

MEMORANDUM

Agenda Item No. 11(A)(26)


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

DATE: October 3, 2019

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution urging the Chief Judge of the Eleventh Judicial Circuit of Florida to request that the Chief Justice of the Florida Supreme Court adopt administrative orders in accordance with the Florida Rules of Judicial Administration that automatically delay or stay, or require judges to automatically delay or stay, the issuances of writs of possession associated with residential eviction actions at the time the Governor, the County Mayor or other public official declares a state of emergency due to a disaster or emergency and during the pendency of the state of emergency

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz, and Co-Sponsors Commissioner Daniella Levine Cava and Vice Chairwoman Rebeca Sosa.


Abigail Price-Williams
County Attorney

APW/smm



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

Agenda Item No. 11(A)(26)

Veto _____

10-3-19

Override _____

RESOLUTION NO. _____

RESOLUTION URGING THE CHIEF JUDGE OF THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA TO REQUEST THAT THE CHIEF JUSTICE OF THE FLORIDA SUPREME COURT ADOPT ADMINISTRATIVE ORDERS IN ACCORDANCE WITH THE FLORIDA RULES OF JUDICIAL ADMINISTRATION THAT AUTOMATICALLY DELAY OR STAY, OR REQUIRE JUDGES TO AUTOMATICALLY DELAY OR STAY, THE ISSUANCES OF WRITS OF POSSESSION ASSOCIATED WITH RESIDENTIAL EVICTION ACTIONS AT THE TIME THE GOVERNOR, THE COUNTY MAYOR OR OTHER PUBLIC OFFICIAL DECLARES A STATE OF EMERGENCY DUE TO A DISASTER OR EMERGENCY AND DURING THE PENDENCY OF THE STATE OF EMERGENCY

WHEREAS, the Atlantic hurricane season is between June 1 and November 30 of each year and is a time when most tropical cyclones are expected to develop across the northern Atlantic Ocean; and

WHEREAS, according to a report from the Insurance Information Institute, from 1999 to the 2018, hurricanes have been the cause of approximately 2,135 deaths in the United States; and

WHEREAS, according to an article in The Washington Post, dated September 12, 2017, “direct deaths, as defined by the National Weather Service, result from a product of the storm such as flooding, rip currents or the storm surge....”; and

WHEREAS, the article further states that “for the 10 deadliest hurricanes since 2000 (Katrina, Sandy, Rita, Ike, Frances, Irene, Isabel, Ivan, Charley and Gustav), indirect deaths outnumbered direct deaths for 7 of 10 storms”; and

WHEREAS, more recently, deaths associated with Hurricane Dorian have occurred in The Bahamas and Puerto Rico; and

WHEREAS, in order to address the immediate needs prior to and after a storm, other disaster or emergency, the Florida Legislature enacted the State Emergency Management Act, which is codified in chapter 252, Florida Statutes (“Act”); and

WHEREAS, the Act’s intent is to facilitate the planning for and response to both natural and man-made disasters through the coordinated efforts of federal, state and local governments and agencies; and

WHEREAS, the Act further states: “It is further declared to be the purpose of [sections] 252.31-252.90 and the policy of the state that all emergency management functions of the state be coordinated to the maximum extent with comparable functions of the Federal Government, including its various departments, agencies of other states and localities, and private agencies of every type, to the end that the most effective preparation and use may be made of the workforce, resources, and facilities of the nation for dealing with any emergency that may occur;” and

WHEREAS, whenever an emergency or disaster poses a threat to Florida, the Governor, acting under their authority under the Florida Constitution and the Act, has declared states of emergencies, such as the declaration made in light of Hurricane Dorian; and

WHEREAS, the County Mayor, in accordance with the Act and chapter 8B of the Code of Miami-Dade County, has made declarations of local states of emergency in times of dangerous storms approaching Miami-Dade County; and

WHEREAS, in the event of such declarations by the County Mayor, extraordinary and immediate actions may be required to protect the public health, safety and welfare of the residents of Miami-Dade County, including, but not limited to, the mobilization of emergency response personnel, such as the police department; and

