

ITEM #17₍₃₎

(Proposed Amendments)

ADDITIONAL MATERIAL REGULAR MEETING

MAY 24, 2022

**SUBMITTED AT THE REQUEST OF
COUNTY ADMINISTRATION**

PROPOSED

ORDINANCE NO.

AN ORDINANCE OF THE BOARD OF COUNTY
COMMISSIONERS OF BROWARD COUNTY, FLORIDA,
PERTAINING TO RESIDENTIAL TENANCIES; AMENDING
CHAPTER 20 OF THE BROWARD COUNTY CODE OF
ORDINANCES ("CODE"), AMENDING THE TITLE TO
ARTICLE IV AND CREATING DIVISIONS THEREIN;
AMENDING SECTIONS 20-104 AND 20-106, RELATING TO
NOTIFICATION OF TERMINATION AND RENT INCREASES
FOR CERTAIN RESIDENTIAL TENANCIES; CREATING
SECTIONS 20-107 THROUGH 20-1120 OF THE CODE,
ESTABLISHING THE "TENANT'S BILL OF RIGHTS AND
NOTICE OF LATE FEES ORDINANCE," PROVIDING FOR
COUNTYWIDE APPLICABILITY, REQUIRING
RESIDENTIAL LESSORS AND/OR THEIR AGENTS TO
PROVIDE TENANTS WITH A "TENANT'S BILL OF RIGHTS"
DOCUMENT, REQUIRING WRITTEN NOTICES RELATING
TO RENTAL LATE FEES, AND PROVIDING FOR
ENFORCEMENT; AND PROVIDING FOR SEVERABILITY,
INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

13 WHEREAS, Part II of Chapter 83, Florida Statutes, known as the "Florida
14 Residential Landlord and Tenant Act," applies to tenancies of residential dwelling units
15 and sets forth the rights and duties of landlords and tenants;

WHEREAS, Broward County is experiencing a significant demand for and resulting shortfall of affordable rental housing units;

18 WHEREAS, the availability of safe and affordable housing is an essential
19 component of individual and community well-being;

WHEREAS, protecting residential tenants from discrimination and unfair and illegal rental practices is fundamental to the health, safety, and welfare of the community;

WHEREAS, the Board wishes to adopt a Tenant's Bill of Rights to increase tenant awareness of their rights and to provide guidance to tenants regarding available community resources; and

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1 WHEREAS, the Board recognizes that while reasonable late fees may be an
2 important aspect of the landlord/tenant relationship, it is essential that tenants understand
3 and know when they may incur these fees; and

4 WHEREAS, this Ordinance shall apply prospectively to new residential tenancies
5 and renewals and shall not be read to supersede the terms of any existing residential
6 tenancies or renewals where the terms are binding on landlords and tenants,

7 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
8 BROWARD COUNTY, FLORIDA:

9 Section 1. Chapter 20 of the Broward County Code of Ordinances is hereby
10 amended to rename Article IV and to create Division 1 as follows:

11 **ARTICLE IV. RENTAL NOTICES LANDLORD - TENANT RELATIONS**

12 **DIVISION 1. RENTAL NOTICES**

13 Section 2. Section 20-104 of the Broward County Code of Ordinances is hereby
14 amended to read as follows:

15 **Sec. 20-104. Applicability.**

16 The provisions of this article division shall apply countywide, unless in conflict with
17 an applicable municipal ordinance, pursuant to Section 11.01 of the Broward County
18 Charter. Unless otherwise provided, nothing in this article division shall be construed to
19 relieve a person from compliance with applicable county and municipal regulations. The
20 provisions of this article division shall apply prospectively from May 1, 2022, and shall not
21 apply to or supersede the terms of any residential tenancies or renewals, where the terms
22 are binding on landlords and tenants, that existed prior to May 1, 2022.

23 Section 3. Section 20-106 of the Broward County Code of Ordinances is hereby
24 amended to read as follows:

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underlined type are additions.

1 **Sec. 20-106. Enforcement.**

2 This article division may be enforced by code enforcement officers, including
3 municipal code enforcement officers, and any law enforcement agency having jurisdiction
4 of the area within which the residential tenancy at issue is located, pursuant to
5 Section 125.69 and Chapter 162, Florida Statutes, or any applicable municipal code
6 enforcement provision.

