

# MEMORANDUM

Agenda Item No. 11(A)(4)

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**TO:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**DATE:** June 16, 2020


**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Resolution urging the Florida  
Legislature to enact legislation  
that would impose stricter  
penalties on landlords who  
engage in constructive evictions,  
such as illegal lockouts and  
utility shutoffs

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The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Daniella Levine Cava and Co-Sponsor and Commissioner Jean Monestime.



Abigail Price-Williams  
County Attorney 

APW/lmp

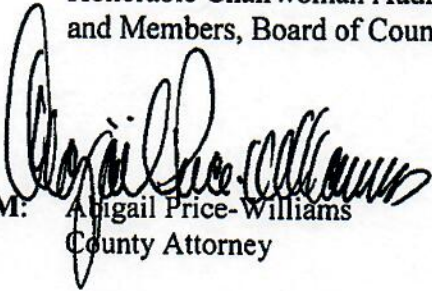


# MEMORANDUM

(Revised)

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County Attorney

**SUBJECT:** Agenda Item No. 11(A)(4)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present \_\_\_\_, 2/3 membership \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) \_\_\_\_) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 11(A)(4)  
6-16-20

RESOLUTION NO. \_\_\_\_\_

RESOLUTION URGING THE FLORIDA LEGISLATURE TO ENACT LEGISLATION THAT WOULD IMPOSE STRICTER PENALTIES ON LANDLORDS WHO ENGAGE IN CONSTRUCTIVE EVICTIONS, SUCH AS ILLEGAL LOCKOUTS AND UTILITY SHUTOFFS

**WHEREAS**, coronavirus disease 2019 (“COVID-19”) is a severe acute respiratory illness that can spread among humans through respiratory transmission and presents with symptoms similar to those of influenza; and

**WHEREAS**, on March 1, 2020, the Governor of Florida issued an executive order directing the State Surgeon General to declare a Public Health Emergency due to the discovery of COVID-19 in Florida; and

**WHEREAS**, also on March 1, 2020, the State Surgeon General declared that a Public Health Emergency exists in the State of Florida as a result of COVID-19; and

**WHEREAS**, on March 9, 2020, the Governor issued Executive Order 20-52 declaring a state of emergency for the entire State of Florida as a result of COVID-19; and

**WHEREAS**, on March 12, 2020, the County Mayor declared a state of local emergency for all of Miami-Dade County; and

**WHEREAS**, these orders have been extended and remain in place; and

**WHEREAS**, in conjunction with the County Mayor’s declaration of emergency, the Miami-Dade Police Department (“MDPD”) announced that officers would not assist with evictions during the pendency of the emergency and that MDPD was temporarily suspending all eviction-related activities until further notice, including assisting landlords in removing tenants or serving court papers; and



**WHEREAS**, on April 2, 2020, the Governor issued Executive Order 20-94, which, in part, suspended and tolled “any statute providing for an eviction cause of action under Florida law solely as it relates to non-payment of rent by residential tenants due to the COVID-19 emergency for 45 days from the date of the executive order, including any extensions”; and

**WHEREAS**, on May 14, 2020, the Governor issued Executive Order 20-121, which extended Executive Order 20-94 until June 2, 2020; and

**WHEREAS**, the Chief Justice of the Florida Supreme Court and the Chief Judge of the Eleventh Judicial Circuit of Florida also adopted administrative orders that automatically delayed or stayed the issuances of writs of possession associated with residential eviction actions at the time the Governor and the County Mayor issued their declarations of emergency; and

**WHEREAS**, the federal government also suspended evictions and foreclosures in public housing until June 30, 2020, and the Board of County Commissioners has taken steps, in accordance with Resolution No. R-1253-19, to direct the County Mayor, Miami-Dade Public Housing and Community Development Department, and the Miami-Dade Police Department to take no actions that would result in the eviction of residents of public housing or other affordable housing; and

**WHEREAS** on June 1, 2020, the Governor issued Executive Order 20-137, which extends the moratorium on mortgage foreclosure and eviction relief until 12:01 a.m. on July 1, 2020, and thus the last day of the moratorium is June 30, 2020; and

