

APRIL 19, 2023

Navigating the Choppy Waters of Florida's Legal Landscape - Landlord Tenant Laws



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Our Presenters

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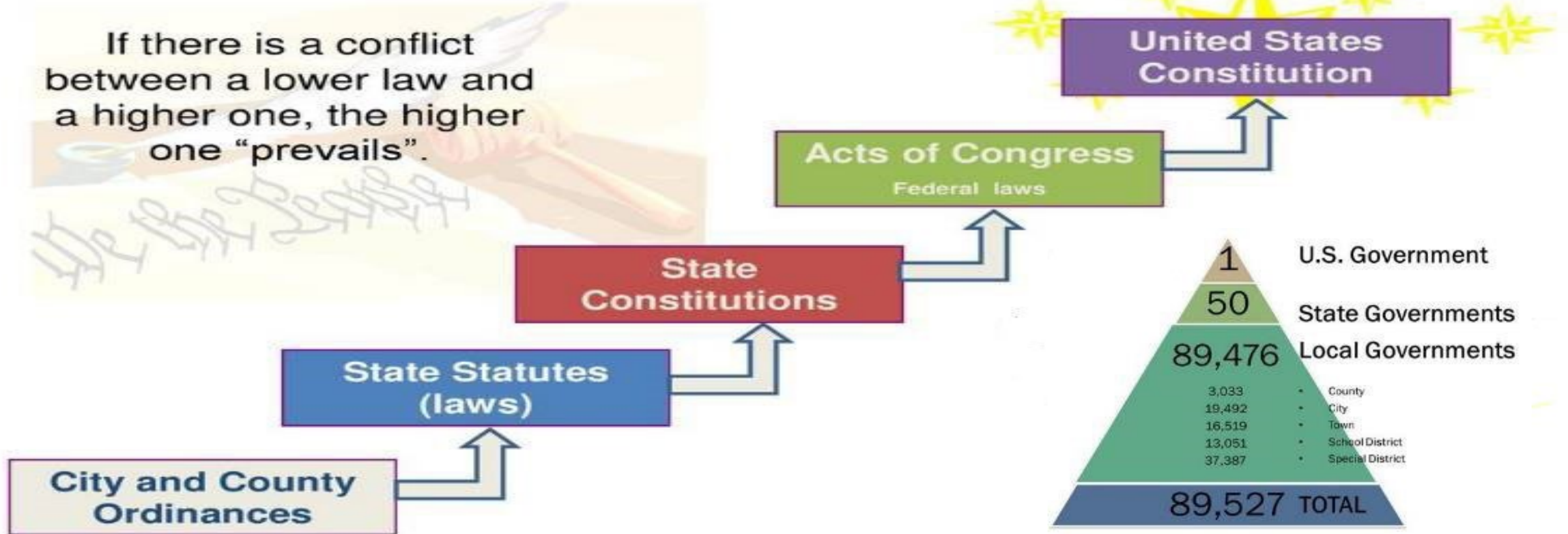
- Darren Ayoub, Attorney at Law/Partner at Barfield McCain Ayoub, P.A. serves on the Legislative Affairs Committee for the South East Florida Apartment Association (SEFAA). He has written published articles and teaches seminars in the areas of Florida Landlord-Tenant Law and Fair Housing. Darren has also been admitted to the U.S. District Court for the Southern District of Florida. He currently has his J.D. from Nova Southeastern University Shepard Broad College of Law and a B.A.Sc. in Environmental Studies from Florida State University.

Order of Presentation

- Background of law governing local government
- Fair notice ordinances
- Tenant bill of rights ordinances
- Notice of late fees ordinances
- Amendments to local fair housing ordinance
- Legislative Updates
- Q&A

THE HIERARCHY OF LAW

If there is a conflict between a lower law and a higher one, the higher one "prevails".



In 2012, 89,004 local governments existed in the United States, down from 89,476 in the last census of governments conducted in 2007. Local governments included 3,031 counties (down from 3,033 in 2007), 19,522 municipalities (up from 19,492 in 2007), 16,364 townships (down from 16,519 in 2007), 37,203 special districts (down from 37,381 in 2007) and 12,884 independent school districts (down from 13,051 in 2007).

Source Census.gov.