7 Section 4. Chapter 20 of the Broward County Code of Ordinances is hereby
8 amended to create Division 2, Sections 20-107 through 20-1120, to read as follows:

9 [Underlining omitted]

10 **DIVISION 2. TENANT'S BILL OF RIGHTS AND NOTICE OF LATE FEES**

11 **Sec. 20-107. Title.**

12 This ordinance, as fully set forth in Sections 20-107 through 20-1120 of the
13 Broward County Code of Ordinances, shall be known and may be cited as the "Tenant's
14 Bill of Rights and Notice of Late Fees Ordinance."

15 **Sec. 20-108. Applicability.**

16 (a) The provisions of this division shall apply countywide, unless in conflict with
17 an applicable municipal ordinance, pursuant to Section 11.01 of the Broward County
18 Charter. Unless otherwise provided, nothing in this division shall be construed to relieve
19 a person from compliance with applicable county or municipal regulations. The provisions
20 of this division shall apply prospectively from October 1, 2022, and shall not apply to or
21 supersede the terms of any Rental Agreement or renewals that existed prior to such date.

22 (b) The Tenant's Bill of Rights and Notice of Late Fees Ordinance only applies
23 to residential tenancies subject to Chapter 83, Florida Statutes, and does not apply to
24 rentals within mobile home parks governed under Chapter 723, Florida Statutes;

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1 short-term rentals of residential units with non-recurring rental terms of thirty (30) days or
2 fewer; or rentals of properties regulated under Chapter 509, Florida Statutes.

3 **Sec. 20-109. Definitions.**

4 *Landlord* means any individual, firm, corporation, or other organization or group of
5 persons however organized that is shown as the lessor, landlord, or property owner under
6 a Rental Agreement, or is any individual or entity otherwise acting on behalf of a Landlord
7 involved lessor, landlord, or property owner in the rental of a Rental Unit to a Tenant,
8 including, but not limited to, owner, lessor, sublessor, assignor, manager, real estate
9 licensee (either a broker, sales associate, or broker-sales associate), condominium
10 association, homeowners' association, cooperative association, or any representative of
11 any of the foregoing.

12 *Late Fee* means a charge of any kind, levied against a Tenant, associated with a
13 failure of the Tenant to timely pay rent pursuant to the terms of a Rental Agreement.

14 *Rental Agreement* means an agreement, whether written or oral, by which a Tenant
15 is entitled to possess a Rental Unit, or which is a "Rental Agreement" as defined in
16 Section 83.43, Florida Statutes, as it may be amended.

17 *Rental Unit* means a residential housing unit in Broward County that (a) is or may
18 be occupied by a Tenant by virtue of a Rental Agreement, or that (b) is a "Dwelling Unit"
19 as defined in Section 83.43, Florida Statutes, as it may be amended.

20 *Tenant* means a natural person or persons who will occupy, or who makes
21 application to occupy, a Rental Unit by virtue of a Rental Agreement, or who is a "Tenant"
22 of a dwelling unit in Broward County, as defined in Section 83.43, Florida Statutes, as it
23 may be amended.

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underscored type are additions.

1 **Sec. 20-110. Tenant's Bill of Rights; Landlord Notice Requirements.**

2 (a) The Resilient Environment Department shall create and maintain a Tenant's
3 Bill of Rights, which shall mean a paper or electronic document, available in English,
4 Spanish, and Creole, in at least 12-point font, and able formatted to be printed on paper
5 of 8½ by 11 inches or larger, containing a notice of rights under applicable federal, state,
6 and local law, and services available to residential tenants in Broward County. The content
7 of the Tenant's Bill of Rights shall be as determined by the Broward County Board of
8 County Commissioners ("Board") by resolution.

9 (b) It is unlawful for a Landlord of a Rental Unit to accept a final rental
10 application or a rental application fee from a prospective Tenant for any of Landlord's
11 Rental Units, or in instances where no application is required, to enter into a Rental
12 Agreement for a Residential Rental Unit under the Landlord's control or authority, without
13 first providing the prospective Tenant with a copy of the Tenant's Bill of Rights. A Landlord
14 may comply with this requirement through an agent of the Landlord (e.g., a property
15 manager, rental manager, or real estate licensee).

16 (c) For existing Tenants already occupying a Rental Unit on or before the date
17 set forth in Section 20-108(a), the Landlord must provide the Tenant with the Tenant's Bill
18 of Rights prior to the commencement of a new rental term. For Tenants with rental terms
19 of thirty (30) days or less that are recurring in nature (e.g., ongoing month-to-month
20 tenancies), the Landlord must provide the Tenant's Bill of Rights prior to October 1, 2022,
21 and thereafter no less than once per year.

