

By Senator Braynon

36-00284-16

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1 A bill to be entitled
2 An act relating to landlords and tenants; amending ss.
3 83.51, 83.64, and 83.67, F.S.; providing criminal
4 penalties for specified prohibited practices by a
5 landlord relating to maintenance of the premises,
6 retaliatory conduct, and other protections; providing
7 an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Section 83.51, Florida Statutes, is amended to
12 read:

13 83.51 Landlord's obligation to maintain premises.—

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

15 (a) Comply with the requirements of applicable building,
16 housing, and health codes; or

17 (b) Where there are no applicable building, housing, or
18 health codes, maintain the roofs, windows, doors, floors, steps,
19 porches, exterior walls, foundations, and all other structural
20 components in good repair and capable of resisting normal forces
21 and loads and the plumbing in reasonable working condition. The
22 landlord, at commencement of the tenancy, must ensure that
23 screens are installed in a reasonable condition. Thereafter, the
24 landlord must repair damage to screens once annually, when
25 necessary, until termination of the rental agreement.

26
27 The landlord is not required to maintain a mobile home or other
28 structure owned by the tenant. The landlord's obligations under
29 this subsection may be altered or modified in writing with

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30 respect to a single-family home or duplex.

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

35 1. The extermination of rats, mice, roaches, ants, wood-
36 destroying organisms, and bedbugs. When vacation of the premises
37 is required for such extermination, the landlord is not liable
38 for damages but shall abate the rent. The tenant must
39 temporarily vacate the premises for a period of time not to
40 exceed 4 days, on 7 days' written notice, if necessary, for
41 extermination pursuant to this subparagraph.

42 2. Locks and keys.

43 3. The clean and safe condition of common areas.

44 4. Garbage removal and outside receptacles therefor.

45 5. Functioning facilities for heat during winter, running
46 water, and hot water.

47 (b) Unless otherwise agreed in writing, at the commencement
48 of the tenancy of a single-family home or duplex, the landlord
49 shall install working smoke detection devices. As used in this
50 paragraph, the term "smoke detection device" means an electrical
51 or battery-operated device which detects visible or invisible
52 particles of combustion and which is listed by Underwriters
53 Laboratories, Inc., Factory Mutual Laboratories, Inc., or any
54 other nationally recognized testing laboratory using nationally
55 accepted testing standards.

56 (c) Nothing in this part authorizes the tenant to raise a
57 noncompliance by the landlord with this subsection as a defense
58 to an action for possession under s. 83.59.

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59 (d) This subsection shall not apply to a mobile home owned
60 by a tenant.

61 (e) Nothing contained in this subsection prohibits the
62 landlord from providing in the rental agreement that the tenant
63 is obligated to pay costs or charges for garbage removal, water,
64 fuel, or utilities.

65 (3) If the duty imposed by subsection (1) is the same or
66 greater than any duty imposed by subsection (2), the landlord's
67 duty is determined by subsection (1).

68 (4) The landlord is not responsible to the tenant under
69 this section for conditions created or caused by the negligent
70 or wrongful act or omission of the tenant, a member of the
71 tenant's family, or other person on the premises with the
72 tenant's consent.

73 (5) Any person who violates this section commits a
74 misdemeanor of the first degree, punishable as provided in s.
75 775.082 or s. 775.083. A second or subsequent offense
76 constitutes a felony of the third degree, punishable as provided
77 in s. 775.082, s. 775.083, or s. 775.084.

78 Section 2. Section 83.64, Florida Statutes, is amended to
79 read:

80 83.64 Retaliatory conduct.—

81 (1) It is unlawful for a landlord to discriminatorily
82 increase a tenant's rent or decrease services to a tenant, or to
83 bring or threaten to bring an action for possession or other
84 civil action, primarily because the landlord is retaliating
85 against the tenant. In order for the tenant to raise the defense
86 of retaliatory conduct, the tenant must have acted in good
87 faith. Examples of conduct for which the landlord may not

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88 retaliate include, but are not limited to, situations where:

89 (a) The tenant has complained to a governmental agency
90 charged with responsibility for enforcement of a building,
91 housing, or health code of a suspected violation applicable to
92 the premises;

93 (b) The tenant has organized, encouraged, or participated
94 in a tenant organization;

95 (c) The tenant has complained to the landlord pursuant to
96 s. 83.56(1);

97 (d) The tenant is a servicemember who has terminated a
98 rental agreement pursuant to s. 83.682;

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

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

104 (2) Evidence of retaliatory conduct may be raised by the
105 tenant as a defense in any action brought against him or her for
106 possession.

