

# FLORIDA'S

## landlord/tenant law

### SUMMARY OF CHAPTER 83, PART II

While both the landlord and the tenant are aware that they have certain rights when an oral or written rental agreement has been established, in many cases neither party is aware of what those rights are. When questions involving rights and duties arise, Florida Statute outline procedures directing both the landlord and tenant toward civil action. This brochure is a summary of Florida's Landlord/Tenant Law. It is not intended for the purpose of providing legal advice. For additional information not addressed in the brochure, consumers should always refer to Chapter 83, Part II of the Florida Statutes.

## BEFORE YOU RENT

A tenant is an equal party with the landlord. You never have to agree to any rental arrangement. If possible, arrange for a walk-through of the premises to identify any problems that should be fixed BEFORE signing a rental agreement. Take pictures, video or make notes of any questionable conditions and include provisions for repairs in the rental agreement or in a separate written document signed by both parties.

A landlord has the discretion to collect various deposits, as well as some rent in advance. These advance payments generally vary in range. You should be careful about giving any monies in advance unless a decision has been made to move into the unit. A tenant who pays monies in advance but then decides not to occupy the unit MAY NOT be entitled to a refund. It should be stated in the rental agreement if monies paid in advance are refundable/non-refundable.

Before you sign, make sure you thoroughly understand the terms of the agreement. If you DON'T understand, DON'T sign the agreement. There is no grace period allowed for canceling a rental agreement, so if you sign, you are bound to its terms.

## ORAL AND WRITTEN AGREEMENTS

A rental agreement is an agreement to rent property (commonly referred to as a lease). Rental agreements may be either written or oral. Most rental agreements are written because oral agreements can be subject to

misunderstandings and are difficult to prove if there's a dispute. A written rental agreement can be a formal contract or simply a copy of a letter stating the rights and obligations of both the landlord and tenant.

Florida law requires that notices to and from a landlord must be in writing, and either be hand-delivered or mailed, even if the rental agreement is oral. You should always retain a copy of any correspondence to and from your landlord.

### Section 83.46(2), F.S.

If the rental agreement contains no provision as to duration of the tenancy, the duration is determined by the periods for which rent is payable (week-to-week, month-to-month, etc.). All other terms are either those specifically addressed by law or those that are part of the agreement between you and your landlord.

## DEPOSIT AND RENT REQUIREMENTS

A damage deposit is the most common requirement of landlords. Before signing a rental agreement, examine the premises and make note of any damaged items (e.g. broken fixtures) and if possible take a picture and include a date stamp. Give a copy to the landlord and keep a copy for your files. This may help eliminate or minimize disputes later.

### Section 83.49(3)(a), F.S.

Upon vacating of the premises for termination of the lease:

- If the landlord does not intend to impose a claim upon the security deposit, he/she must return your deposit within fifteen (15) days or,
- Within thirty (30) days, he/she must give the tenant written notice of how much of the deposit will be kept and why. This must be done by certified mail, to the tenant's last known mailing address.
- If this notice is not sent as required within the thirty (30) day period, the landlord forfeits his/her right to impose a claim upon the security deposit and may not seek a setoff against the deposit but may file an action for damages after return of the deposit.

### Section 83.49,3(b)(c), F.S.

After receiving the landlord's notice of intention to impose a claim, the tenant has fifteen (15) days to object in writing. If no written objection is received, the landlord may then deduct the amount of his or her claim and must remit the balance of the deposit to the tenant within

thirty (30) days after the date of the notice of intention to impose a claim for damages. If you object to the landlord's claim you may file a complaint with the Florida Department of Agriculture and Consumer Services or institute an action in a court of competent jurisdiction to adjudicate the landlord's right to the security deposit.

## WHO IS RESPONSIBLE?

While you and your landlord share many of the responsibilities in the landlord/tenant relationship, the following outlines certain responsibilities that apply to each party. These responsibilities may vary based on your rental or lease agreement and the type of dwelling.

