

HB 1287

2017

1 A bill to be entitled
2 An act relating to landlords and tenants; amending ss.
3 83.51, 83.64, and 83.67, F.S.; providing criminal
4 penalties for specified prohibited practices by a
5 landlord relating to maintenance of the premises,
6 retaliatory conduct, and other protections; providing
7 an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

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11 Section 1. Section 83.51, Florida Statutes, is amended to
12 read:

13 83.51 Landlord's obligation to maintain premises.—

14 (1) The landlord at all times during the tenancy shall:

15 (a) Comply with the requirements of applicable building,
16 housing, and health codes; or

17 (b) Where there are no applicable building, housing, or
18 health codes, maintain the roofs, windows, doors, floors, steps,
19 porches, exterior walls, foundations, and all other structural
20 components in good repair and capable of resisting normal forces
21 and loads and the plumbing in reasonable working condition. The
22 landlord, at commencement of the tenancy, must ensure that
23 screens are installed in a reasonable condition. Thereafter, the
24 landlord must repair damage to screens once annually, when
25 necessary, until termination of the rental agreement.

26
27 The landlord is not required to maintain a mobile home or other
28 structure owned by the tenant. The landlord's obligations under
29 this subsection may be altered or modified in writing with
30 respect to a single-family home or duplex.

31 (2) (a) Unless otherwise agreed in writing, in addition to
32 the requirements of subsection (1), the landlord of a dwelling
33 unit other than a single-family home or duplex shall, at all
34 times during the tenancy, make reasonable provisions for:

35 1. The extermination of rats, mice, roaches, ants, wood-
36 destroying organisms, and bedbugs. When vacation of the premises
37 is required for such extermination, the landlord is not liable
38 for damages but shall abate the rent. The tenant must
39 temporarily vacate the premises for a period of time not to
40 exceed 4 days, on 7 days' written notice, if necessary, for
41 extermination pursuant to this subparagraph.

42 2. Locks and keys.

43 3. The clean and safe condition of common areas.

44 4. Garbage removal and outside receptacles therefor.

45 5. Functioning facilities for heat during winter, running
46 water, and hot water.

47 (b) Unless otherwise agreed in writing, at the
48 commencement of the tenancy of a single-family home or duplex,
49 the landlord shall install working smoke detection devices. As
50 used in this paragraph, the term "smoke detection device" means

51 | an electrical or battery-operated device that ~~which~~ detects
52 | visible or invisible particles of combustion and ~~which~~ is listed
53 | by Underwriters Laboratories, Inc., Factory Mutual Laboratories,
54 | Inc., or any other nationally recognized testing laboratory
55 | using nationally accepted testing standards.

56 | (c) Nothing in this part authorizes the tenant to raise a
57 | noncompliance by the landlord with this subsection as a defense
58 | to an action for possession under s. 83.59.

59 | (d) This subsection shall not apply to a mobile home owned
60 | by a tenant.

61 | (e) Nothing contained in this subsection prohibits the
62 | landlord from providing in the rental agreement that the tenant
63 | is obligated to pay costs or charges for garbage removal, water,
64 | fuel, or utilities.

65 | (3) If the duty imposed by subsection (1) is the same or
66 | greater than any duty imposed by subsection (2), the landlord's
67 | duty is determined by subsection (1).

68 | (4) The landlord is not responsible to the tenant under
69 | this section for conditions created or caused by the negligent
70 | or wrongful act or omission of the tenant, a member of the
71 | tenant's family, or other person on the premises with the
72 | tenant's consent.

73 | (5) Any person who violates this section commits a
74 | misdemeanor of the first degree, punishable as provided in s.
75 | 775.082 or s. 775.083. A second or subsequent offense

76 | constitutes a felony of the third degree, punishable as provided
77 | in s. 775.082, s. 775.083, or s. 775.084.

78 | Section 2. Section 83.64, Florida Statutes, is amended to
79 | read:

80 | 83.64 Retaliatory conduct.—

81 | (1) It is unlawful for a landlord to discriminatorily
82 | increase a tenant's rent or decrease services to a tenant, or to
83 | bring or threaten to bring an action for possession or other
84 | civil action, primarily because the landlord is retaliating
85 | against the tenant. In order for the tenant to raise the defense
86 | of retaliatory conduct, the tenant must have acted in good
87 | faith. Examples of conduct for which the landlord may not
88 | retaliate include, but are not limited to, situations where:

89 | (a) The tenant has complained to a governmental agency
90 | charged with responsibility for enforcement of a building,
91 | housing, or health code of a suspected violation applicable to
92 | the premises;

93 | (b) The tenant has organized, encouraged, or participated
94 | in a tenant organization;

95 | (c) The tenant has complained to the landlord pursuant to
96 | s. 83.56(1);

97 | (d) The tenant is a servicemember who has terminated a
98 | rental agreement pursuant to s. 83.682;

99 | (e) The tenant has paid rent to a condominium,
100 | cooperative, or homeowners' association after demand from the

101 association in order to pay the landlord's obligation to the
 102 association; or

103 (f) The tenant has exercised his or her rights under
 104 local, state, or federal fair housing laws.

