

MEMORANDUM

Agenda Item No. 11(A)(17)

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

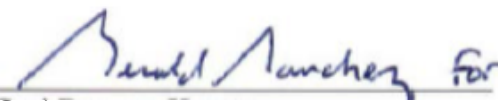
DATE: April 20, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution urging the Florida
Legislature to enact Senate Bills
926, 1746, and 1748, House Bills
657 and 1193, or similar
legislation that would permit the
sealing of court records related to
eviction proceedings in
accordance with Florida law, or,
alternatively, to enact legislation
that would permit the
expungement of such records

Resolution No. R-367-21

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Vice-Chairman Oliver G. Gilbert, III.


Geri Bonzon-Keenan
County Attorney

GBK/uw



MEMORANDUM

(Revised)

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

DATE: April 20, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 11(A)(17)

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)(17)
4-20-21

RESOLUTION NO. _____ R-367-21

RESOLUTION URGING THE FLORIDA LEGISLATURE TO ENACT SENATE BILLS 926, 1746, AND 1748, HOUSE BILLS 657 AND 1193, OR SIMILAR LEGISLATION THAT WOULD PERMIT THE SEALING OF COURT RECORDS RELATED TO EVICTION PROCEEDINGS IN ACCORDANCE WITH FLORIDA LAW, OR, ALTERNATIVELY, TO ENACT LEGISLATION THAT WOULD PERMIT THE EXPUNGEMENT OF SUCH RECORDS

WHEREAS, the coronavirus disease 2019 (“COVID-19”) pandemic has resulted in an economic crisis, which includes, but is not limited to, record unemployment and the risk of a surge in evictions; and

WHEREAS, because of the COVID-19 pandemic, many Miami-Dade residents and business owners are struggling to make ends meet, and are unable to pay for basic necessities, such as rent and food; and

WHEREAS, since the commencement of the COVID-19 pandemic, extraordinary steps have been taken by the federal, state, and local governments and courts system to protect renters from eviction during the declarations of emergency issued by federal, state, and local authorities, including implementing eviction moratoria to prevent certain evictions from proceeding in court; and

WHEREAS, according to a February 11, 2021 report entitled “Miami-Dade Evictions Report” (the “report”) that was submitted by the Office of the Commission Auditor to this Board, in 2020 there were 10,945 residential and commercial eviction proceedings filed in Miami-Dade County; and

WHEREAS, although the report shows that eviction proceedings are filed throughout the county, the report also highlights the fact that lower-income communities of color have higher incidences of evictions cases filed against renters in these communities; and

WHEREAS, having a record of eviction may negatively impact a person's chances of obtaining other housing; and

WHEREAS, evictions, including a final judgment entered by the court, are a matter of public record, and are easily accessible by landlords, who are seeking to screen potential tenants; and

WHEREAS, court eviction records not only include final judgments, but also the initial complaint and other documents that are filed in the case; and

WHEREAS, however, in certain instances, the eviction action may be settled, dismissed, or some other action taken that does not result in a final judgment; and

WHEREAS, notwithstanding these outcomes, future landlords may still deny potential tenants housing simply because eviction actions have been filed against them; and

WHEREAS, this Board believes, in these instances, the court records should be automatically or, upon motion to the court by the tenant, expunged; and

WHEREAS, through the process of expungement, the existence of certain eviction records will not be available to the public; and

WHEREAS, while expunging eviction records does not prevent evictions from occurring, it does afford those who have been previously evicted an improved opportunity to access safe and stable housing; and

WHEREAS, currently, the states of Minnesota, Nevada, and, Oregon have enacted laws that allow courts to order expungement or sealing of eviction records after considering the circumstances that gave rise to the eviction proceeding; and

WHEREAS, although in Florida, there are no similar laws that would allow for the expungement of eviction records, the Florida Supreme Court’s Rules of Judicial Administration do permit a court to order the expungement of records; and

