

**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.)

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Prepared By: The Professional Staff of the Committee on Judiciary

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BILL: SB 382

INTRODUCER: Senator Bernard

SUBJECT: Rent of Affordable Housing Dwelling Units

DATE: March 24, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bond	Cibula	JU	<b>Pre-meeting</b>
2.			CA	
3.			RC	

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**I. Summary:**

SB 382 prohibits a landlord of a dwelling unit that qualifies as affordable housing and who has received federal, state, or local funding or tax incentives because of the dwelling unit’s status as an affordable housing unit from increasing the rent of the dwelling unit during the term of a rental agreement. Affordable housing refers to rental of a dwelling to one or more natural persons whose total annual adjusted gross income is less than 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not in an MSA, within the county, where the rent does not exceed 30 percent of income.

The bill specifies that it does not prohibit a landlord from increasing the rent of a dwelling unit that qualifies as affordable housing when a tenant is renewing his or her rental agreement.

The bill is effective July 1, 2025.

**II. Present Situation:**

**Landlord and Tenant Law - Regulation of Rents**

Residential lease agreements are governed by the Florida Residential Landlord and Tenant Act.<sup>1</sup> The term “rent” is defined to mean “the periodic payments due the landlord from the tenant for occupancy under a rental agreement and any other payments due the landlord from the tenant as may be designated as rent in a written rental agreement.”<sup>2</sup>

The Act does not contain any limit on rental rates or restrictions on rent increases. As to an unwritten lease agreement, the rent can be raised by the landlord by giving oral notice, which is the same as the notice required to terminate the lease, and the tenant must choose to either pay or

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<sup>1</sup> Part II of ch. 83, F.S.

<sup>2</sup> Section 83.43(12), F.S.

leave. In the more typical written lease, the periodic rental rate is expressed in writing. Ordinary contract law prohibits a landlord having a written lease from increasing the rent unless specifically allowed by the terms of the written lease, unless the tenant agrees. Florida law does not contain any limits on the rent that the landlord can ask for when offering a unit for lease or when negotiating with a current tenant for renewal of the lease.<sup>3</sup>

### **Affordable Rental Housing**

The term “affordable housing” generally refers to housing subsidized by government or charitable organizations to furnish housing at rental rates below the prevailing market rate for the benefit of lower income individuals and families. Landlords are not required by any law to participate in programs creating affordable housing.

The State Housing Strategy Act<sup>4</sup> defines the term “affordable” to mean a monthly rent that does not exceed 30 percent of the adjusted gross income for a qualifying household.<sup>5</sup> The qualifying households are classified as:

- “Extremely-low-income,” refers to the income of one or more natural persons or a family whose total annual household income does not exceed 30 percent of the median annual adjusted gross income for households within the state. The Florida Housing Finance Corporation may adjust this amount annually by rule to provide that in lower income counties, extremely low income may exceed 30 percent of area median income and that in higher income counties, extremely low income may be less than 30 percent of area median income.<sup>6</sup>
- “Very-low income,” refers to one or more natural persons or a family, not including students, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.<sup>7</sup>
- “Low-income,” meaning one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the MSA or, if not within an MSA, within the county in which the person or family resides, whichever is greater.<sup>8</sup>
- “Moderate-income,” meaning one or more natural persons or a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the MSA or, if not within an MSA, within the county in which the person or family resides, whichever is greater.<sup>9</sup>

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<sup>3</sup> Of course, state and federal fair housing laws prohibit a landlord from imposing or attempting to impose discriminatory rental rates.

<sup>4</sup> Part I of ch. 420, F.S.

<sup>5</sup> Section 420.0004(3), F.S.

<sup>6</sup> Section 420.0004(9), F.S.

<sup>7</sup> Section 420.0004(17), F.S.

<sup>8</sup> Section 420.0004(11), F.S.

<sup>9</sup> Section 420.0004(12), F.S.

It appears that the moderate-income classification would include members of all the other three classifications.

