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| **INITIAL DRAFT 83.05 FOR DISCUSSIONS PURPOSES ONLY** |
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| 83.05 **Right of possession upon default in rent; determination of right of possession in action or surrender or abandonment of premises**.(1) If any person leasing or renting any land or premises other than a dwelling unit fails to pay the rent at the time it becomes due, the landlord has the right to obtain possession of the premises as provided by law.(2) The landlord shall recover possession of rented premises only:(a) In an action for possession under s. [83.20](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0000-0099/0083/Sections/0083.20.html), or other civil action in which the issue of right of possession is determined;(b) When the tenant has surrendered possession of the rented premises to the landlord; or(c) When the tenant has abandoned the rented premises.(3) In the absence of actual knowledge of abandonment, it shall be deemed for purposes of paragraph (2)(c) that the tenant has abandoned the rented premises if:(a) The landlord reasonably believes that the tenant has abandoned the rented premises, and the reasonable believes the tenant has been absent from the rented premises for a period of 15 consecutive days;(b) The rent is not current; (c)  A notice pursuant to s. [83.20](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0000-0099/0083/Sections/0083.20.html)(2) has been served and 10 calendar days have elapsed since service of such notice: (d) Commercial real property shall be deemed abandoned by the tenant within the meaning of Chapter 83.05 and the lease shall terminate if landlord gives written notice of belief of abandonment pursuant to subdivision 3 (g) and,(e) The landlord has served written notice of belief of abandonment in substantially the form set forth in paragraph 3 (g) and the tenant fails to deliver to the landlord written notice within fifteen (15) days after written notice of belief of abandonment is served on tenant stating that the tenant does not intend to abandon the rented premises and providing an address at which the tenant may be served in a civil action for possession under s. [83.20](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0000-0099/0083/Sections/0083.20.html), or other civil action in which the issue of right of possession is determined. Additionally, the rented premises shall not be deemed to be abandoned pursuant to this paragraph 3, if within such notice tenant provides a statement that the rent is not due and unpaid for the time necessary to declare a rent default pursuant to the agreement under which the rented premises are held; or, tenant pays to landlord all or a portion of the rent due and unpaid on the rented premises.  (1) Service of landlord’s notice of belief of abandonment shall be immediately upon hand delivery to tenant subject to written confirmed receipt, upon delivery to tenant by recognized overnight delivery service providing positive tracking of items, or two postal days after deposit in the U.S. mails by certified mail, return receipt requested, to the tenant at the tenant's last known address, and, if there is reason to believe that the delivery to that address will not be received by the tenant, also to any other address known to the landlord where the tenant may reasonably be expected to receive the notice.  (2) Service of tenant’s written notice to landlord set for in this paragraph (d) above shall be immediately upon hand delivery to landlord subject to written confirmed receipt, upon delivery to landlord by recognized overnight delivery service providing positive tracking of items, or two postal days after deposit in the U.S. mails by certified mail, return receipt requested, to the address that landlord provided for such purpose in the notice of belief of abandonment. (f) The fact that the landlord knew that the tenant left personal property on the real property does not, by itself, justify a finding that the landlord did not believe that the tenant had abandoned the real property. |
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1. The notice of belief of abandonment shall be in substantially the following form:

Notice of Belief of Abandonment

To: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Name of Tenant)

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Address of Tenant)

This notice is given pursuant to Section 83.05(3)(e) of the Florida Statutes concerning the rented premises at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state location of the property by address or other sufficient description). The Tenant named above is in default of its lease on the above described rented premises due to failure to pay rent on time at set forth on the notice attached hereto dated \_\_\_\_\_ from Landlord to Tenant, a copy of which is attached to this notice (attach Florida Statute Section 83.20 (2) notice served). Landlord believes that you have abandoned the rented premises.

The rented premises will be deemed abandoned within the meaning of Section 83.05(3)(e) of the Florida Statutes and Landlord will recover possession of the rented premises leased to Tenant and the lease to the rented premises will be terminated on that date which is 15 days after service of this notice, unless before that date the Landlord receives at the address set forth below (by hand delivery subject to written confirmed receipt, by recognized overnight delivery service providing positive tracking of items, or by certified mail, return receipt requested), a written notice from you stating;

1. Your intent not to abandon the real property.
2. An address at which you may be served in a civil action for possession under Florida law or other civil action under Florida law in which the issue of right of possession is determined.

Additionally, the rented premises shall not be deemed to be abandoned pursuant to the above statute if Tenant provides a written statement with your written notice 15 days after service of this notice to Tenant stating (1) and (2) above, and Tenant:

1. Provides a statement that the rent is not due and unpaid for the time period necessary to declare a rent default under the Tenant’s Lease for the rented premises; or,
2. Pays to the landlord all or a portion of the rent due and unpaid on the rented premises.

You are required to pay the rent due and unpaid on rented premises as required by the lease, and your failure to do so can lead to a court proceeding against you.

Dated: \_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Signature of landlord or agent)

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Type of print name of landlord)

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Address to which tenant is to send notice)

1. Nothing in this section precludes the landlord from serving a notice requiring the tenant to pay rent or quit as provided in Section 83.20(2) of the Florida Statutes at any time permitted by those sections or affects the time and manner of giving any other notice required or permitted by law. Giving notice pursuant to this section does not satisfy the requirements of Section 83.20(2) of the Florida Statutes.