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## **City of Gainesville Policy Program Preliminary Research & Analysis**

**TOPIC: Notice Requirements for Rent Increases and Lease Terminations**

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**DATE: October 20, 2022**

**REQUESTED BY: Commissioner Saco**

### **OBJECTIVE**

This report is intended to explore the implementation of notice requirements for rent increases and lease terminations at the municipal level to determine the feasibility of a similar measure in Gainesville.

### **EXECUTIVE SUMMARY**

In response to the affordable housing shortage that has left many tenants asking community leaders for relief, cities and counties across the state of Florida have begun implementing 30-to-60-day notification minimums for lease terminations for tenancies without specific durations and rent increases exceeding five percent for all leases. Thus far, ordinances of this manner have not faced legal backlash as they do not violate state statutes, but rather supplement current minimums established at the state level. This report examines the implementation of notice requirements in the City of Miami Beach, Miami-Dade County, the City of Lake Worth Beach, and the City of Tampa.

### **HISTORY/BACKGROUND INFORMATION**

#### **City of Gainesville**

According to the University of Florida's Shimberg Center for Housing Studies' 2022 Rental Market Study, Alachua County houses just over thirty-three thousand renters. Of these renters, 29% are

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classified as low-income or cost-burdened renters.<sup>1</sup> **Cost-burdened renters** are defined as individuals who pay at least 40% of their income on rent.<sup>2</sup> Renters in these categories may be more likely to be living paycheck to paycheck, which could make them more vulnerable to sudden rent increases. Additionally, the National Low Income Housing Coalition reports that in recent years, Florida has lost almost half a million affordable rental units.<sup>3</sup> This has decreased the supply of homes available to low-income or cost burdened renters, creating an affordable housing shortage. With fewer homes to choose from, finding an affordable lease can be difficult, especially under tight time constraints. The implementation of notification minimums for rent increases or lease terminations could give tenants more time to adjust their budgets or find alternative housing options that are within budget.

In the past, the City of Gainesville has not made a direct attempt to implement minimums for notifications of rent increases or lease terminations. However, in 2020, the City adopted the Rental Housing Ordinance, which established permit requirements and efficiency standards for rental units.<sup>4</sup> In September 2022, this ordinance was amended to include instruction for City Staff to create a Rental Housing Mediation Program by March 2023.<sup>5</sup>

### **State of Florida**

Current Florida Statutes do not regulate notification requirements for rent increases; however, legislation on minimums notification periods for lease terminations do exist in the Florida Residential Landlord and Tenant Act under Statute 83.57. This statute provides notification minimums for residential tenancies without a specific duration that are year to year, quarter to quarter, month to month, and week to week. **A tenancy without a specific duration** entails that no predetermined end date of the lease has been set in either a verbal or written contract. Florida Statute 83.57 outlines the minimum notification period for all lease durations, and reads as follows:

#### ***Florida Statute 83.57***

*A tenancy without a specific duration, as defined in s. 83.46(2) or (3), may be terminated by either party giving written notice in the manner provided in s. 83.56(4), as follows:*

- (1) When the tenancy is from year to year, by giving not less than 60 days' notice prior to the end of any annual period;*
- (2) When the tenancy is from quarter to quarter, by giving not less than 30 days' notice prior to the end of any quarterly period;*
- (3) When the tenancy is from month to month, by giving not less than 15 days' notice prior to the end of any monthly period; and*

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<sup>1</sup> [RMS 2022.pdf \(ufl.edu\)](#)

<sup>2</sup> [RMS 2022.pdf \(ufl.edu\)](#)

<sup>3</sup> [Florida | National Low Income Housing Coalition \(nlihc.org\)](#)

<sup>4</sup> [Rental Housing Ordinance Welcome to the City of Gainesville \(gainesvillefl.gov\)](#)

<sup>5</sup> [filestream.ashx \(escribemeetings.com\)](#)

*(4) When the tenancy is from week to week, by giving not less than 7 days' notice prior to the end of any weekly period.<sup>6</sup>*

