

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.)

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

BILL: SB 564

INTRODUCER: Senator Campbell

SUBJECT: Landlords and Tenants

DATE: March 20, 2017

REVISED: _____

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

I. Summary:

SB 564 provides that a landlord who violates the provisions in s. 83.51, F.S., governing the landlord's obligation to maintain premises; s. 86.64, F.S., governing retaliatory conduct by a landlord; and s. 83.67, F.S., governing the prohibited practices of a landlord, commits a misdemeanor of the first degree. A second or subsequent offense constitutes a felony of the third degree.

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.¹ 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.²
- Occupancy under a contract of sale of a dwelling unit or property of which it is a part.³
- Transient occupancy in a hotel, condominium, motel, roominghouse, or similar public lodging, or transient occupancy in a mobile home park.⁴
- Occupancy by a holder of a proprietary lease in a cooperative apartment.⁵
- Occupancy by an owner of a condominium unit.⁶

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

² Section 83.42(1), F.S.

³ Section 83.42(2), F.S.

⁴ Section 83.42(3), F.S.

⁵ Section 83.42(4), F.S.

⁶ Section 83.42(5), F.S.

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.⁷

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.⁸

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.⁹ 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.¹⁰ 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.¹¹

Retaliatory Conduct

Section 83.64, F.S., prohibits a landlord from discriminatorily¹² increasing a tenant's rent or decreasing services, or threatening to bring an action for possession or other civil action in retaliation against a tenant. Examples of conduct by a tenant that a landlord cannot retaliate against include complaining to a government agency of a suspected code violation; participating in a tenant organization; or compelling the landlord to comply with the rental agreement.

⁷ Section 83.51(1), F.S.

⁸ Section 83.51(2)(a), F.S.

⁹ Section 83.51(2)(c), F.S.

¹⁰ Section 83.51(3), F.S.

¹¹ Section 83.51(4), F.S.

¹² "Discrimination" means that a tenant is being treated differently as to the rent charged, the services rendered, or the action being taken by the landlord, which shall be a prerequisite to a finding of retaliatory conduct. Section 83.64(4), F.S.

Prohibited Practices

Pursuant to s. 83.67, F.S., a landlord is prohibited from:

- Terminating or interrupting any utility service;
- Preventing a tenant from gaining reasonable access to the dwelling;
- Discriminating against a servicemember¹³ in a rental agreement;
- Preventing a tenant from displaying one portable, removable, cloth or plastic United States flag, not larger than 4.5 feet by 6 feet;
- Removing the outside doors, locks, roof, walls, or windows except for purposes of maintenance, repair, or replacement; and
- Removing the tenant's personal property from the dwelling unless taken after surrender, abandonment, or recovery of possession.

A landlord who violates any provision of this section is liable to the tenant for actual and consequential damages or 3 months' rent, whichever is greater, and costs, including attorney fees.

The remedies available in this section do not preclude a tenant from pursuing any other remedy at law or equity that the tenant may have.

Mandatory Minimum Sentences

Section 775.082, F.S., provides that a person convicted of a first degree misdemeanor may be sentenced for a term of imprisonment not to exceed a year. A person convicted of a third degree felony may be sentenced to up to 5 years imprisonment.

Fines

Section 775.083, F.S., provides that a person who has been convicted of an offense other than a capital felony may be sentenced to pay a fine in addition to any punishment described in s. 775.082, F.S. A person convicted of a first degree misdemeanor may be ordered to pay a fine of up to \$1000; for a third degree felony the fine may be up to \$5,000.

Habitual Felony Offenders

Section 775.084, F.S., provides enhanced penalties for repeat offenders. A habitual offender convicted of third degree felony may be sentenced to up to 10 years imprisonment.

III. Effect of Proposed Changes:

The bill provides that a landlord who violates the provisions in s. 83.51, F.S., governing the landlord's obligation to maintain the premises; s. 83.64, F.S., governing retaliation by the landlord; or s. 83.67, F.S., governing the prohibited practices of a landlord, commits a

¹³ Section 83.43(14), F.S., provides that "servicemember" has the same meaning as provided in s. 250.01, F.S. Section 250.01, F.S., defines "servicemember" as any person serving as a member of the United States Armed Forces on active duty or state active duty and all members of the Florida National Guard and United States Reserve Forces.

misdemeanor of the first degree. A second or subsequent offense constitutes a felony of the third degree.

The bill is effective 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:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any, of legislation has not yet reviewed this bill.¹⁴ The EDR's preliminary estimate is that the bill will have a "positive insignificant" prison bed impact. "Positive" means an increase in prison beds. "Positive insignificant" means an increase of 10 or fewer prisons beds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹⁴ Prison bed impact information provided by the Office of Economic and Demographic Research, The Florida Legislature, March 20, 2017, (on file with the Senate Committee on Criminal Justice).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 83.51, 83.64, and 83.67.

IX. Additional Information:

A. **Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