### **Affordable Housing Rents with Federally Based Subsidy**

The term “rent” as applied to rental housing where a federally based subsidy is available may refer to different amounts related to a rental unit. It may refer to the “fair market rent,” referring to the maximum rent that a subsidized landlord in a given area may charge for a specific type and size of rental unit in the applicable base year.<sup>10</sup> The fair market rent is set by the U.S. Department of Housing and Urban Development (HUD) and is adjusted at least annually.<sup>11</sup> The fair market rent may be increased by the fair market value of utilities furnished by the landlord, if any. The fair market rent is due from the tenant if no subsidy is applied.

The rent that a subsidized tenant pays is referred to as the “monthly rent.” The monthly rent is calculated by subtracting the “tenant assistance payment” from the fair market rent.<sup>12</sup> The tenant assistance payment is the sum of all subsidies available to the tenant. Subsidies are based on factors specific to the tenant or tenants, including the size of the unit rented, the number of residents in the dwelling, and the income of the tenant or the combined income of the residents. Subsidies are also based on funding formulas set by HUD. These formulas periodically change due to changes in applicable law and funding changes imposed by government budgeting.

There are numerous reasons why the monthly rent of an affordable housing unit may change during the term of a lease. For example, the monthly rent may change if:

- HUD determines that the fair market rent has changed.
- HUD determines that the fair market value of utilities furnished has changed.
- The income, the number of people in the household, or other factors considered in determining the tenant’s fair market rent or the tenant’s assistance payment change.
- The terms and conditions, or the procedures for qualification, of the tenant’s assistance program have changed.
- The tenant fails to provide information showing that the tenant still qualifies for the tenant’s assistance program.<sup>13</sup>

These reasons are disclosed in HUD’s Model Lease for Subsidized Programs, which is a fill-in-the-blank lease form. The tenant must be given at least 30-days notice of a change in the tenant’s monthly rent due to one of these reasons.<sup>14</sup> The monthly rent may also increase should the tenant no longer qualify for assistance.<sup>15</sup>

The terms and conditions of a federally subsidized program described above do not necessarily apply to the terms and conditions of the numerous charitable, local, state and federal programs that provide rental housing assistance to low-income individuals and families through direct

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<sup>10</sup> 24 CFR § 888.111.

<sup>11</sup> 24 CFR § 888.113.

<sup>12</sup> Model Lease for Subsidized Programs, Form HUD-90105a (12/2007).

<sup>13</sup> Model Lease, paragraph 4.

<sup>14</sup> Id.

<sup>15</sup> 24 CFR § 576.106.

subsidies or indirect subsidies. Indirect subsidies include various property tax and income tax relief programs.

### **III. Effect of Proposed Changes:**

The bill prohibits a landlord of a dwelling unit that qualifies as affordable housing and who has received federal, state, or local funding or tax incentives because of the dwelling unit's status as an affordable housing unit from increasing the rent of the dwelling unit during the term of a rental agreement.

The bill specifies that it does not prohibit a landlord from increasing the rent of a dwelling unit that qualifies as affordable housing when a tenant is renewing his or her rental agreement.

The bill is effective July 1, 2025.

### **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:**

Art. I, s. 10, of the state constitution prohibits any law impairing the obligation of contract. To the extent that this bill may impact the terms of a lease executed prior to July 1, 2025, this bill may not be enforceable as to that lease.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

To the extent that this bill limits future rent increases where applied, this bill may lower costs to low-income individuals and lead to a corresponding decrease in revenues to

landlords. The reduction in revenues to landlords may discourage them from participating in affordable housing programs.

C. **Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

The bill is unclear in its reference to the term “rent.” In the realm of affordable housing, the term “rent” could be interpreted to refer to one of several different sums. As written and in light of the definition of “rent” in existing law, the term likely would be interpreted as related to federally subsidized housing to mean the “tenant’s monthly rent,” i.e. the amount due after applying the tenant’s subsidy. It is arguable, however, that the provision of the bill allowing a rent increase upon renewal means that the intent of the bill is to simply prohibit mid-lease rent payable based on a change to the fair market rent while still allowing change based on other factors (such as status, persons moving in/out, and change in income). Accordingly, it might be helpful to clarify the meaning of the rent by amending the bill to refer to either the term “fair market rent” or the “tenant’s monthly rent,” or some other more definitive term or phrase, depending upon the intent.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 83.46 of the Florida Statutes.

**IX. Additional Information:**

A. **Committee Substitute – Statement of Changes:**

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

None.

B. **Amendments:**

None.