

Florida Landlord Tenant Law Update

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Legislative Update (1 of 2)

State Preemption

- Section 83.425, Florida Statutes, was created to clarify that the regulation of residential tenancies, the landlord-tenant relationship, and all other matters covered under the residential landlord/tenant statutes is preempted to the state and supersedes any local government regulations on those issues.
- Examples of issues preempted to the state given in the statute include (list is not exhaustive):
 - The landlord's screening process used to approve tenants
 - Security deposits
 - Rental agreement applications and application fees
 - Terms and conditions of rental agreements
 - The rights and responsibilities of the landlord and tenant
 - Disclosures concerning the premises, the dwelling unit, the rental agreement, or the rights and responsibilities of the landlord and tenant
 - Fees charged by the landlord
 - Notice requirements

Legislative Update (2 of 2)

Termination of Tenancies

- Section 83.57(3), Florida Statutes – Termination of Tenancy without specific term – was amended.
 - This statute lists the notice period for terminating a tenancy without a specific duration, or tenancies where the term of the tenancy has not been agreed upon between the landlord and tenant.
 - The duration of the tenancy is determined based upon when rent is payable. If rent is payable weekly then it's a week-to-week tenancy; payable monthly then it's a month-to-month tenancy, etc.
 - The notice period for terminating a month-to-month tenancy was lengthened from 15 days prior to the end of a monthly term to 30 days prior to the end of a monthly term.
- Section 83.575(1), Florida Statutes – Termination of Tenancy with specific duration – was amended.
 - This statute only applies to tenancies where the landlord and tenant have agreed on a duration of the tenancy.
 - This statute section authorizes lease provisions that require a tenant to provide notice of intention not to renew the lease within a specified period if the provision also requires the landlord to provide a similar non-renewal notice to a tenant.
 - The rental agreement may not require less than 30 days' notice or more than 60 days' notice from either landlord or tenant.
 - Notice of non-renewal of a month-to-month tenancy therefore must be given to the tenant not less than 30 days prior to the end of the monthly term (ex: notice of non-renewal given on April 28 would be effective to terminate the term ending on May 31).

Miya's Law – Florida Senate Bill 898 (2022)

- Requires landlords of a public lodging establishment classified as either a transient or nontransient apartment to conduct a background screening of each employee as a condition of employment.
 - Must be performed by a consumer reporting agency and must include a screening of criminal history records and sexual predator and sexual offender registries of all 50 states and the District of Columbia.
 - Landlord may disqualify a person from employment if the person has been convicted of, or found guilty of, or entered a plea of nolo contendere to, any of the following offenses:
 - A criminal offense involving disregard for the safety of others which, if committed in Florida, is a felony or a misdemeanor of the first degree or, if committed in another state, would be a felony or a misdemeanor of the first degree if committed in Florida.
 - A criminal offense committed in any jurisdiction which involves violence, including, but not limited to, murder, sexual battery, robbery, carjacking, home-invasion robbery, and stalking.
 - Proof of compliance with the background screening requirements must be maintained at each licensed establishment and must be furnished to the Florida Department of Business and Professional Regulation (“DBPR”) upon request.
 - DBPR has promulgated a form to be used by landlords – DBPR HR 7033.

Miya's Law – Florida Senate Bill 898 (2022)

- Requires landlords of a public lodging establishment classified as either a transient or nontransient apartment to establish policies and procedures governing issuance and return of dwelling unit keys; storage of unissued keys; and access to unissued keys.
 - Must maintain a log accounting for the issuance and return of all keys for each dwelling unit.
 - Proof of compliance must be furnished to DBPR/Division of Hotels and Restaurants upon request.

Human Trafficking (1 of 3)

- Section 509.096, Florida Statutes – Human trafficking awareness training and policies for employees of public lodging establishments; enforcement.
 - Requires landlords to implement a procedure for the reporting of suspected human trafficking to the National Human Trafficking Hotline or to a local law enforcement agency.
 - Requires landlords to post in a conspicuous location in the establishment which is accessible to employees, specific human trafficking awareness signage.

