

July 31, 2023

The Honorable Sandra Thompson
Federal Housing Finance Agency
via [electronic submission](#)
Washington, DC

RE: Federal Housing Finance Agency's Request for Input on Multifamily Tenant Protections

Dear Director Thompson:

Thank you for the opportunity to respond to the Federal Housing Finance Agency's Request for Input on Multifamily Tenant Protections. My name is Berbeth Foster and I am a Senior Attorney at Community Justice Project in Florida. Our mission is to support organizing in throughout Florida through varied and often innovative legal work. In our legal work, we collaborate closely with community organizers and grassroots groups in low-income communities of color. As many of those caught in the revolving door of evictions are low-income families living in private rental housing, we work closely with organizations such as the Miami Workers Center and Florida Rising to support tenant-led campaigns and build their member base.

FHFA has an important opportunity to help establish a minimum federal floor of tenant protections. Florida is the frontline of state legislative assaults on tenants and has some of the weakest tenant protections in the nation. As such, tenants in Florida stand to benefit tremendously from federal regulations implementing basic protections. Florida, however, also has a robust tenant organizing eco-system that is fighting hard to counteract this power imbalance. In May 2022, Miami-Dade County adopted the Miami Tenant Bill of Rights, a long fought for win spearheaded by organizers and community members of the Miami Workers Center.¹ The Bill of Rights offered invaluable protections to Miamians in one of the most expensive places to live across the nation. These protections included requiring "Fair Notice" of rent increases and lease terminations; requiring a landlord inform tenants of their rights; prohibiting discrimination based on past eviction; enforcing existing protections against retaliation; allowing tenants to "repair and deduct"; and establishing a new Office of the Tenant Advocate.

In the wake of the passage of Miami's Tenant Bill of Rights, organizers in Orange County advocated and successfully lobbied their county commission to pass its own Tenant Bill of Rights in January.² The Orange County Tenant Bill of Rights provided stronger tenant protections by including much of what Miami had done. Notably however, Orange County organizers were successful in lobbying for an Office of Tenant Services that had strong enforcement capabilities. The Orange County Tenant Bill of Rights continued the momentum from a historic win by organizers such as Florida Rising, Central Florida Jobs with Justice and Hablemos Español Florida on rent stabilization. Orange County Commissioners agreed to put rent stabilization on the November 2022 ballot and the vote passed with nearly 60% of Orange County voters in favor.³

The wave of tenant action flowed across the state, with nineteen cities or counties implementing "Fair Notice" provisions giving tenants 60 days before evictions could be filed or rent increases could take effect. More than 53% of all Florida renter households were covered by these policies as the legislative session convened. But this past legislative session struck an immense blow to tenant protections across Florida. An effort by corporate lobbyists, the Florida State Legislature and affirmed by Governor Ron DeSantis, HB 1417 preempted all matters regarding residential tenancies and the landlord-tenant relationship to the state. Counties such as Miami-Dade, Orange, and Hillsborough experienced the devastating loss of tenant protections that were more expansive than state laws. Even before HB 1417, the Florida State Legislature

¹ Miami Workers Center, [Miami Tenant Bill of Rights](#), February 2022.

² McKenna Schueler, [Orange County adopts Tenant's Bill of Rights to enhance protections for local renters](#), Orlando Weekly, January 2023.

³ Florida Rising, [Orange County Commissioners Pass Historic Vote on Rent Stabilization Ballot Initiative](#), August 2022.

passed Senate Bill (SB) 102, which prohibits local governments from enacting rent control. SB 102 was signed into law in March 2023 and was a direct assault on the success of tenant organizers in Orange County.

Furthermore, Governor DeSantis signed House Bill 133 into law, allowing landlords to charge a nonrefundable, limitless, recurring fee instead of a security deposit.

