

MEMORANDUM

Agenda Item No. 7(C)

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

DATE: (Second Reading 3-15-22)
March 1, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to termination of certain residential tenancies and fair notice for rent increases for residential tenancies; amending section 17-03 of the Code; requiring written notification period related to rent increases in incorporated and unincorporated areas of Miami-Dade County; increasing notification period related to termination of certain month-to-month residential tenancies in incorporated and unincorporated areas of Miami-Dade County

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



Geri Bonzon-Keenan
County Attorney

GBK/smm

Memorandum



Date: March 15, 2022

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Fiscal Impact Statement for Ordinance Relating to Notification Period Related to Rent Increases – File No. 220369

The proposed ordinance requires landlords to provide residential tenants 60 days written notice for any increases of more than five percent to the rental rate. Implementation of this ordinance will not have a fiscal impact to Miami-Dade County.



Morris Copeland
Chief Community Services Officer

Memorandum



Date: March 15, 2022

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Social Equity Statement for Ordinance Relating to Notification Period Related to Rent Increases – File No. 220369

The proposed ordinance seeks to amend section 17-03 of the Code, require a written notification period related to rent increases in incorporated and unincorporated areas of Miami-Dade County, and increase the notification period related to the termination of certain month-to-month residential tenancies in incorporated and unincorporated areas of Miami-Dade County. The ordinance will require residential landlords to provide 60 days written notice to tenants when rents will be increased by more than five percent. This legislation is anticipated to have a beneficial impact for residents and will help renters navigate the highly competitive rental market by providing more time to adjust to higher rents or seek alternative housing.

A handwritten signature in blue ink that reads "Morris Copeland".

Morris Copeland
Chief Community Services Officer



MEMORANDUM
(Revised)

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

DATE: March 15, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(C)

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. 7(C)
3-15-22

ORDINANCE NO. _____

ORDINANCE RELATING TO TERMINATION OF CERTAIN RESIDENTIAL TENANCIES AND FAIR NOTICE FOR RENT INCREASES FOR RESIDENTIAL TENANCIES; AMENDING SECTION 17-03 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REQUIRING WRITTEN NOTIFICATION PERIOD RELATED TO RENT INCREASES IN INCORPORATED AND UNINCORPORATED AREAS OF MIAMI-DADE COUNTY; 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, it is the intention of this Board to provide all Miami-Dade County residents with a fair notice if their rents are to increase; and

WHEREAS, according to the University of Florida’s Shimberg Center for Housing Studies’ 2019 Rental Market Study, 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, according to a 2019 study by Florida International University, 48.4 percent of households in Miami-Dade County are considered “cost burdened,” which, according to the United States Department of Housing and Urban Development, includes households who pay more than 30 percent of their income for housing and may have difficulty affording necessities such as food, clothing, transportation, and medical care; and

WHEREAS, during the coronavirus-2019 (COVID-19) pandemic, there has been an influx of people moving to Florida from states with higher wages and cost of living which has caused an upsurge in rental rates in Florida; and

WHEREAS, according to a recent Miami Herald editorial report, as of December 2021, the average monthly rent in Miami was \$3,020.00, which represents a 34 percent annual increase; and

WHEREAS, according to the website Zillow, the average rent in the tri-county area of Miami-Dade, Broward and West Palm Beach, as of December 2021, was \$2,564.00; and

WHEREAS, recently it was reported through various media outlets that one landlord in the City of Hialeah informed their tenants that the tenants' rent would be increased by 65 percent; 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, the act does not provide specific notification requirements for landlords seeking to increase rental rates; and

WHEREAS, although some lease agreements contain provisions regarding increases in rental rates, a landlord generally may not raise rent during the term of a lease; and

WHEREAS, therefore, a landlord will have to wait until the end of the term of the lease to raise the rent and it is expected that notice of such will be provided in accordance with termination notices set forth by law or in accordance with the lease agreement; and

WHEREAS, with respect to notices of termination of tenancy, if there is a written lease, section 83.575 of the act provides that the notice required to terminate a tenancy is no more than 60 days notice; and

WHEREAS, where there is no lease, on the other hand, section 83.57 provides that the landlord should provide a seven-day notice to a tenant renting week-to-week, a 15-day notice to a tenant renting month-to-month, a 30-day notice to a tenant renting quarter-to-quarter, and a 60-day notice to a tenant renting year-to-year; and

WHEREAS, on January 20, 2021, this Board adopted Ordinance No. 21-1, which extended the written notification requirement for termination of a month-to-month residential tenancy from 15 days to 30 days throughout Miami-Dade County; and

WHEREAS, nevertheless, this ordinance does not provide a notice provision for increases in rent and there is no explicit notice provision for increases in rent in the act; 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 of the act; and

WHEREAS, 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 to assist renters, the City of Miami Beach recently enacted an ordinance that requires 60 days written notification be given by Miami Beach residential landlords to their tenants prior to increasing the tenants' rent beyond a specified percent; and

WHEREAS, additionally, states, including Alabama, Alaska, Arizona, California, Indiana, Iowa, Kansas, Massachusetts, Missouri, New Hampshire, New Jersey, New Mexico, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, and Texas, have laws that require landlords to provide notice to their tenants prior to increasing their rents; and

WHEREAS, accordingly, this Board desires to require that residential landlords in unincorporated and incorporated Miami-Dade County who proposes to increase the rents of their tenants by five percent or more shall provide such tenants with advance written notice of such increase; and

WHEREAS, further, this Board desires to amend Ordinance No. 21-1 to supplement the notification period requirements for month-to-month tenancies under section 83.57 of the act by enlarging such notification period from 30 days to 60 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 amended to read as follows:¹

Sec. 17-03. Required written >>fair<< notice of termination of monthly residential tenancy without specific duration >>and written notification requirements related to rental payment increases for all residential tenancies<<.

- (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]]~~ >>60<< days written notice prior to the end of any monthly

¹ 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.

~~period. [[The requirements of this ordinance shall apply within incorporated and unincorporated areas of Miami-Dade County.]]~~

>>(b) A residential landlord that proposes to increase the rental rate by more than five percent at the end of a lease for a specific term, or during a tenancy without a specific duration in which the rent is payable on a monthly basis, must provide 60 days written fair notice to the tenant before the tenant must either:

- (1) accept the proposed amendment;
- (2) reach an acceptable compromise; or
- (3) reject the proposed amendment to their tenancy.

If the required 60 days written fair notice has been provided and the tenant has not agreed to the proposed amendment or an acceptable compromise, the landlord may impose the proposed amended term(s) or require the tenant(s) to vacate the residence.

(c) The requirements of this ordinance shall apply within incorporated and unincorporated areas of Miami-Dade County.<<

~~[[~~(b)~~]]>>(d)<< Except for the notice provisions set forth in subsection (a) >>and (b)<<, 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 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
Leigh C. Kobrinski

Handwritten initials "GBK" in blue ink above a handwritten signature in black ink. The signature appears to be "LGA" and is underlined.

Prime Sponsor: Commissioner Eileen Higgins