

FLORIDA'S landlord/tenant law

SUMMARY OF CHAPTER 83, PART II

Most renters are aware they have certain rights when they are involved in a dispute with their landlord, however they often don't know what those rights are. This brochure was developed by the Florida Department of Agriculture and Consumer Services to answer many of the questions frequently asked about landlord/tenant relationships. This brochure is NOT meant to be a complete summary of Florida's Landlord/Tenant law. This brochure is not intended for the purpose of providing legal advice. For additional information not addressed in the brochure, refer to Chapter 83 of the Florida Statutes. A copy of the statutes may be obtained by calling us at 1-800-HELP-FLA (435-7352) or by visiting us online at www.800helpfla.com.

This information applies to those who rent a dwelling unit as described in Section 83.43, F.S.

BEFORE YOU RENT...

Walk through the premises to identify any problems that should be fixed BEFORE you rent. 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 tenant is an equal party with the landlord. You never have to agree to any rental arrangement. Before renting a dwelling, be sure the rental agreement covers ALL the issues addressed in this brochure. Before you sign, make sure you thoroughly understand the terms of the agreement. If you DON'T understand, DON'T sign the rental agreement. There is no grace period allowed for canceling rental agreements, so if you sign, you are bound to the agreement.

ORAL & WRITTEN RENTAL AGREEMENTS

A rental agreement is an agreement to rent property (commonly referred to as leases). 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. 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, 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 & RENT REQUIREMENTS

Section 83.49, F.S.

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 making any deposit unless a definite decision has been made to move into the unit. A tenant who puts down a deposit but then decides not to occupy the unit, **MAY NOT** be entitled to a refund. If a deposit is non-refundable it should be stated in the rental agreement.

A damage deposit is the most common requirement of landlords. At the time of the pre-rental walk-through with the landlord, you should make note of damaged items or areas, worn rugs, broken fixtures, etc. and give a copy to the landlord. Keep a copy for your files, which may help eliminate or minimize disputes later.

When you move out, the landlord must either return your deposit within 15 days of termination of the rental agreement, if the landlord does not intend to impose a claim upon the security deposit; or justify in writing by certified mail, to the tenant's last known mailing address within 30-days upon termination of a rental agreement, as to why they are keeping a portion of or all of the deposit. If the notice is not sent as required within the 30-day period, the landlord forfeits his/her right to impose a claim upon the deposit, unless you fail to give proper notice prior to vacating.

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

Unless you object 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 you within 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 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???

You and your landlord share many of the responsibilities. Maintenance of the premises is a good example. Your landlord must provide a healthy, properly maintained place for you to live. You are required to keep the premises in good condition and to occupy them as a peaceful neighbor.

There are certain responsibilities that apply to each party as outlined by law.

The Landlord

Section 83.51(1), F.S.

The landlord's responsibilities will depend on the type of rental unit. The landlord of a dwelling unit at all times during the tenancy shall:

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

- 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, screens, floors, steps, porches, exterior walls, foundations and all other structural components in good repair and capable of resisting normal forces and loads;
- Keep the plumbing in reasonably good working condition.

The landlord's obligations may be altered or modified in writing with respect to 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** 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.
- Functioning facilities for heat during winter, running water and hot water.

Section 83.51(2)(b), F.S.

- If the dwelling is a single-family home or duplex, a working smoke detection device.

This does not mean that the landlord is obligated to pay for utilities, water, fuel or garbage removal, although he/she may choose to. Other provisions relevant to a rental agreement may also be altered in writing.

The Tenant

Section 83.52, F.S.

A tenant, at all times during the tenancy shall:

- Comply with all building, housing and health codes.
- 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(2), F.S.

Once you agree to rent a dwelling, your right to possession is much the same as if you owned it. The landlord however, can enter at reasonable times with proper notice to inspect, make necessary or agreed repairs, decorations, alterations or improvements, supply agreed services or show it to a prospective or actual purchaser, tenant, mortgagee, worker or contractor.

The landlord may also enter at any time when:

- The tenant has given consent;
- In an emergency;
- The tenant unreasonably withholds consent; and/or,
- 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.

If the Landlord Does Not Comply

Section 83.56(1), F.S.

