

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 321 Declared State of Emergency
SPONSOR(S): Civil Justice Subcommittee, Grieco and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 480

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	11 Y, 0 N, As CS	Padgett	Luczynski
2) Oversight, Transparency & Public Management Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

A landlord may terminate a lease with a residential tenant if the tenant fails to pay rent or if the tenant does not comply with the terms of his or her lease. If a landlord files suit against a tenant to recover possession of a residential property and prevails in court, the court issues a writ of possession. A writ of possession is an order that commands the tenant to leave the property by a certain time period, or be subject to eviction by a law enforcement officer. In Florida, once the writ of possession is executed by the sheriff, the tenant has 24 hours to vacate the property.

CS/HB 321 prohibits a sheriff from serving or executing a writ of possession in a county that is under a hurricane watch or hurricane warning until five days after the termination of the hurricane watch or hurricane warning.

The bill tolls the 24-hour notice period for a writ of possession in a county that is under a hurricane watch or hurricane warning until five days after the termination of the hurricane watch or hurricane warning.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Residential Evictions

Section 83.56, F.S., establishes the circumstances under which a landlord may terminate a rental agreement with a residential tenant. A tenant may be subject to eviction for monetary default (i.e., not paying rent) or non-monetary default.¹ Examples of non-monetary default include a tenant's failure to maintain the premises in a sanitary condition, keeping unauthorized pets or guests, or the damage or continued misuse of the property.²

To begin the eviction process, a landlord must first provide a tenant a written notice of noncompliance (notice) with the lease agreement.³ The time limits for a tenant to either vacate the premises or cure the basis for default vary as follows:

- For non-payment of rent, the tenant must either pay the past-due rent within three days after receiving the notice or vacate the premises.⁴
- For minor noncompliance with the terms of the lease, the tenant must cure the issue within seven days after receiving the notice or vacate the premises.⁵
- For major noncompliance with the terms of the lease or upon a second instance of minor noncompliance, the tenant must vacate the premises within seven days.⁶

If a tenant does not vacate the premises within the time specified by the notice, the landlord may begin a formal eviction process by filing a complaint in county court.⁷ The tenant has five days to respond after being served with the lawsuit.⁸ Once the tenant files a response, the case is scheduled for a court hearing. If the court issues a judgment in favor of the landlord, the clerk issues a writ of possession, which is executed by the sheriff.⁹ A writ of possession is an order that commands the tenant to leave the property by a certain time period, or be subject to eviction by a law enforcement officer. In Florida, once the writ of possession is served, the tenant has 24 hours to vacate the premises.¹⁰

Severe Weather Warnings

The National Hurricane Center (NHC) is a division of the National Weather Service that is responsible for monitoring areas of disturbed weather in the North Atlantic and eastern North Pacific basins.¹¹ The NHC issues hurricane watches and warnings for the United States and its Caribbean territories.¹²

Hurricane Watch

¹ S. 83.56(2), F.S.

² *Id.*

³ *Id.*

⁴ S. 83.56(3), F.S.

⁵ S. 83.56(2)(b), F.S.

⁶ S. 83.56(2)(a), F.S.

⁷ S. 83.59(2), F.S.

⁸ S. 51.011(1), F.S.

⁹ S. 83.62(1), F.S.

¹⁰ *Id.*

¹¹ National Hurricane Center and Central Pacific Hurricane Center, *About the National Hurricane Center*, <https://www.nhc.noaa.gov/aboutintro.shtml> (last visited Feb. 5, 2020).

¹² *Id.*

The NHS issues a hurricane watch when a tropical cyclone containing winds of 74 mph or higher poses a possible threat, generally within 48 hours of the issuance of the watch.¹³ A hurricane watch does not mean that hurricane conditions will occur. It only means that these conditions are possible.¹⁴

Hurricane Warning

The NHS issues a hurricane warning when sustained winds of 74 mph or higher associated with a tropical cyclone are expected in 36 hours or less.¹⁵ A hurricane warning can remain in effect when dangerously high water, or a combination of dangerously high water and exceptionally high waves continue, even though winds may be less than hurricane force.¹⁶

Duration of Hurricane Watches and Warnings

Hurricane watches and warnings are limited in duration to the time immediately preceding a hurricane's landfall and are lifted soon after a hurricane passes. For Hurricane Michael, the first hurricane watch issued by the NHC for the gulf coast of Florida was on October 8, 2018.¹⁷ The hurricane warning for the gulf coast of Florida was discontinued on October 11, 2018.¹⁸

Effect of Proposed Changes

CS/HB 321 prohibits a sheriff from serving or executing a writ of possession in a county that is under a hurricane watch or hurricane warning until five days after the termination of the hurricane watch or hurricane warning.

The bill tolls the 24-hour notice period for a writ of possession in a county that is under a hurricane watch or hurricane warning until five days after the termination of the hurricane watch or hurricane warning.

B. SECTION DIRECTORY:

Section 1: Amends s. 83.62, F.S., relating to restoration of possession to landlord.

Section 2: Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

¹³ National Weather Service, *Hurricane and Tropical Storm Watches, Warnings, Advisories, and Outlooks*, <https://www.weather.gov/safety/hurricane-ww> (last visited Feb. 5, 2020).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ National Hurricane Center and Central Pacific Hurricane Center, *Tropical Storm Michael*, <https://www.nhc.noaa.gov/archive/2018/al14/al142018.fstadv.007.shtml?> (last visited Feb. 5, 2020).

¹⁸ National Hurricane Center and Central Pacific Hurricane Center, *Tropical Storm Michael*, <https://www.nhc.noaa.gov/archive/2018/al14/al142018.fstadv.018.shtml?> (last visited Feb. 5, 2020).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 4, 2020, the Civil Justice Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Prohibited a sheriff from serving or executing a writ of possession in a county that is under a hurricane watch or hurricane warning until five days after the termination of the hurricane watch or hurricane warning.
- Provided for the tolling of the 24-hour notice period for a writ of possession in a county that is under a hurricane watch or hurricane warning until five days after the termination of the hurricane watch or hurricane warning.

This analysis is drafted to the committee substitute as passed by the Civil Justice Subcommittee.