Background of Law Governing Local Ordinances

- City of St. Petersburg was one of the first municipalities to adopt a Tenant's Bill of Rights in 2019
 - Housing discrimination, source of income, late fee notice requirement
 - 21 day nonrenewal
- Hillsborough County 2021
- Miami-Dade County cites to St. Petersburg and Hillsborough County Ordinances and adopts its own Tenant's Bill of Rights in April 2022
- Broward County June 2022
- Orange County March 2023

Fair Notice Ordinances

- Most common require at least 60 days' notice to terminate a month-to-month or quarter-to-quarter tenancy
- Most common require at least 60 days' notice to increase rent more than five percent (5%) before the end of the lease or during a month-to-month tenancy
 - 3 OPTIONS (Accept, Compromise, Reject)
- List of Counties/Cities
 - Counties: Miami-Dade County, Broward County, Palm Beach County, Hillsborough County (30 days if MTM); Orange County, Pinellas (30 days if less than 1 year; 60 days if 1 year or longer)
 - Cities: Naples, Tampa, Key West, Islamorada

Tenant Bill of Rights / Notice of Tenant Rights

- Typical Provisions:
 - 60-day notice to increase rent & MTM Term notice
 - 24-Hour Notice to Enter to inspect, make repairs, supply services, or show unit
 - Right to maintenance in accordance with Fla. Stat. 83.51
 - Prohibition against discrimination in housing under federal, state, and local laws
 - Right to reasonable accommodations and modifications for disabled residents
 - Security deposit rights and notice requirements
 - Prohibition against retaliatory conduct
 - Rights to raise defenses in eviction lawsuits

Tenant Bill of Rights / Notice of Tenant Rights

- Counties:
 - Miami-Dade County
 - Broward County
 - Hillsborough County
 - Orange County
 - Pinellas County
- Cities:
 - St. Petersburg
 - Tampa
 - Boynton Beach

Notice of Late Fees

- What is the Notice of Late Fees?
 - It is unlawful for a landlord to assess a late fee to a tenant without first providing written notice to the tenant for EACH late fee assessed.
- What if the lease already has a late fee provision?
 - That is not enough – landlords would still have to provide written notice.
- What would need to be included in the written notice?
 - A statement that a late fee has been incurred;
 - Identify the specific provision of the lease that provides for the late fee;
 - The amount of the late fee
 - If late fees will increase or continue to accrue, an explanation of the rate at which such fees will increase or accrue.
- How does a landlord deliver the Notice of Late Fees to a tenant?
 - Email to the email the tenant provided in the lease or otherwise.
 - Certified mail to the address for notices in the lease.
 - Posting a notice on the front door of the rental unit.
 - Hand delivery to the tenant.
- Rebuttable Presumption of Compliance Methods?

- Counties:
 - Hillsborough
 - Pinellas
 - Broward
- Cities:
 - St. Petersburg

Source of Income / Victims of Domestic Violence

- New Protected Classes:
 - Lawful Source of Income
 - Lawful Source of Income typically defined as income from Sec. 8 Vouchers & Veterans Affairs Supportive Housing (VASH) Vouchers, Social Security, and Supplemental Security Income
 - Counties: Alachua; Broward; Hillsborough; Miami-Dade; Orange; Pinellas
 - Cities: Tampa; St. Petersburg; Gainesville; Daytona Beach
- Victims of Domestic Violence, Dating Violence, or Stalking

Legislative Updates

- **SB 102:**

- Amends Fla. Stat. § 125.0103 entitled “**Ordinances and rules imposing price controls**” to provide:
- “**A municipality, county, or other entity of local government may not adopt or maintain in effect any law, ordinance, rule, or other measure that would have the effect of imposing controls on rents.**”
 - Intended to ease the state’s rising housing prices and lack of affordable housing by providing historic funding for affordable and workforce housing programs, provides incentives for investment in affordable housing and encourages mixed-use developments in struggling commercial areas.

- **HB 1417/SB 1586:**

- If passed, this legislation would amend Chapter 83 (Florida's Landlord Tenant Act) to preempt the regulation of the landlord/tenant relationship to the state to ensure a consistent framework of landlord/tenant law in Florida.
 - Includes but is not limited to the resident screening process, security deposits, and lease agreements.

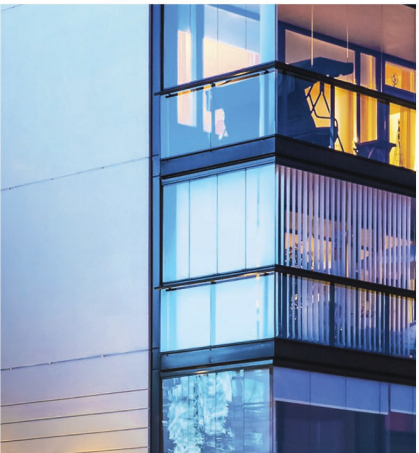
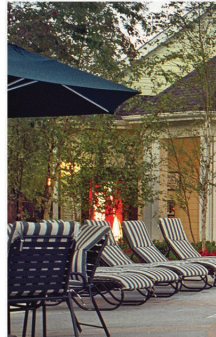
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