

MEMORANDUM

Agenda Item No. 11(A)(16)

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

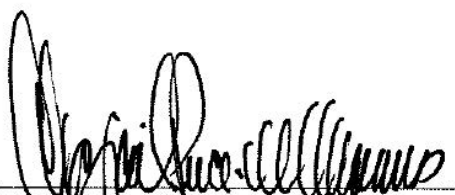
DATE: July 8, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution urging the Florida
Legislature to enact legislation to
provide for a no or low cost
alternative dispute resolution and
education program outside of
court residential eviction
proceedings for landlords and
tenants to resolve disagreements
that are a result of financial or
other hardships caused by
coronavirus disease 2019
(COVID-19) and other
emergencies that result in
extended states of emergency

Resolution No. R-679-20

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Vice Chairwoman Rebeca Sosa.



Abigail Price-Williams
County Attorney

APW/lmp

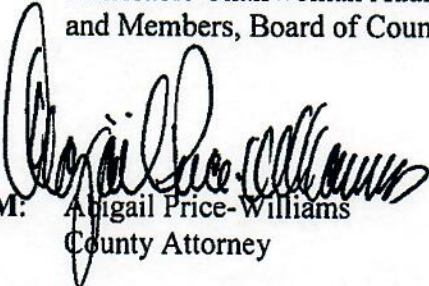


MEMORANDUM

(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)(16)

7-8-20

RESOLUTION NO. R-679-20

RESOLUTION URGING THE FLORIDA LEGISLATURE TO ENACT LEGISLATION TO PROVIDE FOR A NO OR LOW COST ALTERNATIVE DISPUTE RESOLUTION AND EDUCATION PROGRAM OUTSIDE OF COURT RESIDENTIAL EVICTION PROCEEDINGS FOR LANDLORDS AND TENANTS TO RESOLVE DISAGREEMENTS THAT ARE A RESULT OF FINANCIAL OR OTHER HARDSHIPS CAUSED BY CORONAVIRUS DISEASE 2019 (COVID-19) AND OTHER EMERGENCIES THAT RESULT IN EXTENDED STATES OF EMERGENCY

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 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, more than 30 million Americans applied for unemployment benefits from mid-March through April 30, 2020; and

WHEREAS, recent data from the United States Bureau of Labor Statistics reveals that several cities in Florida, including the Cities of Hialeah, Miami, Orlando, and Port St. Lucie, are among those in the United States that have seen the biggest spikes in unemployment due to the COVID-19 pandemic; and

WHEREAS, 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, 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 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, similarly, the federal government and some counties and cities in Florida have taken 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, despite these temporary protections, rent, utility costs and possible late fees could continue to accrue during the relief period to be payable at the end of the moratoriums; and

WHEREAS, Florida has one of the highest populations of renters in the nation; and

WHEREAS, Florida has a population of more than 21 million people, and has more than 2.64 million renters; and

WHEREAS, a study conducted by Apartment List, a real estate listing agency, showed that Florida leads the nation in housing unaffordability; and

WHEREAS, the study showed that Florida has the highest cost-burden rate, with 56.5 percent of renters spending 30 percent or more of their income on housing; and

WHEREAS, as a result of COVID-19, 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 any late fees could result in economic hardship for such tenants and possible eviction; and

WHEREAS, in Florida, a landlord can evict a tenant for a variety of reasons, including, but not limited to, the failure to timely pay rent or other lease violations; and

WHEREAS, prior to taking possession of a rental unit, a landlord must comply with the requirements set forth in chapter 83, part II, Florida Statutes, which is also known as the Florida Residential Landlord and Tenant Act; and

WHEREAS, such requirements include, but are not limited to, providing a tenant with the required written notifications of any lease violation, and if the tenant does not cure the violation, the landlord can file an eviction action against the tenant in county court; and

WHEREAS, in the event the tenant does not prevail in the eviction action, the court will enter a judgment for possession in favor of the landlord in accordance with the Florida Rules of Civil Procedure; and

WHEREAS, in addition to attorney's fees, there is also a court filing fee and a sheriff's fee associated with an eviction action; and

WHEREAS, it is likely that, in light of the economic impact of COVID-19, there will be a wave of eviction proceedings in Florida, with their associated costs, judgments, and lingering stigma; and

WHEREAS, however, dealing with an eviction that makes it all the way to the courtroom is one of the most difficult, expensive, and arbitrary situations for a property manager; and

WHEREAS, the Florida Legislature has enacted legislation providing for non-adversarial alternative dispute resolution processes designed to reduce court dockets and trials, and to offer more timely, efficient, and cost-effective options to litigation; and

WHEREAS, for example, section 627.7015, Florida Statutes, provides a procedure for a mediated claim resolution conference for the effective, fair, and timely handling of property insurance claims; and

WHEREAS, similarly, section 718.1255, Florida Statutes, provides an alternative dispute resolution process for condominium owners and condominium associations; and

WHEREAS, the Florida Legislature found that (a) alternative dispute resolution has been making progress in reducing court dockets and trials and in offering a more efficient, cost-effective option to court litigation; (b) a need exists to develop a flexible means of alternative dispute resolution that directs disputes to the most efficient means of resolution; and (c) the high cost and significant delay of circuit court litigation faced by unit owners in the state can be alleviated by requiring nonbinding arbitration and mediation in appropriate cases, thereby reducing delay and attorney's fees while preserving the right of either party to have its case heard by a jury, if applicable, in a court of law; and

WHEREAS, in California, Connecticut, Maine, Maryland, and Massachusetts, the state, or cities or counties within the state, have established alternative dispute resolution and education programs for landlords and tenants; and

WHEREAS, these programs help the parties resolve their differences without a contested court proceeding and protect the tenant from getting an eviction judgment on their record; and

WHEREAS, this Board believes that during and after a disaster or extended state of emergency like the COVID-19 crisis, where circumstances beyond the control of both landlords and tenants impact the parties' ability to comply with their rental agreements, there should be a mechanism outside the courts to allow the parties to reach agreements to disputes such as if and when the tenant will move out or pay the landlord money owed; and

WHEREAS, this Board believes that there is a need in Florida for an alternative dispute resolution and education services program that is made available to landlords and tenants at no or low cost; and

WHEREAS, accordingly, this Board wishes to urge the Florida Legislature to enact such legislation, to educate the public about the same, and to require rental agreements to contain a clause providing for the same,

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 to provide for a no or low cost alternative dispute resolution and education program outside of court residential eviction proceedings for landlords and tenants to resolve disagreements that are a result of financial or other hardships caused by the coronavirus disease 2019 (COVID-19) and other emergencies that result in extended states of emergency.

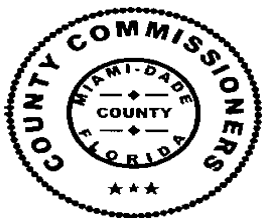
Section 2. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Senate President, House Speaker, and the Chair and Members of the Miami-Dade County State Legislative Delegation.

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 Vice Chairwoman Rebeca Sosa. It was offered by Commissioner **Rebeca Sosa**, who moved its adoption. The motion was seconded by Commissioner **Joe A. Martinez** 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.	aye	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 8th day of July, 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.



Approved by County Attorney as
to form and legal sufficiency.

Leigh C. Kobrinski
Terrence A. Smith

LCK

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

HARVEY RUVIN, CLERK

Melissa Adames

By: _____
Deputy Clerk