

MEMORANDUM

GO

Agenda Item No. 1(E)2

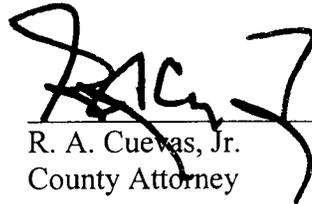
TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: June 8, 2010

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

SUBJECT: Ordinance pertaining to
regulation of advertisements;
amending Section 8A-110 of
the Code to require a warning
before imposition of a fine

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Rebeca Sosa.



R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum



Date:

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

From: George M. Burgess 
County Manager

Subject: Fiscal impact of ordinance amending section 8A-110 of the Code of Miami-Dade
County, Florida

The proposed amendment requiring a warning before the imposition of a fine for violations of Section 8A-110 of the Code, and decreasing the amount of the fine from \$500 to \$250, will have an annual negative fiscal impact of approximately \$15,000. This section of the Code is enforced by the Consumer Services Department (CSD). Revenues derived from civil penalties help support consumer complaint driven investigations and departmental inquiries into the practices of businesses engaged in misleading advertising.

Advertising has the potential to persuade consumers into commercial transactions that they might otherwise avoid. Section 8A-110 of the Miami-Dade County Code is intended to discourage advertisements that are false, deceptive or misleading. Misleading advertisements result in unfair and irreversible financial consequences to consumers who rely on them to make purchasing decisions.



Alex Munoz,
Assistant County Manager

Fis05710



MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss **DATE:** May 4, 2010
and Members, Board of County Commissioners

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

SUBJECT: Agenda Item No. 4(F)

Please note any items checked.

- "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
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's _____, 3/5's _____, unanimous _____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor

Agenda Item No. 4(F)

Veto _____

5-4-10

Override _____

ORDINANCE NO. _____

ORDINANCE PERTAINING TO REGULATION OF ADVERTISEMENTS; AMENDING SECTION 8A-110 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, TO REQUIRE A WARNING BEFORE IMPOSITION OF A FINE; AMENDING SECTION 8CC OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, TO CHANGE THE FINES FOR VIOLATION OF SECTION 8A-110; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 8A-110 of the Code of Miami-Dade County, Florida, is hereby amended as follows:¹

Chapter 8A – BUSINESS REGULATIONS

* * *

Sec. 8A-110. Complete price; representations; official terms.

It shall be unlawful to advertise, or otherwise represent to the public in any manner whatsoever:

- (a) A price or price reference of a commodity, service or other thing of value unless such price presentation is the complete purchase price. The complete purchase price advertised must be the price most prominently emphasized.

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

4

- (b) A representation in any manner of brand, quality, quantity, trade name, or other character of any property or service that is untrue or misleading.
- (c) Terms such as "Public Notice," "Public Sale," "Ordered Sold," etc., unless there is an official act by a governmental agency concerning the subject of application for such terms.
- (d) When an offer is made in an advertisement and there is a contingency, condition or limitation on the offer, such contingency, condition or limitation shall be conspicuously stated in a place contiguous to the complete purchase price quoted.
- >>(e) The first time an advertiser is cited pursuant to Chapter 8CC of the Miami-Dade County Code for violation of Section 8A-110 (a) through (d), the County shall issue a warning notice describing the manner of the violation and shall provide the responsible party with a reasonable time to come into compliance. For any subsequent violation, the County may issue civil penalties pursuant to Section 8CC.
- (f) Notwithstanding paragraph (e), no warning notice shall be issued for a violation of Section 8A-110 (a) through (d), where the offending advertisement is for construction or building services or materials.<<

Section 2. Section 8CC-10 of the Code of Miami-Dade County is hereby amended as

follows:

Sec. 8CC-10. – Schedule of civil penalties.

8A-110(a)	Failure to properly advertise the complete purchase price	500.00 >>250.00<<
8A-110(b)	Untrue or misleading representation of character	500.00 >>250.00<<
8A-110(c)	Illegal use of words "Public Notice," "Public Sale," etc.	200.00 >>250.00<<
8A-110(d)	Failure to properly display contingency, condition or limitation on an offer	500.00 >>250.00<<

5

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Andrew B. Boese

Prime Sponsor: Commissioner Rebeca Sosa