The language of this statute is important because it protects supplemental legislation at the local level from being preempted by the state. **Supplemental legislation** is legislation that does not violate or reduce the potency of current legislation. In terms of Florida Statute 83.57, any local ordinance that increased rather than decreased the required minimum for notices of lease terminations would be considered supplemental. In fact, Florida Attorney General Opinion No. 94-41, asserts that the state will not move to preempt local legislation that is supplemental to Florida Statute 83.57.<sup>7</sup> This opinion is based on the ruling of *Jordan Chapel Freewill Baptist Church v. Dade County*, which explains that a local ordinance is only in conflict with a state's law if it "requires a violation of state statute or renders compliance with a state statute impossible."<sup>8</sup> Thus far, this has protected existing ordinances from legal concerns.

## PRELIMINARY RESEARCH AND FINDINGS

Over the course of 2022, multiple Florida cities and counties have implemented legislation that enforces minimum notice requirements for rent increases above 5% and lease terminations.

### **City of Miami Beach, Florida**

The City of Miami Beach was the first government to enact supplemental notice minimums in the State of Florida. Ordinance No. 2022-4470 went into effect in February 2022 and is codified in Subpart A Chapter 58 Article IV Division 3 of their city code.<sup>9</sup> It reads as follows:

#### ***Section 58-386***

*(a) Required. A residential tenancy without a specific duration in which the rent is payable on a monthly basis may be terminated by either the landlord or tenant by giving not less than 30 days' written notice prior to the end of any monthly period.*

*(b) [Notice to be given.] A residential landlord that proposes to increase the rental rate by more than five percent at the end of a lease for a specific term, or during a tenancy without a specific duration in which the rent is payable on a monthly basis, must provide 60 days' written notice to the tenant before the tenant must either:*

- (1) Accept the proposed amendment;*
- (2) Reach an acceptable compromise; or*
- (3) Reject the proposed amendment to their tenancy.*

*If the required 60 days' written notice has been provided and the tenant has not agreed to the proposed amendment or an acceptable compromise within 30 days of receiving the notice, (i) the landlord may impose the proposed amended term(s) at the end of the 60-day notice period, or (ii) in the case of an expiring lease, either party may terminate the tenancy*

<sup>6</sup> [Chapter 83 - 2022 Florida Statutes - The Florida Senate \(flsenate.gov\)](https://www.flsenate.gov/legislation/chapter-83-2022/)

<sup>7</sup> [Advisory Legal Opinion - Ability to enlarge statutory min. notification periods \(myfloridalegal.com\)](https://www.myfloridalegal.com/advisory-legal-opinion-ability-to-enlarge-statutory-min-notification-periods/)

<sup>8</sup> [Advisory Legal Opinion - Ability to enlarge statutory min. notification periods \(myfloridalegal.com\)](https://www.myfloridalegal.com/advisory-legal-opinion-ability-to-enlarge-statutory-min-notification-periods/)

<sup>9</sup> [ARTICLE IV. - RENTAL HOUSING | Code of Ordinances | Miami Beach, FL | Municode Library](#)

*at the conclusion of the lease term, or (iii) in the case of a month-to-month tenancy. either party may terminate the tenancy by providing the 30-day notice of termination required by subsection (a) of this section.<sup>10</sup>*

This ordinance is enforced by the City of Miami Beach's Code Compliance Department.<sup>11</sup>

### **Miami-Dade County, Florida**

In March 2022, Miami-Dade County adopted Ordinance No.22-130. This legislation increased their lease termination notice requirement from a minimum of 30 days to 60 days and introduced a 60-day minimum notification period for rent increases greater than 5%. It was codified in Chapter 17 Article I Section 17-03 of Miami-Dade's county code.<sup>12</sup> It reads as follows:

#### ***Section 17-03***

*(a) A residential tenancy without a specific duration in which the rent is payable on a monthly basis may be terminated by either the landlord or tenant by giving not less than 60 days' written notice prior to the end of any monthly period.*

*(b) A residential landlord that proposes to increase the rental rate by more than five percent at the end of a lease for a specific term, or during a tenancy without a specific duration in which the rent is payable on a monthly basis, must provide a minimum of 60 days' written fair notice to the tenant before the tenant must either:*