These efforts come at a time where nationally, median rent has surpassed \$2,000 for the first time ever.⁴ In 2023, there is not a single state where a worker employed full-time at the federal minimum wage can afford a modest two-bedroom apartment.⁵ Effects are even more apparent in Florida, which Realtor.com has designated the most expensive state to live in the country.⁶ The average rent in Miami is 60% of the typical household income where tenants have seen the most drastic rent hikes. While the 45% figure in Tampa and 37% in Orlando together represent the fastest growing rents in the country.⁷

A federal minimum floor of tenant protections is also necessary with the growing number of properties in my jurisdiction with corporate landlords with multi-state portfolios. Here in Florida, investors make up a disproportionate share of home purchases. According to the Washington Post, in 2021 investors made up 24% of purchases in Miami, 22% of purchases in Jacksonville and 19% of purchases in Orlando.⁸

Tenant protections align with FHFA's statutory mandate to ensure that Government Sponsored Enterprises (GSEs) fulfill their mission by operating in a safe and sound manner and to serve as a reliable source of liquidity and funding for the housing finance market.⁹ Ensuring that tenants in properties with federally-backed mortgages have equitable access to affordable and sustainable housing fits squarely within FHFA's statutory mandate and strategic goals, and we applaud the FHFA for undertaking the RFI process to learn more about the challenges that these tenants face and to consider the role of FHFA and the GSEs in addressing these challenges.

To protect the rights of low-income neighbors in rental residences, the FHFA should consider the following minimum tenant protections:

1. Fair Notice Requirements

The Florida legislature has preempted common-sense provisions to ensure tenants have sufficient notice prior to an eviction filing or rent increase. Landlords regulated by the federal government should be required to provide a minimum of sixty-days notice in these instances. While local policies were active, tenants had time to negotiate with their landlords and stabilize their housing. Florida's law harms primarily low-income residents by giving them less time to find housing and save up to afford housing.

2. Fair Lease Provisions & Ending Junk Fees

Variations between state landlord-tenant laws and civil procedures can result in situations such as the current case in Florida, where residents are burdened with rent hikes from exploitative landlords while the state legislature strips counties and cities of hard-won protections.¹⁰ Floridian tenants, like tenants across the country, deserve a right to a written lease that provides a grace period for rental payments, caps late fees, limits the charge of security deposits, and bans "junk fees" such as the ones enabled by HB 133. Creating a federal standard for fair leases does not prevent states from implementing more tenant protections or landlords from freely engaging in contract; what it does achieve is equity for tenants living in states that have not even met those baseline requirements. Furthermore, fair leases attend to most directly impacted tenants: communities of color, especially Black women; low-income families;

⁴ Chris Arnold, [Rents across U.S. rise above \\$2,000 a month for the first time ever](#), National Public Radio, June 2022.

⁵ National Low Income Housing Coalition, [The Gap: A Shortage of Affordable Rental Homes](#), March 2023.

⁶ Irina Ivanova, [Florida is the least affordable place to live in the U.S.](#), CBS News, May 2022.

⁷ *Id.*

⁸ Jonathan O'Connell and Kevin Schaul, [Investors bought a record share of homes in 2021. See where](#), Washington Post, February 16, 2022.

⁹ 12 U.S.C. § 4513 (a)(1).

¹⁰ Freddie Mac, [A National Survey of Tenant Protections Under State Landlord Tenant Acts](#), January 2023.

individuals with disabilities; and survivors of domestic violence. These folks are neighbors and community members who are displaced from their homes at heightened rates because of their unique vulnerabilities to power, and often find it impossible to regain access to safe, affordable, and stable housing.

3. Good Cause Eviction Standards

The circumstances under which someone is kicked out of their home should be limited to necessary, justified situations. Florida law allows landlords to evict without cause, regardless of the duration of a tenancy. Such gaps in protections facilitate landlord retaliation and suppression of tenant organizing. “Good cause” or “just cause” eviction standards would protect tenants from being arbitrarily and unjustly evicted. Good cause standards also help protect Black women, especially those with children, who are disproportionately impacted by evictions.¹¹ In general, households with children are more likely to experience evictions, which can have long-term negative consequences on the children’s wellbeing.¹² Good cause eviction standards keep families in their homes and allows people to invest in their neighborhood without living in fear of being displaced.