Human Trafficking (2 of 3)

- Requires landlords to provide annual training regarding human trafficking awareness to employees of the establishment who perform housekeeping duties in the rental units or who work at the front desk or reception area where guests ordinarily check in or check out.
 - Annual training program must be submitted to and approved by the Florida Department of Business and Professional Regulation (“DBPR”) and must include the following:
 - The definition of human trafficking and the difference between the two forms of human trafficking: (i) sex trafficking and (ii) labor trafficking. (Definitions in Section 787.06, Florida Statutes); and
 - Guidance specific to the public lodging sector concerning how to identify individuals who may be victims of human trafficking; and
 - Guidance concerning the role of the employees of a public lodging establishment in reporting and responding to suspected human trafficking.
 - Annual training program must be provided for new employees within 60 days after they begin employment in one of the specified employment positions.
 - Each employee for which training is required must submit to the landlord/hiring establishment a signed and dated acknowledgement of having received the training. The signed acknowledgements may be stored electronically and must be provided to DBPR upon their request.

Human Trafficking (3 of 3)

- Penalties for Violations

- Fine of \$2,000.00 per day, unless the establishment provides adequate written documentation to DBPR providing assurance that each deficiency will be corrected within 45 days after notice of the violation.
- No correction period is provided for a second or subsequent violation.

Eviction Review (1 of 2)

Landlord-Tenant Lawsuit Reference Guide

Glossary

Plaintiff: The party who files a Complaint.

Defendant: The party against whom a Complaint is filed.

Complaint: The document filed to initiate a lawsuit. The Complaint contains allegations against the Defendant and in the case of an eviction Complaint will also include a copy of any written lease and the notice of lease violation (3-day or 7-day notice).

Answer: The document filed by a Defendant in response to a Complaint.

Affirmative Defenses: Legal defenses raised in response to allegations in a Complaint which attempt to excuse a Defendant's lease violation.

Summons: The formal document issued by the Clerk of Court which informs a defendant that a lawsuit has been filed against them, lists the actions a Defendant must take in response to the Complaint along with the deadline for taking those actions, and is served on a Defendant by a Process Server.

Certificate of Mailing: A certificate issued by the Clerk of Court acknowledging that a copy of the Summons and Complaint have been mailed to the Defendant.

Process Server: Sheriff's Office or private company who formally delivers the Summons and copy of Complaint to a Defendant.

Service of Process: Formal delivery of the Summons and Complaint to the Defendant by a Process Server.

Eviction Review (2 of 2)

Clerk's Default: Order issued by the Clerk of Court if a Defendant fails to file an Answer by the filing deadline.

Court Default: Order entered by Court if a Defendant fails to file an Answer by the filing deadline or if the Defendant fails to take other action required by law, rules of procedure, or other order of the Court.

Court Registry: An account maintained by the Clerk of Court to receive deposits associated with lawsuits or other judicial proceedings. A tenant's rent deposits are made into the Court Registry.

Legal Holiday: Holidays observed by the Clerk of Court (check local County's Clerk's Office calendar).

Mediation: A process involving a neutral third party who attempts to help the Plaintiff and Defendant reach a settlement agreement.

Final Judgment: The final order entered by a Judge at the conclusion of the case.

Writ of Possession: Document issued by the Clerk of Court after entry of a final judgment for possession of property. The Writ of Possession directs the Sheriff's Office to remove persons from property and deliver possession to the landlord (or their agent).

Eviction Process Review (1 of 2)

Eviction Lawsuit Process

1. Complaint is filed.
2. Summons is issued by Clerk of Court for delivery to Process Server and service on Defendant.
3. Certificate of Mailing is prepared by Plaintiff and delivered to Clerk of Court. The Certificate of Mailing will be issued by Clerk of Court and indicates the date on which a copy of the Complaint and Summons was mailed to the Defendant.
 - a. The Certificate of Mailing is only required if the Plaintiff/Landlord anticipates Service of Process by posting rather than personal delivery. The best practice is to have a Certificate of Mailing issued for each case.
 - b. If Service of Process is accomplished by posting, then Service of Process is effective on the date of posting or on the date of the Certificate of Mailing (whichever occurs last). 5 weekday/non-holidays must elapse from such effective date of service before a Defendant may be defaulted. The Certificate of Mailing is not a substitute for Service of Process.
4. Process Server serves the Summons and Complaint on Defendant.
 - a. In an eviction lawsuit the Process Server can serve the Defendant by posting at the subject property or by personal delivery. The Process Server must make an attempt to serve the Defendant personally before posting is permitted.
 - b. A money judgment might not be obtainable if service is only accomplished by posting.

