537       (f) The tenant has exercised his or her rights under  
538 local, state, or federal fair housing laws.

539       Section 16. This act shall take effect July 1, 2013.