

1 HB80  
2 124391-1  
3 By Representative Wren  
4 RFD: Commerce and Small Business  
5 First Read: 01-MAR-11

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Under existing law, a rental agreement may  
9 not include a provision in which the tenant agrees  
10 to pay the landlord's attorney's fees or cost of  
11 collection.

12 This bill would allow a rental agreement to  
13 include a provision in which the tenant agrees to  
14 pay the landlord's reasonable attorney's fees when  
15 the landlord prevails in an action against the  
16 tenant and is a corporation or other entity  
17 required under Alabama state law to be represented  
18 by an attorney in a legal proceeding.

19  
20 A BILL  
21 TO BE ENTITLED  
22 AN ACT  
23

24 To amend Section 35-9A-163 of the Code of Alabama  
25 1975, relating to provisions prohibited in a rental agreement;  
26 to allow a rental agreement to include a provision in which  
27 the tenant agrees to pay the landlord's reasonable attorney's

1 fees when the landlord prevails in an action against the  
2 tenant and is a corporation or other entity required under  
3 Alabama state law to be represented by an attorney in a legal  
4 proceeding.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Section 35-9A-163 of the Code of Alabama  
7 1975, is amended to read as follows:

8 "§35-9A-163.

9 "(a) A rental agreement may not provide that the  
10 tenant:

11 "(1) agrees to waive or forego rights or remedies  
12 established under Section 35-9A-204, 35-9A-401, or 35-9A-404,  
13 or requirements of security deposits established by this  
14 chapter or under the law of unlawful detainer;

15 "(2) authorizes any person to confess judgment on a  
16 claim arising out of the rental agreement;

17 "(3) agrees to pay the landlord's attorney's fees or  
18 cost of collection, except as provided in subsection (c); or

19 "(4) agrees to the exculpation or limitation of any  
20 liability of the landlord arising under law or to indemnify  
21 the landlord for that liability or the costs connected  
22 therewith.

23 "(b) A provision prohibited by subsection (a)  
24 included in a rental agreement is unenforceable. If a landlord  
25 deliberately uses a rental agreement containing provisions  
26 known by the landlord to be prohibited, the tenant may recover

1 in addition to actual damages an amount up to one months'  
2 periodic rent and reasonable attorney's fees.

3 "(c) A rental agreement may include a provision in  
4 which the tenant agrees to pay the landlord's reasonable  
5 attorney's fees when the landlord prevails in an action  
6 against the tenant and is a corporation or other entity  
7 required under Alabama state law to be represented by an  
8 attorney in a legal proceeding. "

9 Section 2. This act shall become effective on the  
10 first day of the third month following its passage and  
11 approval by the Governor, or its otherwise becoming law.