Eviction Process Review (2 of 2)

5. Defendant Response Period
 - a. Within 5 weekday/non-holidays after being served, the Defendant must file a written Answer to avoid entry of a Default.
 - b. If any rent is alleged to be owed in the Complaint, then the Defendant must also do one of the following within 5 weekday/non-holidays after being served to avoid entry of a Default:
 - i. Raise payment of the rent as a defense in the Answer (should also include a copy of payment evidence); or
 - ii. File a Motion to Determine Rent (should also include a copy of evidence in support). A hearing will need to be scheduled for the Court to determine the rent to be deposited into the Court Registry and the amount to be deposited while the lawsuit remains pending; or
 - iii. Deposit the alleged rent into the Court Registry; and
 - iv. Continue to deposit the alleged/determined rent into the Court Registry as the rent accrues until the lawsuit is finished.
6. If no Default is entered, a trial or final hearing must be scheduled and held.
 - a. Some counties might require mediation before scheduling a trial.
 - b. Consider use of a Court Reporter at the trial.
7. If final judgment is entered in favor of the Landlord after Default or Trial, then the Clerk of Court will issue a Writ of Possession to be delivered to the Sheriff's Office.
 - a. Sheriff will post Writ of Possession at the subject property and return in 24 hours to return possession to the Landlord. Writ of Possession will list phone number of Landlord contact and Sheriff will call Landlord contact after posting to inform Landlord when Sheriff's Deputy will return to property to enforce the Writ of Possession.
 - b. Landlord to remove any personal property of Defendant remaining in the subject property.
8. After recovering possession, Landlord must send security deposit claim notice to Defendant's last known mailing address if Landlord intends to impose a claim or must return security deposit if no claim is being imposed.

Questions on the
Legislative Update????

FLCARH Lease Update

Grant Watson, Esq. – Stone & Gerkin, P.A.

Pamela Borton – Southwind Management

Kevin Flynn – Flynn Management

FLCARH Lease Update

- Solicited comments at last year's conference
- Board of Directors and executives of other member management companies met to discuss comments and needed changes
- Draft changes were made and discussed between our working group
- Proposed lease was submitted to RD for approval in May.
- Waiting on approval from USDA before we can publish lease

Lease Changes - 1



FLORIDA RESIDENTIAL LEASE AGREEMENT
For USDA-RD Financed Communities
Approved by Florida Council for Affordable and Rural Housing

STATE OF FLORIDA
COUNTY OF _____

CITY OF _____

Landlord hereby leases to Tenant for residential purposes the Leased Premises described herein subject to the terms and conditions set forth in this Lease.

1. PARTIES TO THE LEASE AGREEMENT AND APARTMENT ADDRESS:

_____,
(Owner)

d/b/a _____
(Apartment Community)

_____, _____, _____, _____
(Street Address) (City) (State) (Zip Code)

Lease Changes – 2a

Section 6

6. ADDENDA MADE A PART OF THIS LEASE: All addenda promulgated at any time by Management, or executed now or subsequent to the signing of this lease are attached to and made a part of this lease for all purposes. Each document that is checked below shall constitute an addendum that is part of this lease:

