



MEMORANDUM

Agenda Item No. 11(A)(12)

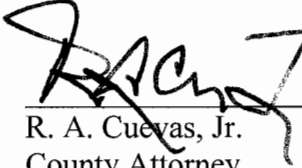
TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: November 20, 2008

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution urging the Florida
Legislature to reinstate and fund
the Mortgage Brokerage Guaranty
Fund

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Katy Sorenson and Co-Sponsors Commissioner Audrey M. Edmonson and Commissioner Rebeca Sosa.



R. A. Cuevas, Jr.
County Attorney

RAC/cp



MEMORANDUM

(Revised)

TO: Honorable Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: November 20, 2008

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 11(A)(12)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(12)
11-20-08

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO
REINSTATE AND FUND THE MORTGAGE BROKERAGE
GUARANTY FUND; TO STRENGTHEN LAWS RELATED TO
LICENSING AND REGULATION OF MORTGAGE BROKERS;
AND TO BEGIN LICENSING AND REGULATING LOAN
ORIGINATORS

WHEREAS, mortgage fraud continues to be an escalating problem, with suspicious activity reports from financial institutions increasing 31 percent from 2006 to 2007, according to the 2007 Mortgage Fraud Report by the Federal Bureau of Investigation (FBI); and

WHEREAS, in 2007, the State of Florida had the highest mortgage loan fraud rate in the U.S. for the second consecutive year; and

WHEREAS, Florida has nearly twice as many reported fraudulent loans per loan originations as the national average; and

WHEREAS, Florida was recently identified as the state with the most properties with reported material misrepresentations for loans originated during the first quarter of 2008; and

WHEREAS, during the first quarter of 2008, 24 percent of all reported fraudulent loans nationally were for properties in Florida, with nearly half of Florida's reported mortgage fraud associated with properties in Miami-Dade and Broward Counties; and

WHEREAS, prior to 1991, Florida maintained a Mortgage Brokerage Guaranty Fund that provided a fund for people who had been victims of mortgage fraud; and

WHEREAS, Florida Legislature passed a bill discontinuing the Mortgage Brokerage Guaranty Fund in 1991; and

WHEREAS, since 1991, \$24.7 million has accumulated in a fund that could be used to help victims of mortgage fraud, but there is no longer any statutory authority to disperse the funds; and

WHEREAS, most other states require mortgage brokers either to pay into a fund that reimburses mortgage fraud victims or buy insurance that pays fraud victims; and

WHEREAS, currently Florida does not have a fund or require mortgage brokers to buy insurance; and

WHEREAS, the Florida Office of Financial Regulation (OFI) has statutory oversight over mortgage brokers and lenders within the State of Florida; and

WHEREAS, a September 15, 2008 report by Florida's Chief Inspector General's Office found that existing Florida laws were insufficient to protect the public from fraudulent mortgage brokers, and also found that OFI was not complying with those laws that were in place governing mortgage brokers, Case No. 200807290003; and

WHEREAS, the Florida Inspector General's report followed a Miami Herald investigative series that concluded that the State of Florida was not adequately protecting the public from unscrupulous or unlicensed mortgage brokers; and

WHEREAS, the Inspector General's report found that since 2003, OFI had issued mortgage broker licenses to at least 588 people with criminal records that may have prohibited them from obtaining such a license; and

WHEREAS, the report also found that OFI had a practice of encouraging applicants who were denied a mortgage broker license to become loan originators, who are employed by a mortgage lender or correspondent lender and who perform many of the same tasks as mortgage brokers; and

WHEREAS, the State of Florida stopped regulating loan originators in 1991, and loan originators have gone unregulated since then in Florida,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Urges the Florida Legislature to pass legislation that would:

- a. Reinstates and funds the Mortgage Brokerage Guaranty Fund with the \$24.7 million currently held in reserve by the Office of Financial Regulation for payment to victims of mortgage fraud;
- b. Strengthens laws related to the licensing and regulation of mortgage brokers, including requirements that brokers' licenses be suspended if they are arrested for mortgage fraud or other related fraudulent offense, and revoked if convicted of such offenses;
- c. Begins to license and regulate loan originators, including requirements that originators' licenses be suspended if they are arrested for mortgage fraud or other related fraudulent offense, and revoked if convicted of such offenses.

Section 2. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, Senate President, House Speaker, and the Chair and Members of the Miami-Dade County State Legislative Delegation.

Section 3. Directs the County's state lobbyists to advocate for the passage of legislation as set forth in Section 1 above, and directs the Office of Intergovernmental Affairs to include this item in the 2009 State Legislative Package.

The Prime Sponsor of the foregoing resolution is Commissioner Katy Sorenson, and the Co-Sponsors are Commissioner Audrey M. Edmonson, and Commissioner Rebeca Sosa. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro, Chairman	
Barbara J. Jordan, Vice-Chairwoman	
Jose "Pepe" Diaz	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Joe A. Martinez	Dennis C. Moss
Dorin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairman thereupon declared the resolution duly passed and adopted this 20th day of November, 2008. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Jess M. McCarty