**WHEREAS**, as result of these declarations of emergency and mandatory closures of non-essential businesses in Miami-Dade County, thousands of workers in Miami-Dade County and throughout this State have been laid off, furloughed, or left with significantly-reduced work hours; and

**WHEREAS**, as a result, many of Florida's residents and families are struggling to make ends meet, and are unable to pay for basic necessities such as rent and food; and

**WHEREAS**, notwithstanding the extraordinary steps the federal, state and local governments, including the courts, have taken to protect renters from eviction during the declarations of emergency, there have been reports of landlords taking matters into their own hands to forcibly evict tenants; and

**WHEREAS**, the Florida Legislature enacted the Florida Residential Landlord and Tenant Act, as codified in chapter 83, part II, Florida Statutes (the "Act"); and

**WHEREAS**, the Act provides certain protections for tenants, and prohibits certain activities by landlords to force tenants out of their dwelling unit without first complying with the eviction process set forth in the Act; and

**WHEREAS**, specifically, section 83.67 of the Act prohibits, among other things, a landlord from (i) terminating or interrupting any utility service furnished the tenant, including, but not limited to, water, heat, light, electricity, gas, elevator, garbage collection, or refrigeration, whether or not the utility service is under the control of, or payment is made by, the landlord; (ii) preventing a tenant from gaining reasonable access to their dwelling unit by any means, including, but not limited to, changing the locks or using any bootlock or similar device; (iii) removing the outside doors, locks, roof, walls, or windows of the unit except for purposes of maintenance, repair, or replacement; or (iv) removing a tenant's personal property from their dwelling unit unless such action is taken after surrender, abandonment, recovery of possession of the dwelling unit due to the death of the last remaining tenant or a lawful eviction; and



**WHEREAS**, section 83.67 further provides that if a landlord violates the law, such landlord shall be liable to their tenant for actual and consequential damages or three months' rent, whichever is greater, and costs, including attorney's fees, and further provides that subsequent or repeated violations that are not contemporaneous with the initial violation shall be subject to separate awards of damages; and

**WHEREAS**, in order to enforce the provisions of section 83.67, a tenant would need to seek redress in court; and

**WHEREAS**, because such constructive evictions are considered civil matters, oftentimes, the police department is not able to assist the tenant, or cite or impose a criminal penalty on a landlord who violates the law; and

**WHEREAS**, tenants facing constructive evictions often do not have the time nor financial means to challenge such illegal acts in court, and they are forced to endure unsafe and unsanitary conditions, even homelessness, while attempting to resolve the matter through the judicial system; and

**WHEREAS**, this Board believes that the COVID-19 pandemic has highlighted the need for stricter laws that protect tenants from constructive evictions by their landlords; and

**WHEREAS**, this Board further believes that any eviction must be conducted through the courts and constructive evictions by a landlord in violation of section 83.47 of the Act, should include criminal penalties for such violation,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board:

**Section 1.** Urges the Florida Legislature to enact legislation that would impose stricter penalties, including, but not limited to, criminal penalties, on landlords who engage in constructive evictions, such as illegal lockouts, utility shutoffs, and other prohibited activities in violation of section 83.67 of chapter 83, part II, Florida Statutes, commonly known as the Florida Residential Landlord and Tenant Act.

**Section 2.** Directs the Clerk of the Board to transmit a certified copy of this resolution to the Senate President, House Speaker, and the Chair and Members of the Miami-Dade County State Legislative Delegation.

**Section 3.** Directs the County's state lobbyists to advocate for the legislative action set forth in section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2020 State Legislative Package to include this item and to include this item in the 2021 State Legislative Package when it is presented to the Board.

The Prime Sponsor of the foregoing resolution is Commissioner Daniella Levine Cava and the Co-Sponsor is Commissioner Jean Monestime. It was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Audrey M. Edmonson, Chairwoman	
Rebeca Sosa, Vice Chairwoman	
Esteban L. Bovo, Jr.	Daniella Levine Cava
Jose "Pepe" Diaz	Sally A. Heyman
Eileen Higgins	Barbara J. Jordan
Joe A. Martinez	Jean Monestime
Dennis C. Moss	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared this resolution duly passed and adopted this 16<sup>th</sup> day of June, 2020. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.



Terrence A. Smith