WHEREAS, prior to, during and after a storm or other emergency event, such emergency response personnel may not be available to carry out their other functions that do not involve the protection of the public health, safety and welfare of the residents of Miami-Dade County, including, but not limited to, assisting landlords to remove tenants who have been evicted from their residential rental units; 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, however, 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 the lease violation; and

WHEREAS, if the tenant does not comply with the written notice, then the landlord can file an eviction action against the tenant; 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 accordance with the Florida Rules of Civil Procedure the court will also direct the clerk of the court to issue a 24-hour notice known as a "writ of possession," which advises a tenant that they must move out of the rental unit after 24-hours and further directs the sheriff of the county in which the rental unit is located to place the landlord in possession of the rental unit; and

WHEREAS, after 24 hours, the sheriff, or in the case of Miami-Dade County, the Miami-Dade Police Department, can forcibly evict the tenant, which may include in some instances, the removal of the tenant's personal property from the rental unit by the landlord or the landlord's agent and placing such personal property on or about the exterior of the property; and

WHEREAS, this Board believes that prior to, during and after a disaster or emergency, law enforcement should focus only on protecting the health, safety and welfare of the residents of Miami-Dade County; and

WHEREAS, this Board is concerned that oftentimes tenants who are evicted are impoverished, lack the resources to timely move their personal belongings, and have nowhere else to go after being evicted, thus facing the possibility of becoming homeless; and

WHEREAS, this Board believes that the removal of tenants and their personal property, and the placement of a tenants' personal property outside of the rental unit prior to, during and after a disaster or emergency not only endangers the tenants' lives, but the placement of such tenants' personal property outside of their rental units endangers the public health, safety and welfare because such personal property can become projectiles in a wind event; and

WHEREAS, in accordance with the Florida Rules of Judicial Administration, the Chief Justice of the Florida Supreme Court is vested with "the power, upon request of the chief judge of any circuit or district, or sua sponte, in the event of natural disaster, civil disobedience, or other emergency situation requiring the closure of courts or other circumstances inhibiting the ability of litigants to comply with deadlines imposed by rules of procedure applicable in the courts of this state, to enter such order or orders as may be appropriate to suspend, toll, or otherwise grant relief

from time deadlines imposed by otherwise applicable statutes and rules of procedure for such period as may be appropriate, including, without limitation, those affecting speedy trial procedures in criminal and juvenile proceedings, all civil process and proceedings, and all appellate time limitations;” and

WHEREAS, accordingly, this Board wishes to urge the Chief Judge of the Eleventh Judicial Circuit of Florida, which encompasses Miami-Dade County, to request the Chief Justice of the Florida Supreme Court adopt administrative orders in accordance with the Florida Rules of Judicial Administration that automatically delay or stay, or requires judges to automatically delay or stay, the issuances of writs of possession associated with residential eviction actions at the time the Governor, the County Mayor or other public official declares a state of emergency due to a disaster or emergency,

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

Section 1. Urges the Chief Judge of the Eleventh Judicial Circuit of Florida to request the Chief Justice of the Florida Supreme Court adopt administrative orders in accordance with the Florida Rules of Judicial Administration that automatically delay or stay, or requires judges to automatically delay or stay, the issuances of writs of possession associated with residential eviction actions at the time the Governor, the County Mayor or other public official declares a state of emergency due to a disaster or emergency and during the pendency of the state of emergency.

Section 2. Directs the Clerk of the Board to transmit certified copies of this resolution to Florida Supreme Court Chief Justice Charles T. Canady and Eleventh Circuit of Florida Chief Judge Bertila Soto.

The Prime Sponsor of the foregoing resolution is Commissioner Jose "Pepe" Diaz, and the Co-Sponsors are Commissioner Daniella Levine Cava and Vice Chairwoman Rebeca Sosa. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared this resolution duly passed and adopted this 3rd day of October, 2019. 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: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Terrence A. Smith