

Board of County Commissioners Agenda Request

Date of Meeting: May 16, 2017
Date Submitted: May 12, 2017
To: Honorable Chairperson and Members of the Board
From: Robert M. Presnell, County Administrator
Subject: Discussion of Cost for Landlord Eviction

Statement of Issue:

Chairperson Taylor requested an item be prepared to present to the Board for discussion of the cost for Landlord Eviction.

Background:

The current procedure for eviction is attached for your review. Please see the current cost breakdown below:

\$ 10.00 - For Summons
\$ 10.00 - Only charged if money owed
\$ 40.00 - Sheriff service of eviction notice paid to Sheriff
\$185.00 - Eviction notice
\$ 90.00 - Writ of possession to Sheriff (see section 2 H). Only charged if the Sheriff needs to send someone to escort tenant from premises.

Analysis:

n/a

Fiscal Impact:

n/a

Options:

1. Board Discussion.

County Administrator's Recommendation:

Option 1

Attachment(s):

1. Procedure for eviction
2. Breakdown of Eviction Costs and Authority

LANDLORD-TENANT EVICTION PROCEDURE

1. Send tenant letter/notice to vacate premises:

- a. **3-Day Notice** –If the tenant pays rent, tenant may remain on the premises.
- b. **15-Day or 30-Day Notice** – Landlord wants tenant to move. Landlord will not accept any further rent payments. Landlord may also sue for any rent outstanding (Money Owed Lawsuit). If so, file this suit at same time suit for Eviction is filed.
- c. Landlord may prepare a written notice to deliver to tenant. The notice must state the date the notice is given to the tenant, the reason why and when the tenant must vacate rental property.

2. If the tenant has not moved and/or complied by the date given in the letter (#1 above):

- a. **Prepare Eviction Petition.** If money is owed and the Landlord request suit, prepare Petition for money owed suit.
- b. **Prepare Eviction Summons.** If Petition for money is filed, prepare a Non-payment of Rent Summons. (Money owed suits will be schedule for Small Claims Court).
- c. **File Petition(s) with the Clerk's Office (Filing Fee -\$185.00 + \$10.00, per defendant, for issuance of summons.)-Payable to "The Clerk of Court"**
- d. **Take the summons(es) to the Clerk's Office at the same time the Petition(s) are filed. Service fee of \$40.00 per defendant is needed for the Eviction Suit and \$40.00 for the Money Owed Suit for a total of \$40.00 for the Service Fee.-Payable to "Gadsden Sheriff Department". Clerk will insert hearing date on the Money Owed Summons. Leave the Summons(es) and Service Fee with Clerk. Clerk will send Petition(s) and Summons(es) to Sheriff's Department for service of process on tenant.**
- e. **Tenant has five (5) business days from date of service to respond. The five days do not include weekends and holidays.**
- f. **If Tenant does not respond, a Motion for Default and Default will be prepared by the Clerk's Office. A Final Judgment for Eviction will be prepared and delivered to the Judge's Chamber for signing. (Please be present for the signing of your Final Judgment, the Judge will take sworn testimony from the Landlord before signing the Eviction Order.**
- g. **If the Tenant files a written response and pays the delinquent rental fee or the rental fee Tenant states is owed, a hearing will be scheduled before the County Judge to determine eviction. If the Tenant files a written response and does not deposit the rental fees with the Court, the Judge will decide if a hearing will be scheduled or a letter of response to the tenant will be mailed.**
- h. **If the Tenant has not moved after Landlord receives the Default and Final Judgment, a Writ of Possession (\$90.00)-Payable to "Gadsden**

Sheriff Department", will be issued by the Clerk's Office. Clerk or Landlord will forward Writ to the Sheriff's Department. Once served, the tenant has 24 hours to vacate the premises from the date of service of the Writ of Possession by the Sheriff's Department. Deputy Sheriff will escort Landlord to premises once Writ of Possession has expired, for tenant removal.

If the tenant responds within the five business days, a Notice of Hearing will be mailed to the Landlord and Tenant by the Clerk's Office, notifying each as to when they are to appear in Court. If the tenant has deposited money into the Court's Registry, the landlord must file a written request to have funds disbursed from Court's Registry. Even if the money is put into the registry, the tenant can still be evicted if the landlord does not want the tenant to remain on the premises.

If the tenant moves out prior to the hearing being held on the Eviction suit, the landlord would need to file a Voluntary Dismissal.

If the tenant moves prior to being notified of a hearing date on the Money Owed suit, the landlord is to provide the Clerk with the tenant's new address so the Clerk can notify the tenant of the hearing date. There is nothing the Clerk can do if the Landlord does not provide an address. In this event, the Money Owed suit will remain pending for twelve (12) months, if no action the case will be dismissed by the Courts.

