

Committee Substitute for Senate Bill No. 838

An act relating to landlord and tenant; amending s. 83.49, F.S.; increasing the time period within which a landlord must notify a tenant of the intention to impose a claim on a security deposit; amending s. 83.67, F.S.; exempting certain landlords from a requirement to give notice to former tenants regarding personal property; amending ss. 715.105, 715.106, and 715.109, F.S.; increasing the value of abandoned personal property that may be kept, sold, or destroyed by a landlord; conforming notice provisions; providing for termination of a rental agreement by a member of the United States Armed Forces; amending s. 475.011, F.S.; providing an additional exemption for certain activities; providing an effective date.

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

Section 1. Subsection (3) of section 83.49, Florida Statutes, is amended to read:

83.49 Deposit money or advance rent; duty of landlord and tenant.—

(3)(a) Upon the vacating of the premises for termination of the lease, if the landlord does not intend to impose a claim on the security deposit, the landlord shall have 15 days to return the security deposit together with interest if otherwise required, or the landlord shall have 30 days in which to give the tenant written notice by certified mail to the tenant's last known mailing address of his or her intention to impose a claim on the deposit and the reason for imposing the claim. The notice shall contain a statement in substantially the following form:

This is a notice of my intention to impose a claim for damages in the amount of upon your security deposit, due to It is sent to you as required by s. 83.49(3), Florida Statutes. You are hereby notified that you must object in writing to this deduction from your security deposit within 15 days from the time you receive this notice or I will be authorized to deduct my claim from your security deposit. Your objection must be sent to ...(landlord's address)....

If the landlord fails to give the required notice within the ~~30-day~~ 15-day period, he or she forfeits the right to impose a claim upon the security deposit.

(b) Unless the tenant objects to the imposition of the landlord's claim or the amount thereof within 15 days after receipt of the landlord's notice of intention to impose a claim, the landlord may then deduct the amount of his or her claim and shall remit the balance of the deposit to the tenant within 30 days after the date of the notice of intention to impose a claim for damages.

(c) If either party institutes an action in a court of competent jurisdiction to adjudicate the party's right to the security deposit, the prevailing party

is entitled to receive his or her court costs plus a reasonable fee for his or her attorney. The court shall advance the cause on the calendar.

(d) Compliance with this section by an individual or business entity authorized to conduct business in this state, including Florida-licensed real estate brokers and salespersons, shall constitute compliance with all other relevant Florida Statutes pertaining to security deposits held pursuant to a rental agreement or other landlord-tenant relationship. Enforcement personnel shall look solely to this section to determine compliance. This section prevails over any conflicting provisions in chapter 475 and in other sections of the Florida Statutes, and shall operate to permit licensed real estate brokers to disburse security deposits and deposit money without having to comply with the notice and settlement procedures contained in s. 475.25(1)(d).

Section 2. Subsection (3) of section 83.67, Florida Statutes, is amended to read:

83.67 Prohibited practices.—

(3) No landlord of any dwelling unit governed by this part shall remove the outside doors, locks, roof, walls, or windows of the unit except for purposes of maintenance, repair, or replacement; nor shall the landlord remove the tenant's personal property from the dwelling unit unless said action is taken after surrender, abandonment, or a lawful eviction. If provided in the rental agreement or a written agreement separate from the rental agreement, upon surrender or abandonment by the tenant, the landlord is not required to comply with s. 715.104 and is ~~shall not be~~ liable or responsible for storage or disposition of the tenant's personal property; if provided in the rental agreement there must ~~shall~~ be printed or clearly stamped on such rental agreement a legend in substantially the following form:

BY SIGNING THIS RENTAL AGREEMENT THE TENANT AGREES THAT UPON SURRENDER OR ABANDONMENT, AS DEFINED BY CHAPTER 83, THE FLORIDA STATUTES, THE LANDLORD SHALL NOT BE LIABLE OR RESPONSIBLE FOR STORAGE OR DISPOSITION OF THE TENANT'S PERSONAL PROPERTY.

For the purposes of this section, abandonment shall be as set forth in s. 83.59(3)(c).

Section 3. Section 715.105, Florida Statutes, is amended to read:

715.105 Form of notice to former tenant.—

(1) A notice to the former tenant which is in substantially the following form satisfies the requirements of s. 715.104:

Notice of Right to Reclaim Abandoned Property

To: ...(Name of former tenant)...

...(Address of former tenant)...

When you vacated the premises at ...(address of premises, including room or apartment number, if any)..., the following personal property remained: ...(insert description of personal property)....

You may claim this property at ...(address where property may be claimed)....

Unless you pay the reasonable costs of storage and advertising, if any, for all the above-described property and take possession of the property which you claim, not later than ...(insert date not fewer than 10 days after notice is personally delivered or, if mailed, not fewer than 15 days after notice is deposited in the mail)..., this property may be disposed of pursuant to s. 715.109.

(Insert here the statement required by subsection (2))

Dated:.... (Signature of landlord)...

...(Type or print name of landlord)...

...(Telephone number)...

...(Address)...

(2) The notice set forth in subsection (1) shall also contain one of the following statements:

(a) “If you fail to reclaim the property, it will be sold at a public sale after notice of the sale has been given by publication. You have the right to bid on the property at this sale. After the property is sold and the costs of storage, advertising, and sale are deducted, the remaining money will be paid over to the county. You may claim the remaining money at any time within 1 year after the county receives the money.”

