

MEMORANDUM

Agenda Item No. 11(A)(27)

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


DATE: May 5, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution urging the Governor to issue an emergency order directing an additional 45-day moratorium on all residential evictions in the State of Florida and suspension of the collection of late fees by landlords during the state of emergency related to coronavirus disease 2019 (COVID-19); and urging the Florida Legislature to enact legislation that would limit late fees on residential tenancies

Resolution No. R-439-20

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



Abigail Price-Williams
County Attorney

APW/lmp



MEMORANDUM

(Revised)

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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)(27)
5-5-20

RESOLUTION NO. R-439-20

RESOLUTION URGING THE GOVERNOR TO ISSUE AN EMERGENCY ORDER DIRECTING AN ADDITIONAL 45-DAY MORATORIUM ON ALL RESIDENTIAL EVICTIONS IN THE STATE OF FLORIDA AND SUSPENSION OF THE COLLECTION OF LATE FEES BY LANDLORDS DURING THE STATE OF EMERGENCY RELATED TO CORONAVIRUS DISEASE 2019 (COVID-19); AND URGING THE FLORIDA LEGISLATURE TO ENACT LEGISLATION THAT WOULD LIMIT LATE FEES ON RESIDENTIAL TENANCIES

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 Health Officer and 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 and State Health Officer declared 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 Emergency for all of Miami-Dade County; 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 severely reduced work hours; and

WHEREAS, as 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, on April 2, 2020, the Governor issued Executive Order 20-94, which, in part, suspends and tolls “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, similarly, many states, cities, and counties, including, but not limited to, the States of Nevada and New York, are taking steps to minimize the impact of the COVID-19 crisis on tenants, including placing moratoriums on evictions, requiring holds on shutting off of utilities due to nonpayment, and prohibiting rental late fees; and

WHEREAS, the federal government has suspended evictions and foreclosures in public housing until the end of April, and Miami-Dade County 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, Florida has one of the highest populations of renters in the nation with over 2.64 million of the 19 million people, who are renters; and

WHEREAS, although the state has one of the highest populations of renters in the nation, in certain areas Florida landlord-tenant law is not very detailed, which can result in a favorable situation for landlords under certain circumstances; and

WHEREAS, currently, Florida’s landlord-tenant law does not specifically set a maximum cap on the amount of late fees that a landlord is entitled to assess to a tenant who is delinquent in their rent payment; and

WHEREAS, because the law does not provide a limit on the amount that a landlord can charge in late fees, such late fees vary from lease to lease; and

WHEREAS, as a result, many tenants in Florida, who have lost their income due to layoffs or furloughs, face the possibility that their inability to timely pay their rent and the accompanying late fees could result in unimaginable economic hardship for such tenants; and

WHEREAS, the Governor of Florida has the authority pursuant to Article IV, Section (1)(a) of the Florida Constitution and Chapter 252, Florida Statutes, to take steps to protect Florida tenants and families from evictions and further financial uncertainty and pain during this time of crisis, as demonstrated by the Governor's April 2, 2020 executive order; and

WHEREAS, in light of the uncertainty with COVID-19 and its impact on many families who have lost their jobs, this Board wishes to urge the Governor to issue an executive order amending Executive Order 20-94 to suspend and toll all evictions for an additional 45 days and to bar the collection of late fees by landlords during the period of the executive order; and

WHEREAS, likewise, the Florida Legislature has the authority to enact legislation to permanently protect Florida residents and families from excessive late fees on untimely rent payments; and

WHEREAS, states such as California, Connecticut, Delaware, Iowa, Maine, Maryland, Massachusetts, New York, Maine and others have enacted laws that govern the amount of late fees that a landlord can charge; and

WHEREAS, the limitation of late fees will assist people in remaining financial stable if they are temporarily unable to timely pay their rent, thereby facilitating future financial recovery; and

WHEREAS, accordingly, this Board wishes to further urge the Florida Legislature to enact legislation to permanently protect Florida residents and families from excessive late fees on untimely rent payments,

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

Section 1. Urges the Governor to issue an executive order amending his April 2, 2020 executive order to suspend and toll all evictions for an additional 45 days and to bar the collection of late fees by landlords during the period of the executive order related to COVID-19.

Section 2. Urges the Florida Legislature to enact legislation that would limit the late fees that landlords can collect from tenants on residential tenancies, and such legislation should include, but not be limited to, the following measures:

- (i) landlords can only charge a tenant up to five percent of the rent as a late fee;
- (ii) if a tenant receives a rent subsidy, the late fee has to be calculated based on the tenant's share of the rent;
- (iii) a landlord cannot charge a late fee until the rent is at least 5 days late; (iv) a landlord has to include the maximum late fee it charges in a written lease with a tenant;
- (iv) a landlord can only charge one late fee for each late payment;
- (v) a landlord cannot take a late fee out of a later rent payment that a tenant makes;
- (vi) a landlord cannot evict a tenant based on not paying a late fee;
- (vii) a landlord can send a bill to a tenant for late fees and require payment within 30 days; and
- (viii) a landlord can take any unpaid late fees out of a tenant's security deposit.

Section 3. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, Senate President, House Speaker, and the Chair and Members of the Miami-Dade County State Legislative Delegation.

Section 4. Directs the County’s state lobbyists to advocate for the legislative action set forth in sections 1 and 2 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. It was offered by Commissioner **Audrey M. Edmonson** , who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared this resolution duly passed and adopted this 5th day of May, 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: Melissa Adames
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in black ink, appearing to be "TAS", written over a horizontal line.

Terrence A. Smith
Debra Herman