

By Senator Rouson

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1                   A bill to be entitled  
2       An act relating to residential tenancies; amending s.  
3       44.102, F.S.; requiring that courts in a judicial  
4       circuit in which a residential eviction mediation  
5       program has been established refer matters involving a  
6       residential eviction to mediation; amending s. 83.56,  
7       F.S.; deleting provisions requiring a residential  
8       tenant defending against specified actions by a  
9       landlord to comply with provisions requiring payment  
10      of accrued rent to the registry of the court, to  
11      conform to changes made by the act; amending s. 83.59,  
12      F.S.; restricting availability of a specified summary  
13      procedure in actions where a landlord is seeking to  
14      recover possession of a residential unit; amending s.  
15      83.60, F.S.; removing the requirement that a  
16      residential tenant defending against a landlord's  
17      action for possession pay accrued rent to the registry  
18      of the court; repealing s. 83.61, F.S., relating to  
19      the disbursement of funds in the registry of the  
20      court, to conform to changes made by the act;  
21      providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25       Section 1. Paragraph (e) is added to subsection (2) of  
26       section 44.102, Florida Statutes, to read:

27       44.102 Court-ordered mediation.—

28       (2) A court, under rules adopted by the Supreme Court:

29       (e) In circuits in which a residential eviction mediation

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30 program has been established, shall refer any matter involving a  
31 residential eviction to mediation.

32 Section 2. Subsection (5) of section 83.56, Florida  
33 Statutes, is amended to read:

34 83.56 Termination of rental agreement.—

35 (5) (a) If the landlord accepts rent with actual knowledge  
36 of a noncompliance by the tenant or accepts performance by the  
37 tenant of any other provision of the rental agreement that is at  
38 variance with its provisions, or if the tenant pays rent with  
39 actual knowledge of a noncompliance by the landlord or accepts  
40 performance by the landlord of any other provision of the rental  
41 agreement that is at variance with its provisions, the landlord  
42 or tenant waives his or her right to terminate the rental  
43 agreement or to bring a civil action for that noncompliance, but  
44 not for any subsequent or continuing noncompliance. However, a  
45 landlord does not waive the right to terminate the rental  
46 agreement or to bring a civil action for that noncompliance by  
47 accepting partial rent for the period. If partial rent is  
48 accepted after posting the notice for nonpayment, the landlord  
49 must:

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

53 2. Place the amount of partial rent accepted from the  
54 tenant in the registry of the court upon filing the action for  
55 possession; or

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

57 (b) ~~Any tenant who wishes to defend against an action by~~  
58 ~~the landlord for possession of the unit for noncompliance of the~~

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59 ~~rental agreement or of relevant statutes must comply with s.~~  
60 ~~83.60(2). The court may not set a date for mediation or trial~~  
61 ~~unless the provisions of s. 83.60(2) have been met, but must~~  
62 ~~enter a default judgment for removal of the tenant with a writ~~  
63 ~~of possession to issue immediately if the tenant fails to comply~~  
64 ~~with s. 83.60(2).~~

65 ~~(e)~~ This subsection does not apply to that portion of rent  
66 subsidies received from a local, state, or national government  
67 or an agency of local, state, or national government; however,  
68 waiver will occur if an action has not been instituted within 45  
69 days after the landlord obtains actual knowledge of the  
70 noncompliance.

71 Section 3. Subsection (2) of section 83.59, Florida  
72 Statutes, is amended to read:

73 83.59 Right of action for possession.—

74 (2) A landlord, the landlord's attorney, or the landlord's  
75 agent, applying for the removal of a tenant, shall file in the  
76 county court of the county where the premises are situated a  
77 complaint describing the dwelling unit and stating the facts  
78 that authorize its recovery. A landlord's agent is not permitted  
79 to take any action other than the initial filing of the  
80 complaint, unless the landlord's agent is an attorney. ~~The~~  
81 ~~landlord is entitled to the summary procedure provided in s.~~  
82 ~~51.011, and the court shall advance the cause on the calendar.~~

83 Section 4. Section 83.60, Florida Statutes, is amended to  
84 read:

85 83.60 Defenses to action for rent or possession;  
86 procedure.—

87 (1) ~~(a)~~ In an action by the landlord for possession of a

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88 dwelling unit based upon nonpayment of rent or in an action by  
89 the landlord under s. 83.55 seeking to recover unpaid rent, the  
90 tenant may defend upon the ground of a material noncompliance  
91 with s. 83.51(1), or may raise any other defense, whether legal  
92 or equitable, that he or she may have, including the defense of  
93 retaliatory conduct in accordance with s. 83.64. The landlord  
94 must be given an opportunity to cure a deficiency in a notice or  
95 in the pleadings before dismissal of the action.

96 (2)~~(b)~~ The defense of a material noncompliance with s.  
97 83.51(1) may be raised by the tenant if 7 days have elapsed  
98 after the delivery of written notice by the tenant to the  
99 landlord, specifying the noncompliance and indicating the  
100 intention of the tenant not to pay rent by reason thereof. Such  
101 notice by the tenant may be given to the landlord, the  
102 landlord's representative as designated pursuant to s. 83.50, a  
103 resident manager, or the person or entity who collects the rent  
104 on behalf of the landlord. A material noncompliance with s.  
105 83.51(1) by the landlord is a complete defense to an action for  
106 possession based upon nonpayment of rent, and, upon hearing, the  
107 court or the jury, as the case may be, shall determine the  
108 amount, if any, by which the rent is to be reduced to reflect  
109 the diminution in value of the dwelling unit during the period  
110 of noncompliance with s. 83.51(1). After consideration of all  
111 other relevant issues, the court shall enter appropriate  
112 judgment.

113 ~~(2) In an action by the landlord for possession of a~~  
114 ~~dwelling unit, if the tenant interposes any defense other than~~  
115 ~~payment, including, but not limited to, the defense of a~~  
116 ~~defective 3-day notice, the tenant shall pay into the registry~~

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117 ~~of the court the accrued rent as alleged in the complaint or as~~  
118 ~~determined by the court and the rent that accrues during the~~  
119 ~~pendency of the proceeding, when due. The clerk shall notify the~~  
120 ~~tenant of such requirement in the summons. Failure of the tenant~~  
121 ~~to pay the rent into the registry of the court or to file a~~  
122 ~~motion to determine the amount of rent to be paid into the~~  
123 ~~registry within 5 days, excluding Saturdays, Sundays, and legal~~  
124 ~~holidays, after the date of service of process constitutes an~~  
125 ~~absolute waiver of the tenant's defenses other than payment, and~~  
126 ~~the landlord is entitled to an immediate default judgment for~~  
127 ~~removal of the tenant with a writ of possession to issue without~~  
128 ~~further notice or hearing thereon. If a motion to determine rent~~  
129 ~~is filed, documentation in support of the allegation that the~~  
130 ~~rent as alleged in the complaint is in error is required. Public~~  
131 ~~housing tenants or tenants receiving rent subsidies are required~~  
132 ~~to deposit only that portion of the full rent for which they are~~  
133 ~~responsible pursuant to the federal, state, or local program in~~  
134 ~~which they are participating.~~

135 Section 5. Section 83.61, Florida Statutes, is repealed.

136 Section 6. This act shall take effect July 1, 2021.