*(1) accept the proposed amendment;*

*(2) reach an acceptable compromise; or*

*(3) reject the proposed amendment to their tenancy.*

*If the required 60 days' written fair notice has been provided and the tenant has not agreed to the proposed amendment or an acceptable compromise, the landlord may impose the proposed amended term(s) or require the tenant(s) to vacate the residence.<sup>13</sup>*

The case of Miami-Dade County is significant because it shares similar levels of median household income, median rents, and percentage of the population in poverty with Alachua County.<sup>14</sup> The two counties also share a similar percentage of renters who are cost-burdened.<sup>15</sup> Miami-Dade used these indicators to justify a need for 60-day notification minimums.

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<sup>10</sup> [ARTICLE IV. - RENTAL HOUSING | Code of Ordinances | Miami Beach, FL | Municode Library](#)

<sup>11</sup>

[https://library.municode.com/fl/miami\\_beach/codes/code\\_of\\_ordinances?nodeId=SPAGEOR\\_CH58HO\\_ARTI\\_VREHO\\_DIV3TETE\\_S58-386WRNOAMTETE](https://library.municode.com/fl/miami_beach/codes/code_of_ordinances?nodeId=SPAGEOR_CH58HO_ARTI_VREHO_DIV3TETE_S58-386WRNOAMTETE)

<sup>12</sup> [ARTICLE I. - IN GENERAL | Code of Ordinances | Miami - Dade County, FL | Municode Library](#)

<sup>13</sup> [ARTICLE I. - IN GENERAL | Code of Ordinances | Miami - Dade County, FL | Municode Library](#)

<sup>14</sup> [U.S. Census Bureau QuickFacts: Alachua County, Florida](#)

[U.S. Census Bureau QuickFacts: Miami-Dade County, Florida](#)

<sup>15</sup> [RMS 2022.pdf \(ufl.edu\)](#)

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In May 2022, Miami-Dade County launched its Office of Housing Advocacy (OHA) through Ordinance 22-47.<sup>16</sup> The goals of this office include improving renter and landlord education, reducing rates of resident displacement, and providing support and referral services for tenants. Data collected between May 14<sup>th</sup>, 2022 and August 31<sup>st</sup>, 2022 from the OHA's Housing Advocacy Hotline shows that 113 callers reported code violations pertaining to minimum notice requirements. The OHA is also currently working to provide landlords with online access to minimum notice requirements templates in English and Spanish.<sup>17</sup> It should be noted that this ordinance is not enforced by the OHA or any other department within Miami-Dade County, as this legislation is intended to be used as a defense against landlords in violation of the ordinance in a court of law by private citizens.<sup>18</sup>

### **Lake Worth Beach, Florida**

The City of Lake Worth followed shortly behind the City of Miami Beach and Miami-Dade County by adopting Ordinance 2022-07 in May 2022.<sup>19</sup> It reads as follows:

#### ***Section 20-20***

*A residential tenancy without a specific duration (as defined in section 83.46(2), Florida Statutes) in which the rent is payable on a month to month basis may be terminated by either the landlord or tenant by giving not less than 60 days written notice prior to the end of any monthly period.*

#### ***Sec. 20-21***

*A residential landlord that proposes to increase the current rental rate by more than five percent (5%) at the end of a lease for a specific duration, or during a tenancy without a specific duration (as defined in section 83.46(2), Florida Statutes) in which the rent is payable on a month to month basis, must provide 60 days written notice to the tenant before the tenant must either:*

- (1) Accept the proposed amendment;*
- (2) Reach an acceptable compromise; or,*
- (3) Reject the proposed amendment to their tenancy.*

*If the required 60 days written notice has been provided and the tenant has not agreed to the proposed amendment or an acceptable compromise, the landlord may impose the proposed amended term(s) or require the tenant(s) to vacate the residence.<sup>20</sup>*

The City of Lake Worth Beach serves as an important example due to the similarities that the city shares with Gainesville in terms of median household income, median rents, and percentage of residents in poverty.<sup>21</sup> Utilizing statistics such as these, Florida International University was able to

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<sup>16</sup>

<https://www.miamidade.gov/govaction/matter.asp?matter=221055&file=false&fileAnalysis=false&yearFolder=Y2022>

<sup>17</sup> Cava, Memorandum: Office of Housing Advocacy Update

<sup>18</sup> Pearson, K. S. (2022, October 13). Miami-Dade Office of Housing Advocacy. personal.

