

1 A bill to be entitled
2 An act relating to fees in lieu of security deposits;
3 creating s. 83.491, F.S.; authorizing a landlord to
4 offer a tenant the option to pay a fee in lieu of a
5 security deposit; requiring the landlord to notify the
6 tenant of certain unpaid fees and costs within a
7 specified time after the conclusion of the tenancy;
8 prohibiting the landlord from filing an insurance
9 claim within a specified period of time; providing
10 requirements for the landlord and insurer if an
11 insurance claim to recover certain losses is filed;
12 prohibiting the landlord from accepting certain
13 payments; requiring the landlord to provide certain
14 written notice to the tenant; requiring a written
15 agreement signed by the landlord, or the landlord's
16 agent, and the tenant if the tenant decides to pay a
17 fee in lieu of the security deposit; requiring a
18 specified disclosure in the written agreement;
19 providing options for paying the fee; specifying that
20 the fee is not a security deposit; specifying that
21 landlords have exclusive discretion whether to offer
22 tenants the option to pay a fee in lieu of a security
23 deposit; requiring a landlord to offer the fee option
24 to all new tenants under certain circumstances;
25 providing an exception; providing applicability;

26 providing an effective date.

27

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

29

30 Section 1. Section 83.491, Florida Statutes, is created to
31 read:

32 83.491 Fee in lieu of security deposit.-

33 (1) If a rental agreement requires a security deposit, a
34 landlord may offer a tenant the option to pay a fee in lieu of
35 the security deposit.

36 (2) (a) If a tenant agrees to pay a fee in lieu of a
37 security deposit, the landlord must notify the tenant within 30
38 days after the conclusion of the tenancy of any costs or fees
39 that are due resulting from unpaid rent, fees, or other
40 obligations under the rental agreement, including, but not
41 limited to, costs required for repairing damage to the premises
42 beyond normal wear and tear.

43 (b) A landlord may not submit a claim with an insurer to
44 recover the landlord's losses associated with unpaid rent, fees,
45 or other obligations under the rental agreement, including, but
46 not limited to, costs required for repairing damage to the
47 premises beyond normal wear and tear until at least 15 days
48 after providing the tenant with the required notice under
49 paragraph (a).

50 1. The landlord must include an itemized list of any

51 unpaid amounts and the dates such amounts were due,
52 documentation supporting any itemized damages and costs of
53 repairs, and a copy of any written objection or report of any
54 communication of objection by the tenant when he or she submits
55 a claim to an insurer.

56 2. If an insurer pays a claim that was submitted under
57 this subsection to a landlord and the insurer has subrogation
58 rights, the insurer may, within 1 year after the tenancy that
59 was the subject of the claim ends, seek reimbursement from the
60 tenant for the amounts that were paid to the landlord. If the
61 insurer seeks reimbursement from the tenant, the following
62 apply:

63 a. The insurer must provide the tenant with all
64 documentation for losses that the landlord provided to the
65 insurer in support of the landlord's claim and a copy of the
66 settlement statement documenting the insurer's payment of the
67 landlord's claim.

68 b. The tenant has any defenses against the insurer which
69 the insurer would otherwise have against the landlord.

70 3. A landlord may not accept payment from both a tenant
71 and an insurer for amounts associated with the same rent, fees,
72 or damages.

73 (3) If a landlord offers a tenant the option to pay a fee
74 in lieu of a security deposit, the landlord must notify the
75 tenant in writing of all of the following:

76 (a) That the tenant has the option to pay a security
 77 deposit instead of the fee.

78 (b) That the tenant may, at any time, terminate the
 79 agreement to pay the fee in lieu of the security deposit and
 80 instead pay a security deposit in the amount that is otherwise
 81 offered to new tenants for a substantially similar dwelling unit
 82 on the date that the tenant terminates the agreement.

83 (c) Whether any additional charges apply for the options
 84 provided in paragraphs (a) and (b).

85 (d) The amount of the payments required for each option
 86 the landlord offers.

87 (e) That the fee is nonrefundable, if applicable.

88 (f) That the fee is only for securing occupancy without
 89 paying a required security deposit.