WHEREAS, however, these rules do not specify whether the expungement process can be used in an eviction proceeding or the types of records to be expunged; and

WHEREAS, Senator Darryl Rouson (D – Tampa) has filed Senate Bill 926 and Representative Dianne Hart (D – Tampa) and Representative Anna V. Eskamani (D – Orlando) have filed House Bill 657, both of which would amend Florida’s Residential Landlord and Tenant Act (the “Act”) to require the court to seal, upon motion by a tenant, a court record relating to an action by a landlord for the possession of a dwelling unit based upon nonpayment of rent if the complaint was filed on or after March 1, 2020, and if the court finds that the tenant was adversely impacted by COVID-19; and

WHEREAS, these two bills would further require that the sealed records be confidential and exempt; and

WHEREAS, Senator Shevrin Jones (D – Miami Gardens) has filed Senate Bill 1746 and Representative Vance Aloupis, Jr. (R – Miami) has filed House Bill 1193, both of which would further amend the Act to permit a tenant or mobile homeowner who is a defendant in an eviction proceeding to file a motion with the court to have the records of such proceeding sealed and to have their name substituted with the word “tenant” on the court’s progress docket when: (1) the parties file a joint stipulation requesting relief; (2) the case is dismissed; (3) the case is resolved

by settlement or stipulation of the parties and the tenant has complied with the terms of the agreement; (4) a default judgment is entered against the tenant, and the tenant has satisfied any monetary award included in the judgment; or (5) a judgment is entered against the tenant on the merits at least 5 years before the motion was filed, and the tenant has satisfied any monetary award included in the judgment; and

WHEREAS, Senator Jones also has filed Senate Bill 1748, which would further amend the Act to require the removal of a tenant's name from the court's progress docket and to ensure that such records are sealed, confidential and exempt; and

WHEREAS, while this Board supports the passage of these bills, or similar legislation, this Board also believes that the bills should be amended to allow for the expungement of eviction records, either by a motion filed by the tenant or automatically in some circumstances, such as when the eviction proceedings are dismissed; and

WHEREAS, unlike the process for sealing records, through the expungement process all documents related to the eviction proceeding will be removed from the court's records and destroyed,

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 Senate Bills 926, 1746, and 1748, House Bills 657 and 1193, or similar legislation that would permit the sealing of court records related eviction proceedings held in accordance with Florida law. Alternatively, this Board urges the Florida Legislature to enact legislation that would permit the courts to expunge certain records in eviction proceedings upon the filing of motions by a tenant, or in some cases automatically, such as when the eviction proceedings are dismissed by the court.

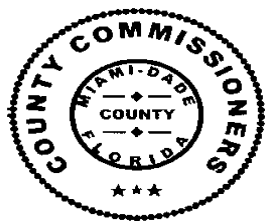
Section 2. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, Senate President, House Speaker, Senator Darryl Rouson, Senator Shevrin Jones, Representative Vance Aloupis, Jr., Representative Dianne Hart, Representative Anna V. Eskamani, and the Chair and Members of the Miami-Dade County State Legislative Delegation.

Section 3. Directs the County’s state lobbyists to advocate for the legislation described in section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2021 State Legislative Package to include this item.

The Prime Sponsor of the foregoing resolution is Vice-Chairman Oliver G. Gilbert, III. It was offered by Commissioner **Oliver G. Gilbert, III** , who moved its adoption. The motion was seconded by Commissioner **Eileen Higgins** and upon being put to a vote, the vote was as follows:

	Jose “Pepe” Diaz, Chairman	aye	
	Oliver G. Gilbert, III, Vice-Chairman	aye	
Sen. René García	aye	Keon Hardemon	aye
Sally A. Heyman	aye	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Joe A. Martinez	nay
Kionne L. McGhee	absent	Jean Monestime	aye
Raquel A. Regalado	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 20th day of April, 2021. 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

Melissa Adames

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

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

Terrence A. Smith