

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 230

SPONSOR: Senator Crist

SUBJECT: Nonresidential Tenancies

DATE: January 20, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Lang</u>	<u>Lang</u>	<u>JU</u>	<u>Fav/ 1 Amendment</u>
2.	_____	_____	<u>RC</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill amends the law governing nonresidential tenancies. Beds, bedclothes and wearing apparel of a nonresidential tenant or lessee would be subject to a landlord's lien. The court is directed to advance on its calendar certain hearings relating to nonresidential tenant and lessee evictions. The bill requires the clerk of court to notify the tenant of the requirement that rent be deposited into the court registry pending disposition of the case.

This bill substantially amends ss. 83.09, 83.231 and 83.232, Florida Statutes.

II. Present Situation:

Nonresidential Tenancies

Chapter 83, Part I, F.S., provides for Nonresidential Tenancies. Specifically, Part I provides, among other things, steps for the eviction of a nonresidential tenant or lessee, e.g., a business renting store space in a mall.

A person to whom rent is owed has a lien for rent upon agricultural products raised on the land, all other property usually kept on the premises and all other property of the defendant. s. 83.08, F.S. Beds, bedclothes and wearing apparel of the tenant or lessee are exempt from the lien and cannot be sold to pay the rent. s. 83.09, F.S.

A landlord may file an action for unpaid rent in the Florida court with jurisdiction. s. 83.11, F.S. The judge then issues a writ enjoining the defendant from damaging, disposing of, secreting or removing any property subject to the writ. Before the writ can issue, the landlord must file a bond in double the sum demanded, or in the case of property, in double its value. s. 83.12, F.S.

The landlord also may seek to have the tenant removed from the property and take possession of it. If the court finds for the landlord then the court enters a judgment in the landlord's favor. s. 83.21, F.S. The judgment can provide for both the removal of the tenant and payment of rent. s. 83.231, F.S.

Rent paid into court registry

If the landlord's complaint includes a claim for possession, the tenant is required to pay into the court registry the amount alleged in the complaint to be unpaid, or if the amount is contested, an amount determined by the court, and any rent accruing. s. 83.232(1), F.S. The court, on its own motion and by order, shall notify the tenant of the requirement that rent be paid into the court registry. The order is to be issued immediately upon filing of the tenant's initial papers. s. 83.232(3), F.S.

Advancement on the court's calendar

A number of statutes provide that the court is to advance a cause of action on its calendar. For example, with respect to *residential* tenancies, the court is to advance on its calendar a cause of action:

- Relating to a party's right to a security deposit. s. 83.49(3)(c), F.S.
- For possession where the rental agreement is terminated and the tenant does not vacate the premises; the landlord also is entitled to the summary procedure under s. 51.011, F.S. *See* s. 83.59(1) and (2), F.S.
- For disbursement of funds deposited into the court registry and the landlord is in actual danger of loss of the premises or other personal hardship from the loss of rental income from the premises. s. 83.61, F.S.

The court is to advance a cause of action involving a mobile home park owner who is applying for the removal of a mobile home owner, tenant, occupant, or a mobile home, and the park owner is entitled to the summary procedure provided in s. 51.011, F.S. s. 723.061(4), F.S. The court is to advance on its calendar a cause of action for disbursement of funds deposited into the court registry and the park owner is in actual danger of loss of the premises or other personal hardship from the loss of rental income from the premises. s. 723.063(3), F.S. Other statutes also call for the court to advance various causes of action on its calendar.¹

III. Effect of Proposed Changes:

The bill deletes the exemption from the lien of a nonresidential landlord applicable to beds, bedclothes and wearing apparel of a nonresidential tenant or lessee under s. 83.09, F.S. These items would now be subject to the landlord's lien in nonresidential tenancy cases.

The court is directed to advance on its calendar nonresidential tenancy hearings regarding issues of possession and hearings relating to rent paid into the court registry. ss. 83.231 and 83.232(3), F.S., respectively.

¹ *See* ss. 17.05(4), 494.0011(5)(a), 497.123(2)(a), 517.201(4)(a), 520.994(1), 560.109(3)(a), 655.032(3)(a), 687.144(4)(a), 717.1301(3), F.S., (relating to various enforcement actions by Florida's CFO, the Dept. of Financial Services, or the Office of Financial Regulation).

The bill deletes the provision that the court, on its own motion, is to notify the tenant by order of the requirement that rent is to be paid into the court registry. Instead, the bill requires the clerk of court to notify the tenant of this requirement in the summons. s. 83.232(1), F.S.

The bill would take effect upon becoming law. It does not specify to which cases it applies at the time it becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Nonresidential landlords may get their eviction cases heard sooner. A tenant's bed, bedclothes and wearing apparel would be subject to the landlord's lien.

C. Government Sector Impact:

Clerks of court would have to alter the summons to include a statement notifying the tenant of the requirement to pay rent into the court registry. The judge would no longer be required to give this notice.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Judiciary

Technical, grammatical amendment to change “it” to “its.”

This Senate staff analysis does not reflect the intent or official position of the bill’s sponsor or the Florida Senate.