90 (g) That the fee payment does not limit or change the
 91 tenant's obligation to pay rent and fees, if any, under the
 92 rental agreement or limit or change the tenant's obligation to
 93 pay the costs of repairing damage to the premises beyond normal
 94 wear and tear.

95 (h) That if the landlord uses any portion of the fee to
 96 purchase insurance, the tenant is not insured and is not a
 97 beneficiary of the landlord's insurance coverage, and that the
 98 insurance does not limit or change the tenant's obligations to
 99 pay rent and fees, if any, under the rental agreement or change
 100 the tenant's obligation to pay the costs of repairing damage to

101 the premises beyond normal wear and tear.

102 (4) (a) If a tenant decides to pay a fee in lieu of a
 103 security deposit, a written agreement to collect the fee must be
 104 signed by the landlord, or the landlord's agent, and the tenant.
 105 The written agreement must, at a minimum, specify the amount of
 106 the fee and how and when the fee is to be collected.

107 (b) The written agreement specified under paragraph (a)
 108 must also include a disclosure in substantially the following
 109 form:

111 FEE IN LIEU OF SECURITY DEPOSIT

112 THIS AGREEMENT HAS BEEN ENTERED INTO VOLUNTARILY BY BOTH PARTIES
 113 AND THE TENANT AGREES TO PAY THE LANDLORD A FEE IN LIEU OF A
 114 SECURITY DEPOSIT AS AUTHORIZED UNDER SECTION 83.491, FLORIDA
 115 STATUTES. THIS FEE IS NOT A SECURITY DEPOSIT AND PAYMENT OF THE
 116 FEE DOES NOT ABSOLVE THE TENANT OF ANY OBLIGATIONS UNDER THE
 117 RENTAL AGREEMENT, INCLUDING THE OBLIGATION TO PAY RENT AS IT
 118 BECOMES DUE AND ANY COSTS AND DAMAGES BEYOND NORMAL WEAR AND
 119 TEAR THAT THE TENANT OR HIS OR HER GUESTS MAY CAUSE. IF THE
 120 LANDLORD USES ANY PORTION OF THE TENANT'S FEE TO PURCHASE
 121 INSURANCE, THE TENANT IS NOT INSURED AND IS NOT A BENEFICIARY OF
 122 SUCH COVERAGE. SUCH INSURANCE DOES NOT LIMIT OR CHANGE THE
 123 TENANT'S OBLIGATION TO PAY RENT AND FEES, IF ANY, UNDER THE
 124 RENTAL AGREEMENT OR TO PAY THE COSTS AND DAMAGES BEYOND NORMAL
 125 WEAR AND TEAR THAT THE TENANT OR HIS OR HER GUESTS MAY CAUSE.

126 THE TENANT MAY TERMINATE THIS AGREEMENT AT ANY TIME AND STOP
127 PAYING THE FEE AND INSTEAD PAY A SECURITY DEPOSIT AS PROVIDED IN
128 SECTION 83.491, FLORIDA STATUTES.

129
130 THIS DISCLOSURE IS BASIC. PLEASE REFER TO PART II OF CHAPTER 83,
131 FLORIDA STATUTES, TO DETERMINE YOUR LEGAL RIGHTS AND
132 OBLIGATIONS.

133
134 (5) A fee in lieu of a security deposit may be:

135 (a) A recurring monthly fee, payable on the same date that
136 the rent payment is due under the rental agreement; or

137 (b) Payable upon a schedule that the landlord and tenant
138 choose and as specified in the written agreement.

139 (6) A fee collected under this section is not a security
140 deposit as defined in s. 83.43(12).

141 (7) A landlord has exclusive discretion whether to offer
142 tenants the option to pay a fee in lieu of a security deposit
143 and is not required to offer the fee option to tenants. However,
144 if a landlord offers a tenant the option to pay a fee in lieu of
145 a security deposit, the landlord must also offer all new tenants
146 renting a dwelling unit on the same premises the option to pay a
147 fee in lieu of a security deposit, unless the landlord chooses
148 to terminate the fee option for all tenants.

149 (8) This section applies to rental agreements entered into
150 or renewed on or after July 1, 2022.

CS/CS/HB 537

2022

151 Section 2. This act shall take effect July 1, 2022.