

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: PCS/SB 564 (106308)

INTRODUCER: Criminal Justice Committee

SUBJECT: Landlords and Tenants

DATE: March 20, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Hrdlicka	CJ	<b>Pre-meeting</b>
2.			JU	
3.			RC	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/SB 564 provides that a landlord who violates any of the provisions in s. 83.51, F.S., governing the landlord's obligation to maintain premises and fails to remedy the violation within 15 days after written notice from the tenant is liable to the tenant for actual and consequential damages or 1 month's rent, whichever is greater, and costs, including attorney fees. Subsequent or repeated violations that are not contemporaneous with the initial violation are subject to separate awards of damages.

**II. Present Situation:**

**Applicability of the Florida Residential Landlord and Tenant Act**

Part II of ch. 83, F.S., known as the "Florida Residential Landlord and Tenant Act," governs the relationship between landlords and tenants under a residential rental agreement.<sup>1</sup>

The act does not apply to:

- Residency or detention in a facility, whether public or private, when residence or detention is incidental to the provision of medical, geriatric, educational, counseling, religious, or similar services.<sup>2</sup>
- Occupancy under a contract of sale of a dwelling unit or property of which it is a part.<sup>3</sup>

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<sup>1</sup> Section 83.41, F.S., provides that part II, ch. 83, F.S., applies to the rental of a dwelling unit.

<sup>2</sup> Section 83.42(1), F.S.

<sup>3</sup> Section 83.42(2), F.S.

- Transient occupancy in a hotel, condominium, motel, roominghouse, or similar public lodging, or transient occupancy in a mobile home park.<sup>4</sup>
- Occupancy by a holder of a proprietary lease in a cooperative apartment.<sup>5</sup>
- Occupancy by an owner of a condominium unit.<sup>6</sup>

### **Landlord's Obligation to Maintain Premises**

At all times during a tenancy, the landlord must comply with the requirements of applicable building, housing, and health codes. Where there are no applicable building, housing, or health codes, the landlord must maintain the roofs, windows, screens, doors, floors, steps, porches, exterior walls, foundations, and all other structural components in good repair and the plumbing in reasonable working condition. It requires that landlords, at the commencement of the tenancy, must ensure that screens are installed in a reasonable condition. The landlord must repair damage to the screens at least once annually, when necessary, until the termination of the rental agreement.<sup>7</sup>

Unless otherwise agreed in writing, in addition to the requirements described above, the landlord of a dwelling unit other than a single-family home or duplex shall, at all times during the tenancy, make reasonable provisions for:

- The extermination of rats, mice, roaches, ants, wood-destroying organisms, and bedbugs.
- Locks and keys.
- The clean and safe condition of common areas.
- Garbage removal and outside receptacles.
- Functioning facilities for heat during winter, running water, and hot water.<sup>8</sup>

Unless otherwise agreed in writing, at the commencement of the tenancy of a single-family home or duplex, the landlord shall install working smoke detection devices.

Tenants are prohibited from raising the defense of noncompliance by the landlord in an action for possession by the landlord.<sup>9</sup> The landlord's duties to comply with the requirements of applicable building, housing, and health codes outweighs any other duties prescribed in s. 83.51, F.S.<sup>10</sup> The landlord is not responsible to the tenant for conditions created or caused by the negligent or wrongful act or omission of the tenant, a member of the tenant's family, or other person on the premises.<sup>11</sup>

### **III. Effect of Proposed Changes:**

The bill provides that a landlord who violates any of the provisions in s. 83.51, F.S., governing the landlord's obligation to maintain premises and fails to remedy the violation within 15 days

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<sup>4</sup> Section 83.42(3), F.S.

<sup>5</sup> Section 83.42(4), F.S.

<sup>6</sup> Section 83.42(5), F.S.

<sup>7</sup> Section 83.51(1), F.S.

<sup>8</sup> Section 83.51(2)(a), F.S.

<sup>9</sup> Section 83.51(2)(c), F.S.

<sup>10</sup> Section 83.51(3), F.S.

<sup>11</sup> Section 83.51(4), F.S.

after written notice from the tenant is liable to the tenant for actual and consequential damages or 1 month's rent, whichever is greater, and costs, including attorney fees. Subsequent or repeated violations that are not contemporaneous with the initial violation are subject to separate awards of damages.

The effective date of the bill is October 1, 2017.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will have an impact on landlords who are held liable to tenants for actual and consequential damages or 1 month's rent, whichever is greater.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Under s. 83.67, F.S., a landlord who violates the section (prohibited practices) is liable to the tenant for actual and consequential damages or 3 months' rent, whichever is greater, and costs, including attorney fees. Subsequent or repeated violations that are not contemporaneous with the initial violation are subject to separate awards of damages.

**VIII. Statutes Affected:**

This bill substantially amends section 83.51 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**PCS (106308) by Criminal Justice:**

The PCS:

- Replaces the criminal penalties of the bill with civil penalties against the landlord for any violations of s. 83.51, F.S.
- Removes created criminal penalties for violations of ss. 83.64 and 83.67, F.S.

- B. **Amendments:**

None.