

By Senator Braynon

36-01456-16

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1                   A bill to be entitled  
 2           An act relating to landlords and tenants; amending s.  
 3           83.60, F.S., relating to defenses to action for  
 4           possession of a dwelling unit; providing conditions  
 5           under which the court may waive the requirement that a  
 6           tenant pay rent into the registry of the court;  
 7           revising provisions relating to default judgment upon  
 8           waiver of a tenant's defenses; providing an effective  
 9           date.

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 11 Be It Enacted by the Legislature of the State of Florida:

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 13           Section 1. Subsection (2) of section 83.60, Florida  
 14 Statutes, is amended to read:

15           83.60 Defenses to action for rent or possession;  
 16 procedure.—

17           (2) In an action by the landlord for possession of a  
 18 dwelling unit, if the tenant interposes any defense other than  
 19 payment, including, but not limited to, the defense of a  
 20 defective 3-day notice, the tenant shall pay into the registry  
 21 of the court the accrued rent as alleged in the complaint or as  
 22 determined by the court and the rent that accrues during the  
 23 pendency of the proceeding, when due. The clerk shall notify the  
 24 tenant of such requirement in the summons. The court may waive  
 25 this requirement if the plaintiff does not have standing to file  
 26 the action; the court does not have jurisdiction over the  
 27 parties or the subject matter of the action; the landlord fails  
 28 to comply with the requirements of s. 83.51; the landlord fails  
 29 to comply with the requirements of applicable building, housing,  
 30 or health codes; the landlord is acting in bad faith; or the  
 31 landlord violates a provision of this part. Failure of the  
 32 tenant to pay the rent into the registry of the court, ~~or~~ to

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33 file a motion to determine the amount of rent to be paid into  
34 the registry, or to file a motion to waive the requirement to  
35 pay the rent into the registry of the court within 5 days,  
36 excluding Saturdays, Sundays, and legal holidays, after the date  
37 of service of process constitutes an absolute waiver of the  
38 tenant's defenses other than payment, and the landlord is  
39 entitled to an immediate default judgment for removal of the  
40 tenant with a writ of possession to issue without further notice  
41 or hearing thereon. A tenant who files a motion to determine  
42 rent or to waive the requirement to pay the rent into the  
43 registry of the court is entitled to a hearing. ~~If a motion to~~  
44 ~~determine rent is filed, documentation in support of the~~  
45 ~~allegation that the rent as alleged in the complaint is in error~~  
46 ~~is required.~~ Public housing tenants or tenants receiving rent  
47 subsidies are required to deposit only that portion of the full  
48 rent for which they are responsible pursuant to the federal,  
49 state, or local program in which they are participating.

50 Section 2. This act shall take effect July 1, 2016.