<sup>19</sup> [Ordinance No. 2022-07 | Code of Ordinances | Lake Worth Beach, FL | Municode Library](#)

<sup>20</sup> [Ordinance No. 2022-07 | Code of Ordinances | Lake Worth Beach, FL | Municode Library](#)

<sup>21</sup> [U.S. Census Bureau QuickFacts: Gainesville city, Florida](#)

[U.S. Census Bureau QuickFacts: Lake Worth Beach city, Florida](#)

determine that the majority of renters in the city were severely cost-burned. This finding helped provide justification for 60-day notification minimums in Lake Worth Beach.

Additionally, it should be noted that the City of Lake Worth Beach adopted similar legislation for non-residential tenancies, with Ordinance No.2022-10 in May 2022. Non-residential tenancies do not house people, but rather businesses. Instead of 60-day notification minimums, this ordinance requires 180-day minimums for written notices of lease terminations and rent increases exceeding 5%. The legislation from this ordinance went into effect on May 19<sup>th</sup>, 2022.<sup>22</sup> It reads as follows:

**Section 20-22**

*A non-residential tenancy without a specific duration (as defined in subsection 83.03(2), Florida Statutes) in which the rent is payable on a month to month basis may be terminated by either the landlord or tenant by giving not less than 180-days written notice prior to the end of any monthly period.*

**Sec. 20-23**

*A non-residential landlord that proposes to increase the current rental rate by more than five percent (5%) at the end of a lease for a specific duration, or during a tenancy without a specific duration (as defined in subsection 83.03(2), Florida Statutes) in which the rent is payable on a month to month basis, must provide 180-days written notice to the tenant before the tenant must either:*

- (1) Accept the proposed amendment;*
- (2) Reach an acceptable compromise; or,*
- (3) Reject the proposed amendment to their tenancy.*

*If the required 180-days written notice has been provided and the tenant has not agreed to the proposed amendment or an acceptable compromise, the landlord may impose the proposed amended term(s) or require the tenant(s) to vacate the premises.<sup>23</sup>*

The City of Lake Worth Beach used Florida Attorney General Opinion No. 94-41 to justify the 60-day and 180-day minimums.<sup>24</sup> Both are considered supplementary to existing state legislation and should not be preempted by the state. Additionally, these ordinances are not currently being enforced by the Code Compliance Department, as the ordinance is intended to be used as a defense against landlords in violation of the ordinance in a court of law by private citizens.

**Tampa, Florida**

In May 2022, the City of Tampa passed Ordinance No.2022-85, which requires landlords to notify tenants at least 60 days before a rent increase of more than five percent and at least 30 days before

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<sup>22</sup> [Ordinance No. 2022-10 | Code of Ordinances | Lake Worth Beach, FL | Municode Library](#)

<sup>23</sup> [Ordinance No. 2022-10 | Code of Ordinances | Lake Worth Beach, FL | Municode Library](#)

<sup>24</sup> [Ordinance No. 2022-10 | Code of Ordinances | Lake Worth Beach, FL | Municode Library](#)  
[Ordinance No. 2022-07 | Code of Ordinances | Lake Worth Beach, FL | Municode Library](#)  
[Advisory Legal Opinion - Ability to enlarge statutory min. notification periods \(myfloridalegal.com\)](#)

lease termination for tenancies without a specific duration. This legislation has been codified in Tampa's Code of Ordinances in Chapter 12 Article VII Section 12-146,147, and it reads as follows:<sup>25</sup>