Revised 07/09

	A	B	C	D	E	F	G	H
1	COUNTY CIVIL							
2								
3	CODE: 28.246(5)(a)-		348 COURT-RELATED REVENUES		F=FILING FEE			
4	PARTIAL PAYMENT		300 COUNTY CIVIL		S=SRV CHR/OTHER FEE			
5	PRIORITY		310 FILING FEES		P= FINE/PENALTY			
6	1. DOR/GEN FUND		320 SERVICE CHARGES		C=COURT COST			
7	2. CLERK OF COURT		330 COURT COST		M=MANDATORY			
8	3. STATE TRUST				D=DISCRETIONARY			
9	4. LOCAL							
10		CODE	ACCOUNT	DESCRIPTION	AMOUNT	FINE/CS/ SRV/MAND IS	DOR CODE	AUTHORITY
11								
12								
13				CLAIMS < \$100				
14	cc	2	310	FILING FEE	\$50.00	F/M	FF51	34.041(1)(a)1.
15	cc	3	LIABILITY	STATE COURTS REVENUE TRUST FUND	\$1.00	F/M	FF45	44.108(1)
16	cc	3	LIABILITY	COURT EDUCATION TRUST	\$3.50	F/M	FF40	34.041(1)(b)
17	cc	3	LIABILITY	DFS ADMIN T.F. (Clerk Ed)	\$0.50	F/M	FF41	34.041(1)(b)
18					\$55.00			
19				CLAIMS >\$100<\$500				
20	cc	2	310	FILING FEE	\$75.00	F/M	FF51	34.041(1)(a)2.
21	cc	3	LIABILITY	STATE COURTS REVENUE TRUST FUND	\$1.00	F/M	FF45	44.108(1)
22	cc	3	LIABILITY	COURT EDUCATION TRUST	\$3.50	F/M	FF40	34.041(1)(b)
23	cc	3	LIABILITY	DFS ADMIN T.F. (Clerk Ed)	\$0.50	F/M	FF41	34.041(1)(b)
24					\$80.00			
25				CLAIMS >\$500 < \$2500				
26	cc	2	310	FILING FEE	\$150.00	F/M	FF51	34.041(1)(a)3.
27	cr	1	LIABILITY	CLERK OF COURT T.F./DOR GEN FUND	\$20.00	F/M	FF50	34.041(1)(a)3.
28	cc	3	LIABILITY	STATE COURTS REVENUE TRUST FUND	\$1.00	F/M	FF45	44.108(1)
29	cc	3	LIABILITY	COURT EDUCATION TRUST	\$3.50	F/M	FF40	34.041(1)(b)
30	cc	3	LIABILITY	DFS ADMIN T.F. (Clerk Ed)	\$0.50	F/M	FF41	34.041(1)(b)
31					\$175.00			
32				CLAIMS > \$2500 (Up to a Max of \$15,000)				
33	cc	2	310	FILING FEE	\$80.00	F/M		34.041(1)(b)
34	cc	2	310	FILING FEE	\$200.00	F/M	FF51	34.041(1)(a)4.
35	cc	3	LIABILITY	STATE COURTS REVENUE TRUST FUND	\$15.00	F/M	FF39	34.041(1)(b)
36	cc	3	LIABILITY	COURT EDUCATION TRUST	\$3.50	F/M	FF40	34.041(1)(b)
37	cc	3	LIABILITY	DFS ADMIN T.F. (Clerk Ed)	\$0.50	F/M	FF41	34.041(1)(b)
38	cc	3	LIABILITY	STATE COURTS REVENUE TRUST FUND	\$1.00	F/M	FF45	44.108(1)
39					\$300.00			
40				TENANT EVICTION				
41	cc	2	310	FILING FEE	\$170.00	F/M	FF51	34.041(1)(a)7.
42	cc	3	LIABILITY	STATE COURTS REVENUE TRUST FUND	\$10.00	F/M	FF37	34.041(1)(b)
43	cc	3	LIABILITY	STATE COURTS REVENUE TRUST FUND	\$1.00	F/M	FF45	44.108(1)
44	cc	3	LIABILITY	COURT EDUCATION TRUST	\$3.50	F/M	FF40	34.041(1)(b)
45	cc	3	LIABILITY	DFS ADMIN T.F. (Clerk Ed)	\$0.50	F/M	FF41	34.041(1)(b)
46					\$185.00			
47								
48				GARNISHMENT, ATTACHMENT, REPLEVINS, & DISTRESS				
49	cc	2	310	GARNISHMENT, ATTACHMENT, REPLEVINS, & DISTRESS/CLERK	\$75.00	F/M	FF51	34.041(1)(a)5.
50	cr	1	LIABILITY	GARNISHMT, ATT, REP, DIST/CLERK OF COURT T.F./DOR GEN FUND	\$10.00	F/M	FF50	34.041(1)(a)5.
51					\$85.00			
52								
53				CLAIMS NOT MORE THAN \$1,000 FILED WITH A REPLEVIN (no other fee to be added)				
54	cc	2	310	REPLEVIN OF PROPERTY/CLAIMS NOT MORE THAN \$1,000	\$125.00	F/M	FF51	34.041(1)(a)6.
55	cc	3	LIABILITY	STATE COURTS REVENUE TRUST FUND	\$1.00	F/M	FF45	44.108(1)
56	cc	3	LIABILITY	COURT EDUCATION TRUST	\$3.50	F/M	FF40	34.041(1)(b)
57	cc	3	LIABILITY	DFS ADMIN T.F. (Clerk Ed)	\$0.50	F/M	FF41	34.041(1)(b)
58					\$130.00			
59				This document is intended to be used as a guide				