<input type="checkbox"/> Rules and Regulations	<input type="checkbox"/> Ineligible Resident Lease Attachment
<input type="checkbox"/> Unit Inspection(s)	<input type="checkbox"/> LIHTC Housing Credit Program Addendum
<input type="checkbox"/> Tenant Certification	<input type="checkbox"/> Home Rental Program Addendum
<input type="checkbox"/> Occupancy Rules	<input type="checkbox"/> Exhibit "C" (Section 8 only) (Lease for Subsidized Programs)
<input type="checkbox"/> Security Deposit Payment Agreement	<input type="checkbox"/> Rent Credit Agreement
<input type="checkbox"/> Pet Policy and Agreement	<input type="checkbox"/> Service or Companion Animal Policy and Agreement
<input type="checkbox"/> Security Deposit Agreement	<input checked="" type="checkbox"/> Security Deposit Payment Agreement
<input type="checkbox"/> Application	<input checked="" type="checkbox"/> "Things You Should Know" Handout
<input checked="" type="checkbox"/> "Things You Should Know" Handout	<input type="checkbox"/> Other _____
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____
<input checked="" type="checkbox"/> Other	<input checked="" type="checkbox"/> Other
<input checked="" type="checkbox"/> Other	<input checked="" type="checkbox"/> Other

7. DEFINITIONS: Except for required quotations from laws and regulations included in this lease, throughout this lease:

Lease Changes – 2b

Section 6

6. ADDENDA MADE A PART OF THIS LEASE: All addenda promulgated at any time by Management, or executed now or subsequent to the signing of this lease are attached to and made a part of this lease for all purposes. Each document that is checked below shall constitute an addendum that is part of this lease:

- | | |
|---|---|
| <input type="checkbox"/> Rules and Regulations | <input type="checkbox"/> Ineligible Resident Lease Attachment |
| <input type="checkbox"/> Unit Inspection(s) | <input type="checkbox"/> LIHTC Housing Credit Program Addendum |
| <input type="checkbox"/> Tenant Certification | <input type="checkbox"/> Home Rental Program Addendum |
| <input type="checkbox"/> Occupancy Rules | <input type="checkbox"/> Exhibit "C" (Section 8 only) (Lease for Subsidized Programs) |
| <input type="checkbox"/> Security Deposit Payment Agreement | <input type="checkbox"/> Rent Credit Agreement |
| <input type="checkbox"/> Pet Policy and Agreement | <input type="checkbox"/> Service or Companion Animal Policy and Agreement |
| <input type="checkbox"/> Security Deposit Agreement | <input type="checkbox"/> Application |
| <input type="checkbox"/> "Things You Should Know" Handout | <input type="checkbox"/> Violence Against Women Act Addendum |
| <input type="checkbox"/> Other _____ | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Other _____ | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Other _____ | <input type="checkbox"/> Other _____ |

7. DEFINITIONS: Except for required quotations from laws and regulations included in this lease, throughout this lease:

Lease Changes – 3

Section 9

9. OCCUPANCY GUIDELINES: Your Apartment may be used only for private housing. You shall not engage in any commercial or business activity from the Leased Premises or within the Apartment Community. The following occupancy guidelines apply: Zero Bedroom - 1 to 2 occupants; One Bedroom - 1 to 2 occupants; Two Bedroom - 2 to 4 occupants; Three Bedroom - 3 to 6 occupants; Four Bedroom - 4 to 8 occupants. If the Apartment Community offers a dormitory type housing Unit, occupancy will be limited to one occupant per sleeping bed with transfers required and hereby agreed to so as to maximize occupancy of each Unit's total sleeping beds.

Lease Changes – 4

Section 14

In the event of a change in your income, your assets, or your household size during the year you must notify the Landlord in writing, and the Landlord may perform a recertification in which case all of the rules and procedures of the yearly recertification will apply. Although you are not allowed to have any individuals live with you for more than 14 days and/or nights in any 45-day period without our prior written consent, other than those individuals identified in paragraph 1 and paragraph 8 of this lease, any guest who stays with you in excess of the allowed period of time will be ~~considered~~ calculated as a member of your household for income-reporting purposes and ~~will be required to~~ must be added by you to the tenant certification, however, -such individual(s) will not become an approved Resident, Co-resident, or Permitted Occupant of your apartment unless and until a complete application for residency is submitted and approved in writing by the Landlord. -The Landlord also shall have the right to serve you with a notice of your lease violation regarding an unauthorized occupant, but the income of the unauthorized occupant will be considered as part of your household income for all periods of time that he or she resides in your Unit in excess of the period of time permitted by this lease. Upon completion of the recertification process, the new monthly tenant contribution resulting in a decrease in tenant contribution from such changes in your income will become effective on the first day of the following month after all required verifications have been received by

