



# 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 Chapter 83, Part II of the Florida Statutes outlines 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 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(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 deposit.

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

After receiving the landlord's notice of intention to impose a claim, the tenant will have 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 shall 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, 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 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:



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and Consumer Services

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- 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, and in good 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 a landlord to enter the dwelling unit from time to time 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 non-compliance of the statutory requirements (s. 83.51(1)) 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 non-compliance. 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.

Except for the failure to pay rent, a landlord must notify a tenant in writing of any perceived non-compliance.

- If the issue is curable as outlined in statute, the tenant will have seven (7) days in which to correct the issue. If the tenant still has not complied after seven days, the landlord can begin the eviction process based on non-compliance.

If the issue is one in which the tenant should not be given an opportunity to cure it as outlined in statute, the tenant will have seven days to surrender the premises.

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 the tenant a written notice allowing three days (3), excluding weekends and legal holidays, for the payment of the rent or vacating of the premises. If the tenant does not pay the rent or vacate, the landlord may begin legal action to evict.

In order for the landlord to gain payment of rent or possession of the dwelling, he/she must file suit in county court. The clerk of the county court will then send the tenant notification by summons. The tenant must meet the requirements outlined in the summons

within the timeframe cited. Failure to meet these requirements may result in a judgment being entered against you. The clerk of the county court will then issue a "Writ of Possession" to the sheriff who will notify you that eviction will take place in 24 hours.

### 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).

### Section 83.595, F.S.

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

- Terminating the rental agreement, retaking possession of the dwelling unit, 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.
- Stand by and do 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 section 83.59(3)(d), 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

Don't forget to give the required notice as stated in your rental agreement. The information below outlines the procedures for appropriate notification if a specific time period is not included in the rental agreement. Be sure to check your rental agreement for any other stipulations that may apply when vacating the premises.

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. The amount of notice required 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.

### Section 83.57, F.S.

For example, if the rent is due weekly, 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.

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.

## MILITARY SERVICE

### Section 83.68(2), 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).

