MEMORANDUM

Agenda Item No. 7(E)

(Second Reading 10-4-11)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: July 7, 2011

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

SUBJECT: Ordinance amending Sec. 29-7 of the Code, Documentary Surtax, amending administration, collection and use

The accompanying ordinance was prepared by the Department of Housing and Community Development and placed on the agenda at the request of Prime Sponsor Commissioner Rebeca Sosa.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum

MIAMI-DADE COUNTY

Date: October 4, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Alina T. Hudak
County Manager

Subject: Ordinance Amending Section 29-7 of the Code of Miami-Dade County; Documentary Surtax

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Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached ordinance amending Section 29-7, Code of Miami-Dade County (County Code), regarding the Documentary Surtax (Surtax) Program. The proposed amendment makes the County's Surtax ordinance consistent with Section 125.0167, Florida Statutes, as amended.

The Florida Legislature amended Section 125.0167, Florida Statutes: Discretionary Surtax on Documents, which changed the method allocating the revenues from Miami-Dade County's Surtax Program. Miami-Dade County has been adhering to these statutory requirements since their adoption by the Florida Legislature.

Scope

Surtax funds are used to fund eligible affordable housing activities throughout Miami-Dade County.

Fiscal Impact

The proposed ordinance will not result in a fiscal impact to Miami-Dade County. The FY 2010-11 Adopted Budget includes $12 million in new Surtax revenues to support affordable housing activities countywide.

Track Record/Monitor

The Department of Housing and Community Development (DHCD) will monitor implementation of this ordinance.

Background

The 2009 Florida Legislature amended Section 125.0167, Florida Statutes: Discretionary Surtax on Documents modifying the application of revenues relating to the Surtax Program. The changes to the statute are as follows:

- Limits administrative costs to 10 percent.
- Mandates that no less than 35 percent of the County's Surtax allocations are spent on homeownership assistance activities for low-income and moderate-income families and no less than 35 percent on rental activities including the construction, rehabilitation, and purchase of rental housing units.
- Stipulated that allocation of the remaining 20 percent may be for homeownership assistance or rental housing units, at the discretion of the County.
- Requires that funding set aside for homeownership assistance or rental housing activities that is not committed at the end of the fiscal year shall be allocated in subsequent years in the same percentage as indicated above (35 percent for homeownership and 35 percent for rental).

- Allows funding from the 20 percent not committed to be earmarked for homeownership or rental activities.
- Expands the definition of the term "homeownership assistance" to include assistance to low and moderate income families in purchasing a home as their primary residence, consisting of, but not limited to, the reduction in:
    1. The cost of the home with below-market construction financing,
    2. The amount of down payment and closing costs paid by the borrower, or
    3. The mortgage payment to an affordable amount for the purchaser or using any other financial assistance measure set forth in Section 420.5088, Florida Statutes.
- Allows for the rehabilitation of housing owned by a recipient government (such as public housing developments and market rental properties owned by the County) only upon a determination by the governing body that no other sources of funds are available.
- Permits counties, at their discretion, to establish housing choice assistance voucher programs by ordinance, in conjunction with purchasing employers. Staff does not recommend establishing a housing choice assistance voucher program with Surtax Program funds since eligibility for these vouchers is limited to employees of purchasing employers who purchase homes within a five-mile radius of the purchasing employer. In addition, added administrative resources will be needed to enforce the program requirement and to monitor program controls.

Prior to these statutory changes, there were different minimum and maximum thresholds for housing activities. This statutory action by the Florida Legislature requires the Board to amend Section 29-7, Code of Miami-Dade County, to include the above additional mandates.

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: October 4, 2011

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

SUBJECT: Agenda Item No. 7(E)

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
Veto _____
Override _____

Agenda Item No. 7(E)
10-4-11

ORDINANCE NO. _____

ORDINANCE AMENDING SECTION 29-7, CODE OF MIAMI-DADE COUNTY, DOCUMENTARY SURTAX, AMENDING ADMINISTRATION, COLLECTION AND USE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND EFFECTIVE DATE

WHEREAS, pursuant to Chapter 83-220, Florida Statutes, and the Miami-Dade County Home Rule Amendment and Charter, the Board of County Commissioners of Miami-Dade County ("Board") established the "Metropolitan Dade County Documentary Surtax Program" ("County Surtax Program") for affordable housing programs in Miami-Dade County; and

WHEREAS, the 2009 Florida Legislature amended Section 125.0167, Florida Statutes, Discretionary Surtax on Documents, relating to the application of Documentary Surtax revenue; and

WHEREAS, the Board desires to amend Section 29-7, Code of Miami-Dade County, to ensure said ordinance is consistent with the new requirements set forth is Section 125.0167, Florida Statute; and

WHEREAS, the Florida Legislature further amended Section 125.0167 to authorize the governing body of each county, at their discretion, to enact ordinances establishing housing choice assistance voucher programs,

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

Section 1. Section 29-7 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec 2-97. Documentary Stamps.