Lease Changes – 5

Section 25

25. CONDITION OF THE APARTMENT AND ALTERATIONS: You are accepting the Apartment in “as-is” condition. Within three (3) days of the time after the date on which you take possession of the Apartment, you may provide us with a written list of any and all items not listed on the move-in checklist regarding the condition of the Apartment. At the time you take possession of the Apartment, it Except for any items included on the move-in checklist or on a separate written list as described above, taking possession of the Apartment by you or by any member of your household will constitute your acceptance that the Apartment and all equipment and fixtures are clean, sanitary, in good order and condition, and that there are no conditions which would materially affect the health or safety of household members. You agree to use reasonable care to keep the Apartment in good, clean, safe, and sanitary order and condition throughout the term of this lease, including without limitation keeping the Apartment free from the accumulation of clutter or debris that creates a fire hazard or other safety hazard, causes or contributes to an infestation of pests, creates a health hazard, or interferes with reasonable access throughout the Apartment. You will make no alterations or repairs, including but not limited to painting, wall or window covering, wallpaper, flooring, additional phone or TV outlets or antennas (including satellite TV dishes), attaching cameras, camera components, or security system components to building exteriors and/or common areas, or changing the locks on any of the doors to or in the Apartment, without our prior written consent. In the event that Landlord gives its written consent to the installation of an antenna or satellite dish, Resident must execute and comply with all provisions of the addendum regarding the

Lease Changes – 6

Section 28 (P)

- N. Providing proper supervision of all Permitted Occupants, Guests and Invitees who are minors, including without limitation making certain that all minors play in designated areas of the Apartment Community only; and
- O. Refraining at all times from creating, causing, or contributing to, and making certain that all Co-Residents, Permitted Occupants, Guests and Invitees refrain at all times from creating, causing or contributing to, any public or private nuisance, any noise disturbance or any disturbance of any nature whatsoever that interferes with the peaceful and quiet enjoyment of the Apartment Community by other Residents and their Permitted Occupants, Guests and Invitees.
- P. Refraining at all times from engaging in, and making certain that all Co-Residents, Permitted Occupants, Guests and Invitees refrain at all times from engaging in any act or conduct which threatens or endangers the health, safety, or welfare of Management staff, vendors, or RD representatives, or which unreasonably interferes with the ability of Management staff or vendors to perform their duties, including, but not limited to, physical or verbal abuse of Management Staff or vendors.

Lease Changes – 7

Section 30 (b)

(b) Locks may not be altered nor may new locks, knockers, doorbells, cameras, security system components, or other door or window attachments be installed without our prior written consent.

Lease Changes – 8

Section 37

37. FIRE AND CASUALTY: If your Apartment becomes uninhabitable because of fire or other casualty or unforeseen event, we may, at our option, terminate this lease or repair the Apartment within a reasonable time. If we elect to repair the Apartment and the damage is not due to negligence by you, Permitted Occupants, Guests and/or Invitees, either rent for the uninhabitable Unit will abate while the repairs are being performed or this lease will be terminated. The decision whether to abate rent or terminate this lease shall lie in the exclusive discretion of Management. You shall not occupy the Apartment during any time when the Apartment is deemed to be uninhabitable. If Management exercises its discretion to terminate the Lease pursuant to this paragraph, your right to occupy the Apartment shall terminate immediately as of the effective date of termination.