You may be able to withhold rent if your landlord fails to do what the law or rental agreement requires. You must however, announce your intentions in writing by mail, preferably certified, at least seven days before the rent is due to allow time to remedy the problem.

If the problem is not corrected within the seven days and you withhold the rent, the landlord may take you to court to collect it. Under these circumstances, you must pay the rent into the court registry, pending the judge's determination in the case.

If the Tenant Does Not Comply

Section 83.56(2), F.S.

You can be evicted for not living up to the agreement. The process of removal depends on the breach.

FAILURE TO MEET OBLIGATIONS

Except for the failure to pay rent, a landlord must notify you in writing of any shortcomings and give you seven days in which to correct the situation. If you still have not complied after seven days, the landlord can begin the eviction process based on non-compliance.

Other Evictions

Section 83.56(2)(a), F.S.

Under certain circumstances, if you have exhibited a lack of consideration for the rights and privacy of others, a landlord has the right to require you to move with very little notice.

In some cases (destruction, damage, misuse of property, unreasonable disturbances), the landlord does not have to give you an opportunity to remedy the problem and may terminate tenancy by giving you a seven-day written notice.

Each eviction case is unique, so be sure to obtain legal advice. A landlord MAY NOT evict you solely in retaliation for the tenant complaining to a governmental agency about code violations or asserting other tenant rights.

Non-Payment of Rent

Section 83.56(3), F.S.

The landlord must serve you, the tenant, a written notice allowing three days (excluding weekends and legal holidays) for you to pay the rent or move from the premises. If you do not pay the rent or move, he/she may begin legal action to evict you.

In order for the landlord to gain payment of rent or possession of the dwelling, he/she must file suit in county court. If the court agrees with the landlord, you will be notified in writing. You then have five days (excluding weekends and legal holidays) to respond – also in writing – to the court. If you do not respond or a judgment is entered against you, the clerk of the county court will issue a "Writ of Possession" to the sheriff who will notify you that eviction will take place in 24 hours.

Section 83.57, F.S.

Termination of tenancy without a specific term - days of written notice required (prior to termination):

Weekly ----- 7 days

Monthly ----- 15 days

Quarterly ----- 30 days

Yearly ----- 60 days

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 or the landlord makes 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 action is taken after surrender, abandonment, recovery of possession of the dwelling unit due to the death of the last remaining tenant in accordance with section 83.59(3)(d), or lawful eviction.

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

WHEN YOU DECIDE TO MOVE

Don't forget to give the required notice as stated in your rental agreement. The information below indicates appropriate notification if a specific time period is not included in the rental agreement. Be sure to check your rental agreement for any other specified condition.

Under certain circumstances, if allowed by the provisions of the rental agreement, a rental agreement may be ended when either party gives written notice to the other of their intention. Send all correspondence relating to your intentions to the landlord by certified mail or deliver it by hand and insist on a receipt.

It is usually a good idea to talk with the landlord in person, too. If you must cancel a lease before its expiration date, perhaps the landlord will accept the security deposit as the total financial obligation. If so, be sure to obtain a signed agreement to this effect from the landlord.

When you move from a rental unit – no matter the duration – be sure to settle all accounts. Terminate utility

service the day you leave, notify the landlord, post office and others your address change and make other arrangements to minimize inconvenience to the landlord or the new tenants.

One of the most important responsibilities as a tenant is to leave the premises in a clean condition for the next occupant. Be sure to vacuum, sweep, clean all rooms, cabinets and appliances, as well as other areas specified in the terms and conditions of the rental agreement. Take a last walk-through with the landlord. Note any damages in writing and reach a final agreement.

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, give us a call at 1-800-HELP-FLA (435-7352) or visit our website at www.800helpfla.com and click on publications.

WE'RE HERE TO HELP!!!

The Florida Department of Agriculture and Consumer Services functions as the state's clearinghouse for consumer complaints. We provide consumers with information and educational materials and we function as the U.S. Consumer Product Safety Commission's agent in Florida regarding product recalls, inspections and investigations.

For additional information or assistance, give us a call today:

1-800-HELP-FLA (435-7352) toll-free in Florida

850-488-2221 calling from outside of Florida

1-800-FL-AYUDA (352-9832) en Español

www.800helpfla.com visit us online at



brought to you by the
**Florida Department of
Agriculture and Consumer Services**
Charles H. Bronson, Commissioner

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