

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 1466

INTRODUCER: Banking and Insurance Committee and Senator Grall

SUBJECT: Residential Tenancies

DATE: February 13, 2024

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|--------------------|
| 1. | <u>Collazo</u> | <u>Cibula</u> | <u>JU</u> | Favorable |
| 2. | <u>Johnson</u> | <u>Knudson</u> | <u>BI</u> | Fav/CS |
| 3. | <u>Collazo</u> | <u>Twogood</u> | <u>RC</u> | Pre-meeting |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1466 amends s. 83.43, F.S., to define the term “Florida financial institution” for purposes of the Florida Residential Landlord and Tenant Act. Specifically, the bill defines “Florida financial institution” to mean a bank, credit union, trust company, savings bank, or savings or thrift association doing business under the authority of a charter issued by the United States, this state, or any other state which is authorized to transact business in this state and whose deposits or share accounts are insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.

The effect of this change is to expressly permit landlords to comply with the Act by depositing their tenants’ security deposits in any qualifying bank in Florida, regardless of where the financial institution was chartered or is headquartered.

The bill takes effect July 1, 2024.

II. Present Situation:

Under the Florida Residential Landlord and Tenant Act (the Act),¹ if a tenant deposits with, or advances money to, the landlord as security for performance of the rental agreement, or advances rent to the landlord for other than the next immediate rental period, the landlord has the option of

¹ Chapter 83, Part II, F.S. See s. 83.40, F.S. (providing the short title).

depositing the money in a separate, non-interest-bearing account in a “Florida banking institution” for the benefit of the tenant.² The Act, however, does not define what constitutes a Florida banking institution.

In at least one recent court filing alleging violations of the Act (the Palm Beach Court Case),³ the plaintiff relied upon a statutory definition for the term “Florida banking institution” that once existed in chapter 658, F.S.,⁴ but was repealed over a decade ago.⁵

Specifically, the repealed statute defined “Florida banking institution” to mean “a bank whose home state is this state,”⁶ and defined “home state” to mean:

- With respect to a state bank, the state by which the bank is chartered.
- With respect to a national bank, the state in which the main office of the bank is located.
- With respect to a foreign bank, the state determined to be the home state of such foreign bank under 12 U.S.C. s. 3103(c).⁷

The plaintiff in the Palm Beach case – a limited liability company that had been assigned the rights to a \$500 deposit by the defendant landlord’s former tenants – cited to this definition and alleged that the defendant landlord had violated the Act by depositing the tenants’ security deposit with JPMorgan Chase Bank, which is not a Florida chartered bank nor headquartered in Florida.⁸ JPMorgan Chase, however, is the largest financial institution in the United States.⁹ As of September 30, 2023, JPMorgan Chase had \$3.38 trillion in assets, 80 million customer accounts, and 4,700 branches.¹⁰ Then based upon this alleged violation, the plaintiff sought to recover its attorney fees and court costs from the defendant landlord as permitted under the Act.¹¹

Although the definition of “Florida banking institution” relied upon by the plaintiff in the Palm Beach Court Case has been repealed, a similar definition still exists in chapter 658, F.S.¹² This fact, combined with the fact that the Act does not define “Florida banking institution,” suggests that similar lawsuits seeking the recovery of attorney fees and court costs may be filed again in the future.

² Section 83.49(1)(a), F.S.

³ *KAC 2021-1 LLC As Assignee to Erole Emmanuel and Marie Joseph v. Eatmira II LLC d/b/a Catalina at Miramar*, Uniform Case No. 50-2023-SC-005770-XXXX-WB (Small Claims Court of the Fifteenth Judicial Circuit, Palm Beach County, Apr. 13, 2023) [hereinafter “*Palm Beach County Case*”].

⁴ This chapter of the Financial Institutions Code regulates banks and trust companies doing business in Florida.

⁵ See *Palm Beach County Case*, *supra* at note 3; see also ch. 2011-194, s. 24, Laws of Fla. (repealing s. 658.295, F.S. (2010)).

⁶ Section 658.295(2)(m), F.S. (2010).

⁷ Section 658.295(2)(o), F.S. (2010).

⁸ *Palm Beach County Case*, *supra* at note 3, Count II.

⁹ Christopher Murray, *The Biggest Banks in the 2024*, MarketWatch Guides (updated Jan. 10, 2024), <https://www.marketwatch.com/guides/banking/largest-banks-in-the-us/#:~:text=Chase%20is%20the%20largest%20bank,over%20%241.7%20trillion%20in%20assets> (last visited Jan. 25, 2024).

¹⁰ *Id.*

¹¹ *Id.*; see also s. 83.48, F.S. (entitling prevailing parties to recover attorney fees and court costs in civil actions to enforce the provisions of the Act).

¹² See s. 658.2953(3)(c), F.S. (providing that “Florida Bank” means “a bank whose home state is this state”).

III. Effect of Proposed Changes:

The bill amends s. 83.43, F.S., to define the term “Florida financial institution” for purposes of the Act. Specifically, the bill defines “Florida financial institution” to mean a bank, credit union, trust company, savings bank, or savings or thrift association under the authority of a charter issued by the United States, this state, or any other state which is authorized to transact business in this state and whose deposits or share accounts are insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.

The effect of this change is to expressly permit landlords to comply with the Act by depositing their tenants’ security deposits in any qualifying bank in Florida, regardless of where the financial institution was chartered or is headquartered.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Because the bill expressly permits landlords to comply with the Act by depositing their tenants’ security deposits in any qualifying bank in Florida, regardless of where the financial institution was chartered or is headquartered, fewer lawsuits alleging “Florida financial institution” violations of the Act will be filed, reducing the costs to both

plaintiffs and defendants in landlord-tenant disputes. Additionally, financial institutions that are not chartered or headquartered in Florida may benefit from receiving additional security deposits.

C. Government Sector Impact:

Because the bill expressly permits landlords to comply with the Act by depositing their tenants' security deposits in any qualifying financial institution in Florida, regardless of where the bank was chartered or is headquartered, fewer lawsuits alleging "Florida financial institution" violations of the Act will be filed. As a result, the bill is likely to reduce the caseload burden on small claims, county, and circuit courts.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 83.43, 83.491, and 553.895.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on Jan. 29, 2024:

The CS replaces the term, "Florida banking institution," with the term, "Florida financial institution," which is more expansive than the term, "Florida banking institution." A "Florida financial institution," means a bank, credit union, savings bank, trust company, or savings or thrift association that has a state or national charter and whose deposits or share accounts are insured, and is authorized to transact business in Florida.

B. Amendments:

None.