

**Submission by Gulfcoast Legal Services, Inc., to the call for contributions by the Special Rapporteur regarding the impact of Covid-19 on the right to housing (June 2020).**

Gulfcoast Legal Services, Inc., welcomes the call for submission by the Special Rapporteur concerning the dire consequences for Florida's tenants in the Covid-19 pandemic and beyond. Gulfcoast Legal Services is a Florida not-for-profit 501(c)(3) corporation providing free, legal representation, advice and counsel, to vulnerable families and individuals in our Tampa Bay, Florida service area. We contend that the Special Rapporteur's focus on the expected increase in residential tenant evictions to be extremely timely in light of the housing crisis unfolding in Florida. As a result of the economic disruption caused by the global Covid-19 pandemic Gulfcoast Legal Services submits the following information for review with a particular emphasis on the crisis in the Tampa Bay area:

A. Legal Background

1. The Florida Residential Landlord and Tenant Act and the Florida Mobile Home Act

Florida residential tenancies are covered by the provisions of Florida Statutes Chapter 83, specifically Florida Statutes §§ 83.40-83.683. Tenants renting mobile home spaces in mobile home parks are covered under the unique provisions of Florida Statutes Chapter 723. The two Chapters of the Florida Statutes, while not identical, do provide for substantially the same concerns to tenants facing eviction. Self-Storage Units are covered under Florida Statutes Chapter 83, F.S. §§ 83.801-83.809 .

Florida's governor invoked a state of emergency for Florida due to the "environmental disaster" of the Covid-19 pandemic and announced a series of business closures in a "Safer at

Home” initiative that closed many businesses and forced people into involuntary unemployment. In response to the loss of potential to earn an income, Florida’s Governor, the Hon. Ron DeSantis issued an Executive Order 20-94 , which “suspends” and “tolls” evictions and foreclosures for 45 days. This Order was set to expire on June 2, 2020, but was extended several times by additional executive orders and Executive Order 20-137 extended it until July 1, 2020. The Order applies to residential evictions, in both residential and mobile home eviction cases. This Order has been interpreted differently in various regions throughout the state.

In some regions, evictions have been entirely halted. In Hillsborough County, the Sheriff has stated that the service of a summons is suspended and they will not serve a summons on a tenant for residential eviction. However, in some other judicial circuits (such as Pinellas County, where the Sheriff did not serve eviction summons prior to Covid and landlords were required to hire process servers) cases are being filed, but the Clerk of Court are not issuing “Writs of Possession” which is the legal instrument which directs the Sheriff of the County to place the landlord in possession of the property 24 hours after it has been posted.

The prohibition on the issuance of the Writ stems from the Administrative Order of the Florida Supreme Court, 20-17 (AOSC 20-17), which suspends the requirement that the County Court judges issue the writ “forthwith.” The issuance of those writs is currently suspended by extension of that Administrative Order until July 2, 2020 (AOSC-20-23).

Self Storage Units are not covered by any protections under either the Orders of Florida’s Governor or the State Supreme Court. Residential tenants who are protected from eviction by federal and state legislation or order, do not have any protections for the property they store in off-site commercial storage facilities. With no money to pay for the continued rental of the storage

unit, the tenants are faced with a legal proceeding to sell the contents of the unit for the unpaid bills. A tenant can be stripped of his or her personal property without any legislative protections.

## 2. The Federal CARES Act.

Adding to the confusing patchwork of legal protections for tenants, the United States Congress passed the Coronavirus Aid, Relief, and Economic Security Act (the “CARES ACT”) which was signed into law on March 27, 2020 and provided relief for tenants who have a mortgage loans guaranteed by an agency of the Federal government. Additionally, it covers tenants who get rent governmental rent subsidies such as those provided for in “Section 8” housing homes for an additional 30 days after that.

## B. Crisis in Housing

### 1. Florida Statute § 83.60(2) must be repealed.

Under current Florida residential landlord and tenant statutes, specifically F.S. § 83.60(2), a tenant must deposit the rent as demanded in the Complaint for eviction with the Court Registry, or, file a Motion to Determine Rent and documentation of the discrepancy with the court within five days of being served. If the tenant does neither of those things, the landlord is entitled to an immediate entry of a default against the tenant. Often a tenant can lose his or her home without ever having the opportunity for “a day in court” to plead their case with the county court judge as a neutral party standing between the landlord and tenant.

