

RESIDENTIAL LEASES IN FLORIDA

If you're thinking about renting a home, or you own a home that you want to rent, you probably know what the rent and security deposit should be and how long the lease should last. But there are a lot of other issues to think about when you enter into a lease.

Security deposits and advance rent must be placed in a separate bank account pursuant to Florida law. If the account earns interest, the tenant will be entitled to share the interest according to a formula and procedure established by law. If the landlord doesn't want to hold the money separately, he'll have to post a bond with the court. Security deposits are furnished to compensate the landlord for damages, while advance rent is usually collected to cover the last month's rent. In addition, the landlord may impose a pet deposit (if pets are permitted), as well as late charges and bad check charges. All of these items are negotiable.

Consider whether the lease should impose use restrictions on the tenant, such as prohibiting business activities. At a minimum, the tenant should comply with subdivision restrictions and applicable laws. The landlord should check the restrictions to make sure they don't prohibit leases or require homeowners' association approval, and furnish a copy to the tenant. If the restrictions impose assessments, perhaps the tenant should pay them. How many people can occupy the house? All occupants should be named as tenants, and limits can be placed on overnight guests, as well as pets. Can the tenant assign the lease, or sublease to someone else? If the lease doesn't prohibit it, this will be allowed.

Who does the maintenance? Normally the landlord handles structural repairs and code compliance, while the tenant handles routine upkeep like lawn mowing and pest control. Service of air conditioning, plumbing and electrical systems can also be negotiated. Caps can be placed on liability for certain repairs. Will the tenant be permitted to make alterations? Who pays utility bills? All of these items are negotiable, and the landlord should reserve the right to inspect the property for compliance.

What happens if the house is damaged by a casualty such as a fire or storm? The tenant will probably want the right to terminate the lease if the damage is significant or if repairs can't be accomplished in a short time. Who pays for the insurance? These contingencies should be considered.

The tenant may wish to negotiate for renewals or extensions in advance. Sometimes tenants want an option to buy the house, which may require considerable negotiation. If there's an option to purchase, the form of purchase contract should be agreed upon in advance and attached to the lease.

What are the remedies for a default? Florida law prohibits a landlord from turning off utilities and changing the locks. The landlord must give specified notices of default before terminating the lease or evicting the tenant. Eviction can only be accomplished through court

proceedings, and the landlord can be sued for evicting the tenant or his possessions without using the proper procedure. The landlord may wish to accelerate the rent and hold the tenant liable for the cost of re-renting the house, although the tenant should receive an offset for any rent the landlord receives from subsequent tenants. The tenant must give specified notices to allow the landlord to cure a default before terminating the lease. The parties can negotiate for cure periods on some types of defaults, as well as remedies available to each.

The Florida Supreme Court has approved a standard form residential lease which addresses many of these issues by providing for the landlord and tenant to check various blocks on the form. Most lawyers, real estate brokers and office supply stores have them. When negotiating a lease, it's important to address as many contingencies as possible in order to avoid disputes later. If you're not sure how to handle any particular issue or whether you've covered all the issues, it's best to seek the advice of a real estate lawyer or broker before you sign the lease.