105 (2) Evidence of retaliatory conduct may be raised by the
 106 tenant as a defense in any action brought against him or her for
 107 possession.

108 (3) In any event, this section does not apply if the
 109 landlord proves that the eviction is for good cause. Examples of
 110 good cause include, but are not limited to, good faith actions
 111 for nonpayment of rent, violation of the rental agreement or of
 112 reasonable rules, or violation of the terms of this chapter.

113 (4) "Discrimination" under this section means that a
 114 tenant is being treated differently as to the rent charged, the
 115 services rendered, or the action being taken by the landlord,
 116 which shall be a prerequisite to a finding of retaliatory
 117 conduct.

118 (5) Any person who violates this section commits a
 119 misdemeanor of the first degree, punishable as provided in s.
 120 775.082 or s. 775.083. A second or subsequent offense
 121 constitutes a felony of the third degree, punishable as provided
 122 in s. 775.082, s. 775.083, or s. 775.084.

123 Section 3. Section 83.67, Florida Statutes, is amended to
 124 read:

125 83.67 Prohibited practices.—

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126 (1) A landlord of any dwelling unit governed by this part
127 shall not cause, directly or indirectly, the termination or
128 interruption of any utility service furnished the tenant,
129 including, but not limited to, water, heat, light, electricity,
130 gas, elevator, garbage collection, or refrigeration, whether or
131 not the utility service is under the control of, or payment is
132 made by, the landlord.

133 (2) A landlord of any dwelling unit governed by this part
134 shall not prevent the tenant from gaining reasonable access to
135 the dwelling unit by any means, including, but not limited to,
136 changing the locks or using any bootlock or similar device.

137 (3) A landlord of any dwelling unit governed by this part
138 shall not discriminate against a servicemember in offering a
139 dwelling unit for rent or in any of the terms of the rental
140 agreement.

141 (4) A landlord shall not prohibit a tenant from displaying
142 one portable, removable, cloth or plastic United States flag,
143 not larger than 4 and 1/2 feet by 6 feet, in a respectful manner
144 in or on the dwelling unit regardless of any provision in the
145 rental agreement dealing with flags or decorations. The United
146 States flag shall be displayed in accordance with s. 83.52(6).
147 The landlord is not liable for damages caused by a United States
148 flag displayed by a tenant. Any United States flag may not
149 infringe upon the space rented by any other tenant.

150 (5) A landlord of any dwelling unit governed by this part

151 shall not remove the outside doors, locks, roof, walls, or
152 windows of the unit except for purposes of maintenance, repair,
153 or replacement; and the landlord shall not remove the tenant's
154 personal property from the dwelling unit unless such action is
155 taken after surrender, abandonment, recovery of possession of
156 the dwelling unit due to the death of the last remaining tenant
157 in accordance with s. 83.59(3)(d), or a lawful eviction. If
158 provided in the rental agreement or a written agreement separate
159 from the rental agreement, upon surrender or abandonment by the
160 tenant, the landlord is not required to comply with s. 715.104
161 and is not liable or responsible for storage or disposition of
162 the tenant's personal property; if provided in the rental
163 agreement, there must be printed or clearly stamped on such
164 rental agreement a legend in substantially the following form:
165 BY SIGNING THIS RENTAL AGREEMENT, THE TENANT AGREES THAT UPON
166 SURRENDER, ABANDONMENT, OR RECOVERY OF POSSESSION OF THE
167 DWELLING UNIT DUE TO THE DEATH OF THE LAST REMAINING TENANT, AS
168 PROVIDED BY CHAPTER 83, FLORIDA STATUTES, THE LANDLORD SHALL NOT
169 BE LIABLE OR RESPONSIBLE FOR STORAGE OR DISPOSITION OF THE
170 TENANT'S PERSONAL PROPERTY.

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

173 (6) A landlord who violates any provision of this section
174 shall be liable to the tenant for actual and consequential
175 damages or 3 months' rent, whichever is greater, and costs,

176 including attorney's fees. Subsequent or repeated violations
177 that are not contemporaneous with the initial violation shall be
178 subject to separate awards of damages.

179 (7) A violation of this section constitutes irreparable
180 harm for the purposes of injunctive relief.

181 (8) The remedies provided by this section are not
182 exclusive and do not preclude the tenant from pursuing any other
183 remedy at law or equity which ~~that~~ the tenant may have. The
184 remedies provided by this section shall also apply to a
185 servicemember who is a prospective tenant who has been
186 discriminated against under subsection (3).

187 (9) Any person who violates this section commits a
188 misdemeanor of the first degree, punishable as provided in s.
189 775.082 or s. 775.083. A second or subsequent offense
190 constitutes a felony of the third degree, punishable as provided
191 in s. 775.082, s. 775.083, or s. 775.084.

192 Section 4. This act shall take effect October 1, 2017.