107 (3) In any event, this section does not apply if the
108 landlord proves that the eviction is for good cause. Examples of
109 good cause include, but are not limited to, good faith actions
110 for nonpayment of rent, violation of the rental agreement or of
111 reasonable rules, or violation of the terms of this chapter.

112 (4) "Discrimination" under this section means that a tenant
113 is being treated differently as to the rent charged, the
114 services rendered, or the action being taken by the landlord,
115 which shall be a prerequisite to a finding of retaliatory
116 conduct.

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117 (5) Any person who violates this section commits a
118 misdemeanor of the first degree, punishable as provided in s.
119 775.082 or s. 775.083. A second or subsequent offense
120 constitutes a felony of the third degree, punishable as provided
121 in s. 775.082, s. 775.083, or s. 775.084.

122 Section 3. Section 83.67, Florida Statutes, is amended to
123 read:

124 83.67 Prohibited practices.—

125 (1) A landlord of any dwelling unit governed by this part
126 shall not cause, directly or indirectly, the termination or
127 interruption of any utility service furnished the tenant,
128 including, but not limited to, water, heat, light, electricity,
129 gas, elevator, garbage collection, or refrigeration, whether or
130 not the utility service is under the control of, or payment is
131 made by, the landlord.

132 (2) A landlord of any dwelling unit governed by this part
133 shall not prevent the tenant from gaining reasonable access to
134 the dwelling unit by any means, including, but not limited to,
135 changing the locks or using any bootlock or similar device.

136 (3) A landlord of any dwelling unit governed by this part
137 shall not discriminate against a servicemember in offering a
138 dwelling unit for rent or in any of the terms of the rental
139 agreement.

140 (4) A landlord shall not prohibit a tenant from displaying
141 one portable, removable, cloth or plastic United States flag,
142 not larger than 4 and 1/2 feet by 6 feet, in a respectful manner
143 in or on the dwelling unit regardless of any provision in the
144 rental agreement dealing with flags or decorations. The United
145 States flag shall be displayed in accordance with s. 83.52(6).

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146 The landlord is not liable for damages caused by a United States
147 flag displayed by a tenant. Any United States flag may not
148 infringe upon the space rented by any other tenant.

149 (5) A landlord of any dwelling unit governed by this part
150 shall not remove the outside doors, locks, roof, walls, or
151 windows of the unit except for purposes of maintenance, repair,
152 or replacement; and the landlord shall not remove the tenant's
153 personal property from the dwelling unit unless such action is
154 taken after surrender, abandonment, recovery of possession of
155 the dwelling unit due to the death of the last remaining tenant
156 in accordance with s. 83.59(3)(d), or a lawful eviction. If
157 provided in the rental agreement or a written agreement separate
158 from the rental agreement, upon surrender or abandonment by the
159 tenant, the landlord is not required to comply with s. 715.104
160 and is not liable or responsible for storage or disposition of
161 the tenant's personal property; if provided in the rental
162 agreement, there must be printed or clearly stamped on such
163 rental agreement a legend in substantially the following form:
164 BY SIGNING THIS RENTAL AGREEMENT, THE TENANT AGREES THAT UPON
165 SURRENDER, ABANDONMENT, OR RECOVERY OF POSSESSION OF THE
166 DWELLING UNIT DUE TO THE DEATH OF THE LAST REMAINING TENANT, AS
167 PROVIDED BY CHAPTER 83, FLORIDA STATUTES, THE LANDLORD SHALL NOT
168 BE LIABLE OR RESPONSIBLE FOR STORAGE OR DISPOSITION OF THE
169 TENANT'S PERSONAL PROPERTY.

170 For the purposes of this section, abandonment shall be as set
171 forth in s. 83.59(3)(c).

172 (6) A landlord who violates any provision of this section
173 shall be liable to the tenant for actual and consequential
174 damages or 3 months' rent, whichever is greater, and costs,

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175 including attorney's fees. Subsequent or repeated violations
176 that are not contemporaneous with the initial violation shall be
177 subject to separate awards of damages.

178 (7) A violation of this section constitutes irreparable
179 harm for the purposes of injunctive relief.

180 (8) The remedies provided by this section are not exclusive
181 and do not preclude the tenant from pursuing any other remedy at
182 law or equity that the tenant may have. The remedies provided by
183 this section shall also apply to a servicemember who is a
184 prospective tenant who has been discriminated against under
185 subsection (3).

186 (9) A landlord who violates any provision of this section
187 commits a misdemeanor of the first degree, punishable as
188 provided in s. 775.082 or s. 775.083. A second or subsequent
189 offense constitutes a felony of the third degree, punishable as
190 provided in s. 775.082, s. 775.083, or s. 775.084.

191 Section 4. This act shall take effect October 1, 2016.