### THE LANDLORD

#### Section 83.51(1)(a)(b), F.S.

The landlord's responsibilities will depend on the type of rental unit. *The landlord of a single-family home or duplex shall at all times during the tenancy:*

- Comply with the requirements of applicable building, housing and health codes; or
- Where there are no applicable building, housing or health codes; maintain the roof, windows, doors, floors, steps, porches, exterior walls, foundations and all other structural components in good repair and capable of resisting normal forces and loads;
- The landlord, at commencement of the tenancy, must ensure that screens are installed in a reasonable condition. Thereafter, the landlord must repair damage to screens once annually, when necessary, until termination of the rental agreement.
- Keep the plumbing in reasonably good working order.

The landlord's obligations may be altered or modified in writing when renting a single family dwelling or duplex.

### Section 83.51(2)(a), F.S.

In addition to providing the above requirements, the landlord of a dwelling unit other than a single-family home or duplex (such as an apartment) shall, at all times of the tenancy, make reasonable provisions for extermination of rats, mice, ants and wood destroying organisms and bed bugs; locks and keys; clean and safe conditions of common areas; garbage removal and outside receptacles; and functioning facilities for heat during winter, running water and hot water.

This does not mean that the landlord is obligated to

pay for utilities, water, fuel or garbage removal, although he/she may choose to do so.

### THE TENANT

#### Section 83.52, F.S.

*A tenant, at all times during the tenancy shall:*

- Comply with all building, housing and health codes and keep the dwelling clean and sanitary.
- Remove garbage from the dwelling in a clean and sanitary manner.
- Keep plumbing fixtures clean, sanitary and in repair.
- Not destroy, deface, damage, impair or remove any part of the premises or property belonging to the landlord, nor permit any person to do so.
- Conduct him/herself, and require other persons on the premises with his/her consent, to conduct themselves in a manner that does not unreasonably disturb the tenant's neighbors or constitute a breach of the peace.
- Use and operate in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances, including elevators.

## ACCESS TO THE PREMISES

### Section 83.53(1), F.S.

The tenant shall not unreasonably withhold consent to the landlord to enter the dwelling unit from time to time in order to inspect the premises.

### Section 83.53(2), F.S.

- The landlord may enter the dwelling unit at any time for the protection or preservation of the premises.
- The landlord may enter the dwelling unit upon reasonable notice to the tenant and at a reasonable time for the purpose of repair of the premises. "reasonable notice" and "reasonable time" are defined as twelve (12) hours prior to the entry and between the hours of 7:30 a.m. and 8:00 p.m.

*The landlord may also enter at any time when:*

- The tenant is absent from the premises for a period of time equal to one-half the time for periodic rental payments. If the rent is current and the tenant notifies the landlord of an intended absence, then the landlord may enter only with the consent of the tenant or for the protection or preservation of the premises;



- The tenant has given consent;
- The tenant unreasonably withholds consent; and/or,
- In an emergency;
- The landlord shall not abuse the right of access nor use it to harass the tenant.

## FAILURE TO MEET OBLIGATIONS

### If the Landlord Does Not Comply, Section 83.56(1), F.S.

A tenant must notify the landlord, in writing, by hand delivery or mail, of noncompliance of the statutory requirements (s. 83.51(1), F.S.) or material provisions of the rental agreement. The written notice shall also indicate the tenant's intention to terminate the rental agreement due to this noncompliance. The tenant may terminate the rental agreement if the landlord fails to come into compliance within seven (7) days after delivery of the written notice.