In normal times, this barrier to justice is insurmountable for many tenants. It is a unique “pay to play” feature of Florida law that is not found in most other statutes or is found in a less damaging form. In the aftermath of the Covid-19 pandemic when evictions can be filed, this statute

will cause an immediate avalanche of evictions. Defendants will not have the money to deposit and they will face swift (in)justice.

## 2. Statewide statistics.

According to the United States Census Household Pulse Survey, for Week 5 only 110,000 African American renters in Florida had “high confidence” that they could pay next month’s rent. Contrast that with 1,118,873 White renters who reported the same “high confidence.” Hispanics reported a slightly better total of 340,152.

In the St. Petersburg-Tampa metro area, over 144,000 have been affected by the pandemic and suffered some financial impact.

## 3. The Impact on People Of Color and Hispanics is greater than the general White population.

A Pew Research 2016 study found that Florida had an estimated 775,000 undocumented immigrants: Tampa Bay has the 27<sup>th</sup> largest population of undocumented immigrants and is home to about 75,000 undocumented immigrants.

According to the Urban Institute, 2/3 of the Hispanic non-citizens and almost half of the citizen Hispanics reported a job loss or significant decrease in hours. Sixty one percent of those surveyed reported that they would have trouble making payments on their rent. Undocumented Hispanics are already at the mercy of unscrupulous landlords who take advantage of them. Often, there is no formal eviction process. The landlord merely extorts the tenants to leave with threats of disclosing their undocumented status. The tenants, unwilling to risk deportation, comply willingly.

Nationwide, African Americans are significantly over represented in the low-end service industries which have been crippled by the shutdown forced by the legislative efforts to halt the spread of the pandemic. ,

African Americans have been traditionally shut out of the housing market by discriminatory practices. According to The Center for American Progress, 41 percent of African Americans own their own home. This is compared to 71 percent for Non-Hispanic Whites. By forcing African Americans into rentals, the eviction risk for African Americans is significantly higher when they can't find the money to pay a landlord. (By contrast, under the CARES Act, most mortgage holders have significantly more protections than renters.)

#### 4. The Stigma of Eviction follows a person forever.

Under the Florida Constitution, court records are public records (Article I Section 24(a)). If an eviction is filed, even if it is dismissed before even being served on a defendant, that court record of an eviction is in the court records and, in most counties, publicly searchable on the internet. The cascade of evictions which is sure to follow once the moratoriums are lifted, will stain the credit reports of countless people. Given that the proportion of Hispanics who expect to be unable to pay rent is higher than the Non-Hispanic average, this will proportionately damage the financial health of Hispanics in Tampa Bay.

#### B, Solutions

Suspending or tolling the provisions of the landlord and tenant laws, with nothing more, will merely postpone the inevitable collapse of a state economy struggling to return to normalcy. It is essential that the national solutions address the lingering debt owed by tenants to landlords. It is essential that the judiciary or legislatures address the impact of an Covid-19 related

eviction on a tenant's credit. To fully address the problem for all people, an economic analysis of the systemic racism that has disproportionately forced Hispanics and People of Color into the margins needs to be undertaken.

### C. Conclusion

Gulfcoast Legal Services, Inc respectfully recommend that the Special Rapporteur:

- Request that Florida's Governor and/or Legislature abolish, suspend, or toll, the draconian provisions of Florida Statutes
- Recognize that once the legal protections from eviction expire, tenants will be faced with crippling demands for repayment that will force them into distress. States and local governments must take into account these debts and provide a meaningful opportunity for tenants to repay the past due rent obligations without economic hardship and without late fees or other penalties.
- Request that states apply uniform rules of procedure throughout the state to prevent a patchwork of protections for tenants.
- Recognize the devastating impact of a loss of a storage unit containing a tenant's possessions for failure to pay storage fees and recommend that the Special Rapporteur highlight this aspect of the disruption caused by the failure of Florida to include self-storage units in the prohibitions on residential evictions.
- Request that credit reporting agencies be prohibited from placing negative comments on a tenant's consumer credit report because they had an eviction filed against them during the Covid-19 pandemic.
- Request that the Florida Supreme Court issue an Order permitting tenants to petition the trial court for entry of an Order specifically making an eviction filing due to Covid-19

disruptions be confidential and unsearchable in the public database. And request that any other states which do not have a provision for sealing eviction records due to the Covid-19 pandemic adopt such measures on an emergency basis immediately.

- Recognize that Hispanics and People of Color have been historically denied home ownership in the same proportion as Whites, due to systemic racism. Policies for increased access to affordable home ownership as an alternative to renting should be encouraged.

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