4. Moratorium on Evictions During States of Emergency

Adequate housing is a human right, one that becomes even more apparent during crises. Even before the COVID-19 pandemic brought eviction moratoriums to national attention,¹³ Florida organizers had fought for automatic moratoriums during states of emergency.¹⁴ Hurricanes and other natural disasters, which Floridians face at an increasing rate, require decisive and quick action to protect tenants. The uncertainty tenants experience as different branches of government deliberate over eviction moratoriums causes further anxiety during an already devastating time. Moratoriums on evictions during states of emergency are critical life-saving measures that need to be guaranteed for residents’ quality and security of life. Landlords regulated by FHFA should be prohibited from filing or pursuing evictions during declared states of emergencies.

5. Source of Income Protections

Many low-income residents rely on Section 8 Housing Choice Vouchers (HCVs) to pay rent. HCVs are lawful forms of payment that allow families to find residential buildings through the private housing market. However, lack of state source-of-income anti-discrimination laws have allowed many landlords to refuse families on HCVs, barring low-income families from being able to move into higher-opportunity neighborhoods.¹⁵ Other landlords take advantage of loopholes to require egregious income-to-rent ratio requirements for families on HCVs, as the public housing agency-determined payment standard does not affect the amount of rent a landlord can charge.¹⁶ Banning landlords from being allowed to reject certain forms of lawful payment better supports the ability for low-income families to find housing and choose a quality residence that they want to live in.

6. Protect Tenants Right to Organize

In our work with groups like Miami Workers Center, Florida Rising and various tenant unions throughout the state, we provide legal and advocacy support for tenant-led organizing. Base building and inspiring tenants to act together against more powerful landlords is the key to improving conditions. We know, however, that the primary barrier to organizing a building, even when residents are living in deplorable conditions, is fear of landlord retaliation. The right to organize is required in several federal housing programs, including public housing and HUD-supported multifamily

¹¹ Miami Workers Center, *supra* note 1.

¹² National Low Income Housing Coalition, [Families with Children More Likely to Face Eviction](#), May 2013.

¹³ Human Rights Watch, [Q&A: Eviction Moratoriums for Tenants in the United States](#), January 2021.

¹⁴ Jess Nelson, [Miami-Dade Suspends Evictions From Public Housing During Hurricanes](#), Miami News Times, November 2019.

¹⁵ J. Rosie Tighe, Megan E. Hatch & Joseph Mead, [Source of Income Discrimination and Fair Housing Policy](#), *Journal of Planning Literature* 32:1 (2017).

¹⁶ U.S. Department of Housing and Urban Development, [Housing Coupon Vouchers Fact Sheet](#), Last Accessed July 2023.

housing.¹⁷ Tenants must be guaranteed the right to organize for the improvement of their living conditions without fear of losing their homes and community.

In conclusion, the FHFA has an important opportunity to help establish a minimum federal floor of tenant protections, and we urge FHFA to act boldly in order to protect our neighbors and community members. Federal tenant protections would be life changing for tenants across Florida who have had to fight for every inch of success achieved these past three years. Low-income Floridians should not be forced to bear the consequences of a state government that will put the interests of industry over the democratically demonstrated voice of the people. This is a crucial moment for the FHFA to demonstrate its commitment to the lives and well-being of tenants in Florida and across the country. We urge the FHFA to adopt fundamental tenant protections to do so.

Sincerely,

Berbeth Foster

Berbeth Foster
Senior Attorney
Community Justice Project

¹⁷ White House Domestic Policy Council and National Economic Council, [The White House Blueprint For a Renters Bill of Rights](#), Last Accessed July 2023.