(A) ***Legislative findings, authority and intent.***

This article is enacted pursuant to the provisions of Chapter 83-220, Florida Statutes and the Miami-Dade County Home Rule Charter and shall be known as the "[[~~Metropolitan~~]] >>Miami-<< Dade County Documentary Surtax Ordinance."

The Board of County Commissioners of Miami-Dade County hereby finds and declares that there is a great and urgent need in this community for the construction and rehabilitation of all types of affordable housing. This Board further finds that the documentary surtax program has been widely successful in meeting this need and should continue to fund the construction and rehabilitation of housing for low and moderate income families through the provision of second mortgages, construction loans and other programs.

This article is hereby declared to be remedial and essential to the public interest. It is intended that the provisions of this article be liberally construed to effect the purposes stated herein, and shall be cumulative, supplemental to and not in derogation of any provision of the Florida Statutes, Code of Miami-Dade County or other applicable law.

(B) Definitions.

* * *

[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.

>>(3) ***Homeownership Assistance.*** For purposes of this section, the term "homeownership assistance" means assisting low-income and moderate-income families in purchasing a home as their primary residence, including, but not limited to, reducing the cost of the home with below-market construction financing, the amount of down payment and closing costs paid by the borrower, or the mortgage payment to an affordable amount for the purchaser or using any other financial assistance measure set forth in Section 420.5088, Florida Statutes. <<

[[(~~3~~)]]>>(4)<< ***Low income family***. For purposes of this section, the term "low income family" shall mean a family whose income does not exceed eighty (80) percent of the median income of families living in the same or similar geographic area, or any other definition determined by regulation of the United States Department of Housing and Urban Development.

[[(~~4~~)]] >>(5)<< ***Moderate income family***. For purposes of this section, the term "moderate income family" shall mean a family whose income exceeds eighty (80) percent, but is less than one hundred forty (140) percent of the median income of families living in the same or similar geographic area, or any other definition determined by regulation of the United States Department of Housing and Urban Development.

[[(~~5~~)]] >>(6)<< ***Revenue.*** For purposes of this section, the term "revenue" shall mean all taxes, fees, penalties, revenue or any other funds collected by the State of Florida pursuant to the provisions of this

ordinance and Chapters 201 and 83-220, Florida Statutes.

[[~~(6)~~]] >>(7)<< ***Single family residence.*** For purposes of this section, the term "single family residence" shall include but not be limited to detached dwellings, condominium units or units held through stock ownership or members representing a proprietary interest in a corporation owning a fee or leasehold initially in excess of ninety-eight (98) years.

* * *

(E) ***Administration, collection and use.***

* * *

(3) There is hereby created the Miami-Dade County Housing Assistance Loan Trust Fund (hereinafter referred to as "the Housing Trust Fund"). All revenue collected by the State of Florida Department of Revenue pursuant to the provisions of this ordinance and Chapters 201 and 83-220, Florida Statutes, less any costs of administration, shall be remitted to Miami-Dade County and placed into the Housing Trust Fund. The revenue shall be used only to finance the construction, rehabilitation or purchase of housing for low and moderate income families and to pay the necessary costs of collection and enforcement of the documentary surtax, >>and to fund any local matching contributions that may be required pursuant to federal law,<< subject to the following limitations and requirements:

* * *

>>**(h)** No more than ten percent (10%) of surtax revenues collected by the Florida Department of Revenue and remitted to Miami-Dade County in any fiscal year may be used by the County for administrative costs.

(i) Notwithstanding the provisions of subsection (E)(3) of this Section, of the discretionary surtax revenues collected by the Florida Department of Revenue remaining after any deduction for administrative costs as provided in subsection (E)(3)(h), no less than thirty five percent (35%) shall be used to provide homeownership assistance for low-income and moderate-income families, and no less than thirty five percent (35%) shall be for construction, rehabilitation, and purchase of rental housing units. The remaining amount may be allocated for homeownership assistance or rental housing units, at the discretion of Miami-Dade County. Any funds allocated for homeownership assistance or rental housing units that are not committed at the end of the fiscal year shall be reallocated in subsequent years consistent with the provisions of this subsection, in that no less than thirty five percent (35%) shall be reallocated to provide homeownership assistance for low-income and moderate-income families, and no less than thirty five percent (35%) shall be reallocated for construction, rehabilitation, and purchase of rental housing units. The remaining amount of uncommitted funds may be reallocated at the discretion of Miami-Dade County within any of the categories established in this subsection.

(j) Rehabilitation of housing owned by Miami-Dade County may be authorized only after a determination approved by a majority of the governing body that no other sources of funds are available.<<

* * *

Section 2. 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 3. 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 4. 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: RAC

Prepared by: BKN

Brenda Kuhns Neuman