

Instructions for the

Florida Early Termination/Liquidated Damages Lease Addendum

Your tenants are legally responsible for paying rent through the end of the lease term. But sometimes tenants' circumstances change, and they leave early. Until a few years ago, the law was clear in Florida: When tenants broke their lease and left early, landlords could stand by and charge them rent as it became due, until the end of the lease term; or charge rent until the premises were rerented (but not past the ending date of the lease). Because of the practical difficulty of charging rent as it becomes due to tenants who may be long gone, most landlords would begin rerenting efforts, and charge the tenants for only the vacant months.

In 2008, a new law offered a third alternative (Fla. Stat. Ann. § 83.595). At the time the lease is signed, landlords can offer tenants the opportunity to lock-in a lease-breaking (or early termination) fee, as long as the fee is not more than twice the monthly rent, and as long as the landlord requires no more than 60 days' notice in the case of an early termination. This amount, known as "liquidated," or preset, damages, will benefit a landlord who expects the market to remain hot during the lease term—this landlord might end up collecting double rent if the unit is rerented earlier than two months after the tenants leave. On the other hand, if the market is soft and rerenting efforts do not produce new tenants within two months of the original tenants' leave-taking, the landlord stands to lose, because he cannot demand lost rent for more than the specified two months.

The Florida law includes a curious wrinkle. If you decide that you would like to use a liquidated damages/early termination approach in case the tenants leave early, you must present that option to the tenants at the time the lease is signed, *and the tenants must decide whether to accept it*. The tenants may decide against it if the market is hot, for the very reasons that you would like to use it. Tenants who choose not to take you up on your offer of liquidated damages/early termination may not be denied the rental on this basis.

In practice, very few owners of single-family rentals use this addendum. They prefer to get the property rented as soon as possible, and deal with the tenants for any rent due during the vacant period. Owners of multifamily properties find the liquidated damages option attractive because it simplifies the consequences when tenants break their leases. In addition, the addendum is sufficient evidence of a debt to support sending the debt directly to a collections bureau for collection.

Tenants who choose the liquidated damages/termination fee option may not be charged for more than two months' rent. They still owe rent for the month in which they leave, any past-due rent, and any other charges already due under the lease. You may not attempt to collect any rent concessions previously granted.

How to Complete Your Florida Early Termination/ Liquidated Damages Lease Addendum

If you decide not to use the liquidated damages/termination fee option, simply do not use this addendum. If your tenants leave early, you have the same options you always did—stand by and collect as rent comes due, or rerent and charge only for the vacant months (up until the end of the lease term). If you would like to offer this option, follow the instructions below.

1. **Lease information.** In the first paragraph, enter the tenant's or tenants' name or names and landlord's name, the date the lease was signed, and the beginning and ending dates on the lease.
2. **Option 1.** This option allows the tenants to accept your offer of an early termination fee/liquidated damages. Enter the amount of the fee in the "Early termination fee" paragraph, which may not be more than two months' rent. In the "Liquidated damages" paragraph, enter the amount, which again may not be more than two months' rent. Tenants should check the box if they decide to accept this option.
3. **Option 2.** The tenants who choose not to accept your offer of liquidated damages/early termination fee will choose this option. The clause reminds the tenants that you will be free to collect rent as it comes due, or until the unit is rerented (but not past the lease ending date), as allowed by Florida law.

Signing Instructions

Make a copy of the addendum for every tenant who will sign it (if you have accepted one or more cosigners, make copies for them). At the end of the addendum on each copy, sign and print your name and enter your title (such as "landlord" or "property manager"). Each tenant must also sign each copy and enter a phone number and email. If there are cosigners, they too must sign and date each copy, and enter contact information. You, the tenants, and the cosigner(s) each keep one signed copy.

If You Need Legal Advice, See a Lawyer

Nolo publishes legal forms that are useful in many situations. But we can't tell you whether or not a form is right for you and your particular circumstances. No general legal form is a substitute for personalized advice from a knowledgeable lawyer licensed to practice law in Florida. To find a local lawyer, you can begin with Nolo's Lawyer Directory at www.nolo.com.



Florida Early Termination/ Liquidated Damages Lease Addendum

This is an addendum to the lease between _____
_____ (collectively, "Tenant") and
_____ ("Landlord"),
signed on _____, for the premises at _____.

The lease begins on _____, and ends on _____.

Option 1

Early termination fee. If Tenant wishes to move out before the ending date of the lease, Tenant will give Landlord at least 60 days' notice. Landlord will charge Tenant \$ _____ as a termination fee, provided that the fee is no more than twice the monthly rent. Tenant will owe rent for the month in which Tenant moves out, and any unpaid back rent and other damages as allowed by law. Landlord will not seek rent beyond the month in which Tenant moves out.

Liquidated damages. If Tenant moves out before the ending date of the lease (or fails to provide the specified notice to exercise a termination right), Tenant will owe Landlord liquidated damages in the amount of \$ _____, which may be no more than twice the monthly rent. Tenant will owe rent for the month in which Tenant moves out, and any unpaid back rent and other damages as allowed by law. Landlord will not seek rent beyond the month in which Tenant moves out.

Option 2

No termination fee or liquidated damages provision. Tenant does not agree to an early termination fee or liquidated damages, and acknowledges that the landlord may seek damages as provided by law, namely, Landlord may demand rent as it comes due, until the lease ending date; or re-rent and demand rent for the months the premises remained vacant. (Fla. Stat. Ann. §83.595.)

Landlord's or manager's signature

Date

Print name and title

Tenant's signature

Date

Print name

Phone

Email

Cosigner's signature

Date

Print name

Phone

Email