(b) “Because this property is believed to be worth less than ~~\$500~~ \$250, it may be kept, sold, or destroyed without further notice if you fail to reclaim it within the time indicated above.”

Section 4. Section 715.106, Florida Statutes, is amended to read:

715.106 Form of notice to owner other than former tenant.—

(1) A notice which is in substantially the following form given to a person who is not the former tenant and whom the landlord reasonably believes to be the owner of any of the abandoned personal property satisfies the requirements of s. 715.104:

Notice of Right to Reclaim Abandoned Property

To: ...(Name)...

...(Address)...

When ...(name of former tenant)... vacated the premises at ...(address of premises, including room or apartment number, if any)..., the following personal property remained: ...(insert description of personal property)....

If you own any of this property, you may claim it at ...(address where property may be claimed).... Unless you pay the reasonable costs of storage

and advertising, if any, and take possession of the property to which you are entitled, not later than ...(insert date not fewer than 10 days after notice is personally delivered or, if mailed, not fewer than 15 days after notice is deposited in the mail)..., this property may be disposed of pursuant to s. 715.109.

(Insert here the statement required by subsection (2))

Dated:.... (Signature of landlord)...

...(Type or print name of landlord)...

...(Telephone number)...

...(Address)...

(2) The notice set forth in subsection (1) shall also contain one of the following statements:

(a) “If you fail to reclaim the property, it will be sold at a public sale after notice of the sale has been given by publication. You have the right to bid on the property at this sale. After the property is sold and the costs of storage, advertising, and sale are deducted, the remaining money will be paid over to the county. You may claim the remaining money at any time within 1 year after the county receives the money.”

(b) “Because this property is believed to be worth less than ~~\$500~~ \$250, it may be kept, sold, or destroyed without further notice if you fail to reclaim it within the time indicated above.”

Section 5. Subsection (1) of section 715.109, Florida Statutes, is amended to read:

715.109 Sale or disposition of abandoned property.—

(1) If the personal property described in the notice is not released pursuant to s. 715.108, it shall be sold at public sale by competitive bidding. However, if the landlord reasonably believes that the total resale value of the property not released is less than ~~\$500~~ \$250, she or he may retain such property for her or his own use or dispose of it in any manner she or he chooses. Nothing in this section shall be construed to preclude the landlord or tenant from bidding on the property at the public sale. The successful bidder's title is subject to ownership rights, liens, and security interests which have priority by law.

Section 6. (1)(a) Any member of the United States Armed Forces who is required to move pursuant to permanent change of station orders to depart 35 miles or more from the location of a rental premises or who is prematurely or involuntarily discharged or released from active duty with the United States Armed Forces may terminate his or her rental agreement by providing the landlord with a written notice of termination to be effective on the date stated in the notice that is at least 30 days after the landlord's receipt of the notice. The notice to the landlord must be accompanied by either a copy of the official military orders or a written verification signed by the member's commanding officer.

(b) In the event a member of the United States Armed Forces dies during active duty, an adult member of his immediate family may terminate his rental agreement by providing the landlord with a written notice of termination to be effective on the date stated in the notice that is at least 30 days after the landlord's receipt of the notice. The notice to the landlord must be accompanied by either a copy of the official military orders or a written verification signed by the member's Commanding Officer.

(2) Upon termination of a rental agreement under this section, the tenant is liable for the rent due under the rental agreement prorated to the effective date of the termination payable at such time as would have otherwise been required by the terms of the rental agreement. The tenant is not liable for any other rent or damages due to the early termination of the tenancy except the liquidated damages provided in this section. If a tenant terminates the rental agreement pursuant to this section 14 or more days prior to occupancy, no damages or penalties of any kind are due.

(3) In consideration of early termination of the rental agreement, the tenant is liable to the landlord for liquidated damages provided the tenant has completed less than 9 months of the tenancy and the landlord has suffered actual damages due to loss of the tenancy. The liquidated damages must be no greater than 1 month's rent if the tenant has completed less than 6 months of the tenancy as of the effective date of termination, or one-half of 1 month's rent if the tenant has completed at least 6 but not less than 9 months of the tenancy as of the effective date of termination.

(4) The provisions of this section may not be waived or modified by the agreement of the parties under any circumstances.

Section 7. Subsection (13) is added to section 475.011, Florida Statutes, to read:

475.011 Exemptions.—This part does not apply to:

(13) Any property management firm or any owner of an apartment complex for the act of paying a finder's fee or referral fee to an unlicensed person who is a tenant in such apartment complex provided the value of the fee does not exceed \$50 per transaction. Nothing in this subsection authorizes an unlicensed person to advertise or otherwise promote the person's services in procuring or assisting in procuring prospective lessees or tenants of apartment units. For purposes of this subsection, "finder's fee" or "referral fee" means a fee paid, credit towards rent, or some other thing of value provided to a person for introducing or arranging an introduction between parties to a transaction involving the rental or lease of an apartment unit. It is a violation of s. 475.25(1)(h) and punishable under s. 475.42 for a property management firm or any owner of an apartment complex to pay a finder's fee or a referral fee to an unlicensed person unless expressly authorized by this subsection.

Section 8. This act shall take effect July 1, 2001.

Approved by the Governor June 7, 2001.

Filed in Office Secretary of State June 7, 2001.