

Legislative #

200179

RESOLUTION NO. 200179

A Resolution of the City of Gainesville, Florida, urging the Chief Judge of the Eighth 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 the automatic delay or stay of, the issuance and enforcement of writs of possession associated with residential eviction actions at the time the Governor, the Chair of the County Commission, the Mayor or other public official declares a state of emergency due to a natural disaster and during the pendency of the state of emergency; requesting the Clerk of the Court automatically delay or stay the issuance of such writs; requesting the Alachua County Sheriff automatically delay or stay the enforcement of such writs; providing directions to the Mayor and to the Clerk of the Commission; and providing an immediate effective date.

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, in order to address the immediate public health, safety and welfare needs prior to and after a natural, technological or man-made disaster, 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 disasters through the coordinated efforts of federal, state and local governments and agencies; and

WHEREAS, Section 252.32(2) of the Act states “[i]t 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 a natural disaster poses a threat to Florida, the Governor, acting under their authority under the Florida Constitution and the Act, has declared a state of emergency, such as the declaration made in light of Hurricane Dorian; 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, 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 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 a personal property on or about the exterior of the property; and

WHEREAS, this Commission believes that prior to, during and after a natural disaster, law enforcement should focus only on protecting the health, safety and welfare of the residents of Gainesville and Alachua County; and

WHEREAS, this Commission 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 Commission 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 natural disaster 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

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

Section 1. The City of Gainesville urges the Chief Judge of the Eighth 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 Chair of the County Commission, the Mayor or other public official declares a state of emergency due to a natural disaster and during the pendency of the state of emergency.

Section 2. The City of Gainesville urges the Clerk of the Court to automatically delay or stay, the issuances of writs of possession associated with residential eviction actions at the time the Governor, the Chair of the County Commission, the Mayor or other public official declares a state of emergency due to a natural disaster and during the pendency of the state of emergency.

Section 3. The City of Gainesville urges the Alachua County Sheriff to automatically delay or stay, the enforcement of writs of possession associated with residential eviction actions at the time the Governor, the Chair of the County Commission, the Mayor or other public official

declares a state of emergency due to a natural disaster and during the pendency of the state of emergency.

Section 4. The Mayor is directed to send a letter with a copy of this resolution to Florida Supreme Court Justice Charles T. Canady, Eighth Circuit of Florida Chief Judge James P. Nilon, Clerk of the Court J.K. "Jess" Irby, and Alachua County Sheriff Sadie Darnell. The Clerk of the Commission is directed to send a copy of this resolution to the Florida League of Cities.

Section 5. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED this 20th day of August, 2020.

Lauren Poe, Mayor

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

Omichele Gainey
Clerk of the Commission

Nicolle M. Shalley
City Attorney