### If the Tenant Does Not Comply, Section 83.56(2), F.S.

If the tenant materially fails to comply with s. 83.52, F.S. or material provisions of the rental agreement, other than a failure to pay rent, or reasonable rules or regulations, the landlord may:

- Deliver a written notice to the tenant specifying the noncompliance and the landlord's intent to terminate the rental agreement by reason thereof. If such noncompliance is of a nature that the tenant should not be given an opportunity to cure it or if the noncompliance constitutes a subsequent or continuing noncompliance within twelve (12) months of a written warning by the landlord of a similar violation. In such event, the landlord may terminate the rental agreement, and the tenant shall have seven (7) days from the date that the notice is delivered to vacate the premises.
- If such noncompliance is of a nature that the tenant should be given an opportunity to cure it, a written notice should be delivered to the tenant specifying the noncompliance, including a notice that, if the noncompliance is not corrected within seven (7) days from the date that the written notice is delivered, the landlord shall terminate the rental agreement by reason thereof. If such noncompliance recurs within twelve (12) months after notice, an eviction action may commence without delivering a subsequent notice.

### Non-Payment of Rent, Section 83.56(3), F.S.

If the tenant fails to pay rent when due and the default continues for three (3) days, excluding Saturday, Sunday, and legal holidays, after delivery of written demand by the landlord for payment of the rent or possession of the premises, the landlord may terminate the rental agreement. For further information about the actions a landlord must take to gain possession of a dwelling unit, and the tenants defense to such action, refer to the statute or obtain legal counsel.

### If the Landlord Does Not Comply, Section 83.60 (1), F.S.

The tenant MAY be able to withhold rent if the landlord fails to do what the law or rental agreement requires. A tenant must notify the landlord, in writing, by hand delivery or mail, of the non-compliance. The written notice shall also indicate the tenant's intention to withhold rent due to this non-compliance. The tenant may withhold rent if the landlord fails to come into compliance within seven (7) days after delivery of the written notice.

Please note, if these events transpire, the landlord can present the tenant with a three (3) day notice for payment of rent under s. 83.56(3), F.S.

### Section 83.595, F.S.

Upon breach or early termination of the rental agreement by the tenant, the landlord's potential remedies may include:

- Treating the rental agreement as terminated and retaking possession of the dwelling unit for his or her own account, and terminating any further liability of the tenant.
- Retaking possession of the dwelling unit, holding the tenant liable for the difference between the rent stipulated to be paid under the rental agreement and what the landlord is able to recover from reletting the dwelling unit.
- Standing by and doing nothing, holding the lessee liable for the rent as it comes due.

### Section 83.67, F.S.

Florida Law does not allow a landlord to force a tenant out by:

- Shutting off the utilities or interrupting service, even if that service is under the control of the landlord or the landlord makes the payment;

- Changing the locks or using a device that denies the tenant access;

- Removing the outside doors, locks, roof, walls or windows (except for purposes of maintenance, repair or replacement); and/or

- Removing the tenant's personal property from the dwelling unless the action is taken after the surrender, abandonment, or recovery of possession of the dwelling unit due to the death of the last remaining tenant in accordance with s. 83.59(3)(d), F.S., or after lawful eviction.

If any of these occur, the tenant may sue for actual and consequential damages or three (3) months' rent, whichever is greater, plus court costs and attorney's fees.

## WHEN YOU DECIDE TO MOVE

### Section 83.57, F.S.

The amount of notice required when you decide to move is determined by the rental agreement or, if this is not specified in the rental agreement, by the periods for which the rent is payable. For example, if the rent is due weekly, not less than seven (7) days' notice is required. For monthly rental payments, fifteen (15) days' notice is required.

Send all correspondence relating to your intentions to the landlord by mail or deliver it by hand and insist on a receipt. It is usually a good idea to speak with the landlord in person, too. Be sure to check your rental agreement for any other stipulations that may apply when vacating the premises.

When you move from a rental unit, regardless of the duration, be sure to settle all accounts. Terminate utility service the day you leave, notify the landlord, post office and others of your address change, and leave the premises in a clean condition. If it can be arranged, it is always best to take a last walk-through with the landlord and document any damages in writing and/or photograph.

## MILITARY SERVICE

### Section 83.682, F.S.

Florida Statutes provides that a service member may terminate his or her rental agreement under certain conditions. For a free copy of the full text version of the statute, visit [www.leg.state.fl.us](http://www.leg.state.fl.us).

FOR MORE INFORMATION,  
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