**Section 12-147**

*(a) A residential landlord within the City of Tampa that proposes to increase the rental rate of a dwelling unit by more than five percent (5%) at the end of a lease for a specific term shall provide at least sixty days' prior written notice to the tenant prior to the end of the term of the lease of the rental increase.*

*(b) Upon receipt of written notice as provided in (a) or (b) above, tenant may*

*(i) accept the rental increase; or*

*(ii) reach an acceptable compromise; or*

*(iii) reject the rental increase, in which event the lease will terminate at the end of the specific term.*

*If the required sixty days' written notice has been provided and the tenant has not agreed to the proposed amendment or an acceptable compromise, the landlord may impose the proposed amended term(s) or require the tenant(s) to vacate the residence.*

**Section 12-146**

*(a) A residential tenancy without a specific duration in which the rent is payable on a monthly basis may only be terminated by either the landlord or tenant by giving not less than thirty days' notice written prior to the end of any monthly period.<sup>26</sup>*

This ordinance is enforced by the City of Tampa's Neighborhood Enhancement Division, which is the product of a merger between the former Code Enforcement Division and Clean City Division.

In addition to the above cities and counties, the City of Naples, the City of West Palm, the City of Royal Palm Beach, Orange County, and Broward County have all implemented legislation on 60-day minimums in 2022.

## **PRELIMINARY ADVANTAGES/DISADVANTAGES ANALYSIS**

### Potential Advantages

- Preventing the likelihood that tenants are blindsided by rent increases or lease terminations could reduce their stress levels.
- Providing tenants with time to find new sources of income to pay for increased rent or find new housing could decrease eviction rates and even homelessness.
- The successful implementation of 60-day notices could improve landlord-tenant communication and relationships.
- If rental assistance is available, a minimum notification period could provide tenants with more time to successfully complete the application process.

### Potential Disadvantages

<sup>25</sup> [Chapter 12 - HUMAN RIGHTS | Code of Ordinances | Tampa, FL | Municode Library](#)

<sup>26</sup> [Chapter 12 - HUMAN RIGHTS | Code of Ordinances | Tampa, FL | Municode Library](#)



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- May damage relationships between the City of Gainesville and local landlords.
- The implementation of 60-day notices may require educational information to be distributed to tenants, which could cost time and money.
- The City of Gainesville might need to establish a reporting function fit to deal with complaints of this matter, which could come at a cost.

Expected Challenges/Additional Considerations

From the listed examples above, some governments have passed legislation on notification minimums without enforcement measures. Instead of the local governments enacting consequences upon violators, the legislation is intended as a private right to be used as a defense in a court of law by private citizens. For example, Miami-Dade County follows this design. However, they still provide support to landlords and tenants through their Office of Housing Advocacy by directing them to legal services and other community partners that can be of aid.

Delores Holley, Director of Miami-Dade County's Office of Housing Advocacy (OHA), emphasizes the importance of writing resources and protections for tenants into this type of legislation. The OHA can connect tenants who have been served with rent increases or lease termination notices to legal services, local relators, and Miami-Dade's Emergency Rental Assistance Program. However, tenants are on their own to negotiate with their landlords, and Holley has witnessed an uptick in cases of landlord retaliation.<sup>27</sup>

**IMINARY AND ILLUSTRATIVE LIST OF POTENTIAL STAKEHOLDERS**

Potential Stakeholders

- Gainesville City Commission
- Gainesville Housing and Community Development Department
- Gainesville Housing Authority
- North Central Florida Apartment Association
- Tenants, specifically those living paycheck to paycheck
- Landlords of properties with month-to-month leases
- Delores Holley, Office of Housing Advocacy, Miami-Dade County

**RECOMMENDED POINTS FOR FURTHER RESEARCH/DISCUSSION**

If the commission wishes to pursue this action or other tenant protections, a study on renters within Gainesville could be performed to gather information and solidify claims.

The commission may also wish to investigate how to best provide resources for tenants and landlords through the Rental Housing Mediation Program.

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<sup>27</sup> Pearson, K. S. (2022, October 13). Miami-Dade Office of Housing Advocacy. personal.



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