Lease Changes – 9

Section 40

40. PET POLICY: Pets are allowed only in Apartment Communities designated for elderly, handicapped/disabled. For all other RD properties the policy is a “No Pet(s)” policy. In Management’s sole discretion, small caged birds (maximum of 2) and fish in tanks no larger than 10 gallons may be permitted with prior approval of Management agent and subject to Management’s pet policies. Any “pet,” “fish,” or “birds” must be approved by Management agent. Examples of unallowable pets include, but are not limited to: rodents (or animals in the rodent family), wild animals, ferrets, weasels, reptiles, amphibians, insects, or spiders and any other breeds and animals not permitted by the insurance coverage for the Apartment Community or otherwise deemed by Management agent, in its reasonable discretion, to be undesirable. All pets must remain compliant and current with all vaccinations required by law and proof of such vaccinations shall be promptly furnished to the Landlord upon request. All pets shall be kept on a harness, leash, or other tether in common areas of the Apartment Community and the Resident shall ensure that their pet does not cause any injury or damage to any person at any time, including, but not limited to, other Residents, guests, invitees, Management staff, vendors, or RD representatives. The Resident shall be responsible for promptly and properly removing and disposing of any pet excrement or waste. The Resident shall properly restrain their pet(s) any time the Landlord, Management staff, vendors, or RD representatives accesses the Apartment as permitted under terms and conditions of this Agreement. The Resident shall be responsible for any and all injuries and/or damages caused by their pet(s) and shall indemnify, defend, and hold Landlord harmless from and against any claims, damages, injuries, and liabilities arising out of or otherwise related to the pet(s) except to the extent caused by the gross negligence of Landlord.

Lease Changes – 10a

Section 41 (old removed)

~~41. **SERVICE OR COMPANION ANIMAL:** The Resident must provide Management with proof of a handicap or disability and verification from a physician or health care provider, on a form or forms provided by or acceptable to Management, stating that you have a special need for a service animal. Subject to any limitations imposed by law, Resident must provide Management with documentation that the service animal has received the training and/or certification to provide the service for which you request an accommodation. Additionally, all requests for a companion animal must be accompanied by verification from a physician or health care provider that you have a special medical need for a companion animal. Animals commonly trained as service animals are dogs. Absolutely no rodents, reptiles, amphibians, insects, spiders, poultry, livestock, or farm animals will be permitted, and no such animals, insects or creatures shall be raised, bred, or kept in any Apartment or on any part of the Apartment Community. Residents will be limited to one service animal or companion animal per resident requiring a service animal or companion animal.~~ **SERVICE ANIMAL OR ASSISTANCE ANIMAL:** All requests for a service animal or an assistance animal

Lease Changes – 10b

Section 41 (new)

~~companion animal.~~ **SERVICE ANIMAL OR ASSISTANCE ANIMAL:** All requests for a service animal or an assistance animal will be processed and handled in accordance with the applicable requirements of federal, state and local laws, regulations and ordinances. All service animals or assistance animals must remain compliant and current with all vaccinations required by law and proof of such vaccinations shall be promptly furnished to the Landlord upon request. All service animals or assistance animals must be kept on a harness, leash, or other tether in common areas of the Apartment Community, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service or assistance animal's safe, effective performance of work or tasks, in which case the service or assistance animal must be otherwise under the handler's control by means of voice control, signals, or other effective means. The Resident shall be responsible for promptly and properly removing and disposing of any service or assistance animal excrement or waste. The Resident shall ensure that their service animal or assistance animal does not cause any injury or damage to any person at any time, including, but not limited to, other Residents, guests, invitees, Management staff, vendors, or RD representatives. The Resident shall take appropriate measures to ensure the safety of the Landlord, Management staff, vendors, and/or RD representatives whenever such individuals gain access to the Apartment as permitted under the terms and conditions of this Agreement. The Resident shall be responsible for any and all injuries and/or damages caused by their service animal or assistance animal and shall indemnify, defend, and hold Landlord harmless from and against any claims, damages, injuries, and liabilities arising out of or otherwise related to the service animal or assistance animal except to the extent caused by the gross negligence of Landlord. Residents are reminded that any person who knowingly or willfully misrepresents herself or himself as using a service animal and being qualified to use a service animal commits a lease violation and may be subject to criminal prosecution pursuant to Section 413.08, Florida Statutes.

Questions????