

# MEMORANDUM

Agenda Item No. 5(B)

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**TO:** Honorable Chairman Jose "Pepe" Diaz  
and Members, Board of County Commissioners

**DATE:** (Public Hearing 1-20-21)  
December 15, 2020

**FROM:** Geri Bonzon-Keenan  
Successor County Attorney

**SUBJECT:** Ordinance relating to termination  
of certain residential tenancies;  
creating Section 17-03 of the  
Code; increasing notification  
period related to termination of  
certain month-to-month  
residential tenancies in  
incorporated and unincorporated  
areas of Miami-Dade County

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The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Eileen Higgins.

  
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Geri Bonzon-Keenan  
Successor County Attorney

GBK/jp



**MEMORANDUM**  
(Revised)

**TO:** Honorable Chairman Jose "Pepe" Diaz  
and Members, Board of County Commissioners

**DATE:** January 20, 2021

**FROM:**   
Gen Bonzon-Keenan  
Successor County Attorney

**SUBJECT:** Agenda Item No. 5(B)

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. 5(B)  
1-20-21

ORDINANCE NO. \_\_\_\_\_

ORDINANCE RELATING TO TERMINATION OF CERTAIN RESIDENTIAL TENANCIES; CREATING SECTION 17-03 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; INCREASING NOTIFICATION PERIOD RELATED TO TERMINATION OF CERTAIN MONTH-TO-MONTH RESIDENTIAL TENANCIES IN INCORPORATED AND UNINCORPORATED AREAS OF MIAMI-DADE COUNTY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, the coronavirus disease 2019 (“COVID-19”) pandemic has resulted in a housing crisis nationwide; and

**WHEREAS**, prior to the COVID-19 pandemic, Miami-Dade County was already ranked one of the least affordable places to live in the nation; and

**WHEREAS**, according to the Florida United Way’s 2018 Asset Limited, Income Constrained, Employed report, prior to the pandemic, hundreds of thousands of Miami-Dade County households were steps away from missing a rent payment and possibly facing homelessness; and

**WHEREAS**, according to the University of Florida’s Shimberg Center for Housing Studies, there are 2.6 million renter households in the State of Florida; and

**WHEREAS**, of the 895,801 households in Miami-Dade County, almost half are renting; and

**WHEREAS**, Congress enacted the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), which, in part, makes it unlawful to evict renters living in:

(1) single-family and multifamily properties financed by federally backed mortgages, such as Freddie Mac, Fannie Mae and Federal Housing Administration backed mortgages, and

(2) federally assisted housing, such as public housing and Section 8 housing; and

**WHEREAS**, there are many renters who are not covered by the CARES Act and who face imminent eviction; and

**WHEREAS**, according to a recent report from the Urban Institute, a nonprofit research organization, it is estimated that the eviction moratoria covering federally financed properties will apply to roughly 12.3 million, or only 28 percent, of the 43.8 million rental units in the United States; and

**WHEREAS**, as a result of COVID-19, many of these renters, who have lost or will lose their jobs, will face eviction, particularly following the expiration of the executive order by Governor Ron DeSantis imposing a moratorium on evictions and the possible expiration of the moratorium on evictions issued by the United States Centers for Disease Control and Prevention; and

**WHEREAS**, this Board has taken and will continue to take steps to protect the residents of Miami-Dade County who have suffered as a result of the COVID-19 pandemic, including in the area of housing; and

**WHEREAS**, although this Board does not have the power to stop the anticipated significant increase in evictions, it does have the power to take certain steps to assist residents who are facing the imminent threat of eviction; and

**WHEREAS**, part II of chapter 83, Florida Statutes, commonly known as the "Florida Residential Landlord and Tenant Act" (the act"), applies to the rental of residential dwelling units, and sets forth the rights and duties of landlords and tenants; and

**WHEREAS**, section 83.57 of the act provides that a tenancy without a specific duration may be terminated by either party giving written notice as follows: (1) when the tenancy is from year-to-year, by giving not less than 60 days' notice prior to the end of any annual period; (2) when the tenancy is from quarter-to-quarter, by giving not less than 30 days' notice prior to the end of any quarterly period; (3) when the tenancy is from month-to-month, by giving not less than 15 days' notice prior to the end of any monthly period; and (4) when the tenancy is from week-to-week, by giving not less than seven days' notice prior to the end of any weekly period; and

**WHEREAS**, according to court opinions and Florida Attorney General Opinion No. 94-91, the Florida Legislature has not preempted local governments from enacting ordinances that enlarge the notification period for month-to-month tenancies without a specific duration pursuant to section 83.57; and

**WHEREAS**, in fact, the Attorney General opined that the Legislature has provided minimum notification rights to both the landlord and the tenant regarding the termination of a tenancy without a specific duration and that there is no language in section 83.57 of the act that may be construed as a prohibition against more lengthy notice requirements by a local government; and

**WHEREAS**, consequently, the Attorney General concluded that such enlargement of the notification period would be supplemental to the state statute, and compliance with such ordinance is possible without violating section 83.57; and

**WHEREAS**, in response to the Attorney General's opinion and in an effort to assist renters without leases, municipalities, such as the City of Miami Beach and the City of Miami, enacted ordinances to enlarge the notice requirement for month-to-month tenancies from 15 days to 30 days in 1994 and 2017, respectively; and

**WHEREAS**, further, for renters protected by the CARES Act, landlords are also required to provide 30-days' notice before terminating a tenancy; and

**WHEREAS**, accordingly, this Board desires to supplement the notification period requirements for month-to-month tenancies under section 83.57 of the act by enlarging such notification period from 15 days to 30 days,

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

**Section 1.** Section 17-03 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:<sup>1</sup>

**Sec. 17-03. Written notice of termination of monthly residential tenancy without specific duration.**

- (a) A residential tenancy without a specific duration in which the rent is payable on a monthly basis may be terminated by either the landlord or tenant by giving not less than 30 days written notice prior to the end of any monthly period. The requirements of this ordinance shall apply within incorporated and unincorporated areas of Miami-Dade County.
- (b) Except for the notice provisions set forth in subsection (a), all other provisions set forth in part II of chapter 83, Florida Statutes, as such may be amended, shall govern residential tenancies.

**Section 2.** If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

**Section 3.** It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and

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<sup>1</sup> Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**Section 4.** This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:

  


Prepared by:

Terrence A. Smith

Prime Sponsor:           Commissioner Eileen Higgins