

By Senator Boyd

21-00684-22

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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 provide
6 certain written notice to the tenant; requiring a
7 written agreement signed by the landlord, or the
8 landlord's agent, and the tenant if the tenant decides
9 to pay a fee in lieu of the security deposit;
10 requiring a specified disclosure in the written
11 agreement; providing options for paying the fee;
12 specifying that the fee is not a security deposit;
13 requiring a landlord to offer the option to pay a fee
14 in lieu of a security deposit to all new tenants under
15 certain circumstances; providing an exception;
16 providing applicability; providing an effective date.

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

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20 Section 1. Section 83.491, Florida Statutes, is created to
21 read:

22 83.491 Fee in lieu of security deposit.—

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

26 (2) If a landlord offers a tenant the option to pay a fee
27 in lieu of a security deposit, the landlord must notify the
28 tenant in writing of all of the following:

29 (a) That the tenant has the option to pay a security

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30 deposit instead of the fee.

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

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

38 (3) (a) If a tenant decides to pay a fee in lieu of a
39 security deposit, a written agreement to collect the fee must be
40 signed by the landlord, or the landlord's agent, and the tenant.
41 The written agreement must, at a minimum, specify the amount of
42 the fee and how and when the fee is to be collected.

43 (b) The written agreement specified under paragraph (a)
44 must also include a disclosure in substantially the following
45 form:

46
47 FEE IN LIEU OF SECURITY DEPOSIT
48 THIS AGREEMENT HAS BEEN ENTERED INTO VOLUNTARILY BY BOTH PARTIES
49 AND THE TENANT AGREES TO PAY THE LANDLORD A FEE IN LIEU OF A
50 SECURITY DEPOSIT AS AUTHORIZED UNDER SECTION 83.491, FLORIDA
51 STATUTES. THIS FEE IS NOT A SECURITY DEPOSIT AND PAYMENT OF THE
52 FEE DOES NOT ABSOLVE THE TENANT OF ANY OBLIGATIONS UNDER THE
53 RENTAL AGREEMENT, INCLUDING THE OBLIGATION TO PAY RENT AS IT
54 BECOMES DUE AND ANY COSTS AND DAMAGES BEYOND NORMAL WEAR AND
55 TEAR THAT THE TENANT OR HIS OR HER GUESTS MAY CAUSE. THE TENANT
56 MAY TERMINATE THIS AGREEMENT AT ANY TIME AND STOP PAYING THE FEE
57 AND INSTEAD PAY A SECURITY DEPOSIT AS PROVIDED IN SECTION
58 83.491, FLORIDA STATUTES.

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

(4) A fee in lieu of a security deposit may be:

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

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

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

(6) If a landlord offers a tenant the option to pay a fee in lieu of a security deposit, the landlord must also offer all new tenants renting a dwelling unit on the same premises the option to pay a fee in lieu of a security deposit, unless the landlord chooses to terminate the fee option for all tenants.

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

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