MEMORANDUM Agenda Item No. 11(A)(23)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: February 17, 2009

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

SUBJECT: Resolution urging the U.S. Congress and the Florida Legislature to require banks receiving bailouts funds to pay homeowners' association dues where applicable on foreclosed homes

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The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Joe A. Martinez, and Co-Sponsors Vice-Chairman Jose "Pepe" Diaz, and Commissioner Rebeca Sosa.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

RESO\090185

MEMORANDUM
(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: February 17, 2009

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

SUBJECT: Agenda Item No. 11(A)(23)

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 Mayor'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)(23)
2-17-09

RESOLUTION NO. _____

RESOLUTION URGING THE U.S. CONGRESS AND THE FLORIDA LEGISLATURE TO REQUIRE BANKS RECEIVING BAILOUT FUNDS TO PAY HOMEOWNERS' ASSOCIATION DUES WHERE APPLICABLE ON FORECLOSED HOMES

WHEREAS, as foreclosures have increased across the nation and particularly in Florida, homeowners' association dues are going unpaid, placing a greater burden on remaining homeowners in homeowners' associations; and

WHEREAS, an April, 2008 survey of community associations found that 51 percent reported a decline in the collection of maintenance fees and other assessments due to foreclosures; and

WHEREAS, the 2008 Florida Community Association Mortgage Foreclosure Survey found that:

- Almost 60 percent of community associations reported that mortgage lenders who have foreclosed on units or homes are not currently paying monthly maintenance fees and/or other assessments as required by law;
- Four out of every 10 respondents reported units or homes left vacant for six months or more, with one in five such units being uninhabited for a year or more;
- 66 percent said their associations intend to increase maintenance fees or special assessments to compensate for anticipated shortfalls due to declining collections from foreclosures; and

WHEREAS, the federal government has given billions of dollars to banks through bailout programs to shore up the U.S. economy; and

WHEREAS, banks that have received federal assistance should be required to pay homeowners' association dues on homes on which these banks have foreclosed; and

WHEREAS, current Florida law requires lenders in foreclosures to pay 12 months of accrued homeowners association dues or one percent (1%) of the original debt, whichever is less; and

WHEREAS, this Florida law does not appear to be effective at keeping foreclosed homes current on association dues under the current mortgage crisis, leaving what is in some cases a substantial and unfair burden on remaining homeowners to cover association expenses,

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

Section 1. Urges the U.S. Congress to require banks receiving bailout funds to pay the homeowner's association fees on foreclosed homes.

Section 2. Urges the Florida Legislature to strengthen and better enforce state laws requiring lenders to pay homeowners' association fees on homes going through foreclosure.

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

Section 3. Directs the County's federal and state lobbyists to advocate for the passage of the legislation set forth in Sections 1 and 2 above, and directs the Office of Intergovernmental Affairs to include this item in the 2009 Federal and State Legislative Packages.

The Prime Sponsor of the foregoing resolution is Commissioner Joe A. Martinez, and the Co-Sponsors are Vice-Chairman Jose "Pepe" Diaz, 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:

Dennis C. Moss, Chairman
Jose "Pepe" Diaz, Vice-Chairman

Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 17th day of February, 2009. 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