22 (d) There shall be a rebuttable presumption that a Landlord has complied with
23 this section if the Landlord can provide a written, dated, and signed affirmation from the
24 Tenant stating that the Tenant has timely received the Tenant's Bill of Rights. The signed

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1 affirmation shall be retained by the Landlord for at least one (1) year after the Tenant
2 vacates the Rental Unit.

3 (e) A Tenant may file a civil action in a court of competent jurisdiction no later
4 than two (2) years after the alleged violation of this Tenant's Bill of Rights Ordinance. In
5 a private enforcement proceeding under this section, the court may issue an order
6 prohibiting the unlawful practice and/or providing affirmative relief, including equitable or
7 injunctive relief, actual and punitive damages, reasonable attorneys' fees, interest, costs,
8 or other relief, upon a finding that a violation has occurred.

9 **Sec. 20-111. Late Fee Notices; Landlord Requirements.**

10 (a) ~~It shall be unlawful for any Landlord to assess a Late Fee without first~~
11 ~~providing, for each Late Fee assessed, written notice to the Tenant against whom the~~
12 ~~Late Fee is assessed. A Landlord may comply with this requirement through an agent of~~
13 ~~the Landlord (e.g., a property manager, rental manager, or real estate licensee).~~

14 (b) ~~This written notice shall be separate from any notice requirements provided~~
15 ~~for in a Rental Agreement and shall be required each time a new Late Fee is assessed.~~
16 ~~Only one notice shall be required if the same Late Fee continues to accrue after delivery~~
17 ~~of the notice.~~

18 (c) ~~The written notice required under this section shall include a statement~~
19 ~~informing the Tenant that:~~

20 (1) ~~A Late Fee has been incurred;~~
21 (2) ~~The amount of the Late Fee due at the time of the notice and, if Late Fees~~
22 ~~will increase or continue to accrue, a statement explaining the rate at which~~
23 ~~such fees will increase or continue to accrue;~~

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- (3) The basis for the Late Fee (whether provided for in the Rental Agreement or otherwise); and

- (4) A reference to any language in the Rental Agreement that establishes the amount of Late Fee(s) to be assessed.

- (d) The written notice provided for in this section may be delivered to the

~~Tenant:~~

- (1) By email to the email address provided by the Tenant in the Rental Agreement or any subsequent written agreement regarding the delivery of notices:

- (2) By certified mail to the address for notices provided by Tenant in the Rental Agreement:

- (3) By posting of the notice to the front door of the Rental Unit; or

- (4) By hand delivery to the Tenant.

- (e) There shall be a rebuttable presumption that the Landlord has complied with
the requirements in this section if the Landlord can provide one of the following:

- (1) A copy of the email sent pursuant to Section (d)(1) above on or before the date the Late Fee was assessed;

- (2) A copy of a written and dated letter sent, posted, or hand delivered as provided in Sections (d)(2) through (4) above, with: (i) evidence from the United States Postal Service or other delivery service showing both the mailing date and delivery address of the notice; (ii) a time stamped photograph of the notice clearly posted on the front door of the Rental Unit; or (iii) a signed and dated statement by the delivery person certifying hand delivery of the notice to the Tenant evidencing the date of delivery.

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1 **Sec. 20-112. Enforcement.**

2 (a) ~~The Tenant's Bill of Rights and Notice of Late Fees Ordinance may be~~
3 ~~enforced by code enforcement officers, including municipal code enforcement officers,~~
4 ~~and any law enforcement agency having jurisdiction of the area within which the Rental~~
5 ~~Unit is located, pursuant to Section 125.69 and Chapter 162, Florida Statutes, or any~~
6 ~~applicable municipal code enforcement provision.~~

7 (b) ~~Nothing in Sections 20-107 through 20-112 is intended to create any private~~
8 ~~causes of action, and these provisions may only be enforced as set forth herein.~~

9 Section 5. Severability.

10 If any portion of this Ordinance is determined by any court to be invalid, the invalid
11 portion will be stricken, and such striking will not affect the validity of the remainder of this
12 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
13 legally applied to any individual, group, entity, property, or circumstance, such
14 determination will not affect the applicability of this Ordinance to any other individual,
15 group, entity, property, or circumstance.

16 Section 6. Inclusion in the Broward County Code of Ordinances.

17 It is the intention of the Board of County Commissioners that the provisions of this
18 Ordinance become part of the Broward County Code of Ordinances as of the effective
19 date. The sections of this Ordinance may be renumbered or relettered and the word
20 "ordinance" may be changed to "section," "article," or such other appropriate word or
21 phrase to the extent necessary in order to accomplish such intention.

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