

MEMORANDUM

Agenda Item No. 11(A)(27)

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

DATE: January 24, 2012

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

SUBJECT: Resolution urging Congress to pass H.R. 2599, the PACE Assessment Protection Act, or similar Legislation that would prohibit Fannie Mae, Freddie Mac and other Federal residential and commercial mortgage lending regulators from adopting policies that contravene established State and local property assessed clean energy (PACE) laws

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jean Monestime.



R. A. Cuevas, Jr.
County Attorney

RAC/jls



MEMORANDUM

(Revised)

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

DATE: January 24, 2012

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County Attorney

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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

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1-24-12

Veto _____

Override _____

RESOLUTION NO. _____

RESOLUTION URGING CONGRESS TO PASS H.R. 2599, THE PACE ASSESSMENT PROTECTION ACT, OR SIMILAR LEGISLATION THAT WOULD PROHIBIT FANNIE MAE, FREDDIE MAC AND OTHER FEDERAL RESIDENTIAL AND COMMERCIAL MORTGAGE LENDING REGULATORS FROM ADOPTING POLICIES THAT CONTRAVENE ESTABLISHED STATE AND LOCAL PROPERTY ASSESSED CLEAN ENERGY (PACE) LAWS

WHEREAS, in 2010, the Florida legislature enacted Chapter 2010-139, Laws of Florida (HB 7179), which created section 163.08, Florida Statutes, commonly known as the Property Assessed Clean Energy (PACE) law; and

WHEREAS, among other provisions, section 163.08 authorized cities and counties to:

- Establish voluntary energy efficiency and renewable energy programs for the purpose of providing and financing qualifying improvements;
- Levy a non-ad valorem assessment to fund a qualifying improvement;
- Incur debt to provide financing for qualifying improvements; and
- Collect costs incurred from financing qualifying improvements through a non-ad valorem assessment, a municipal or county lien, or through any other lawful method; and

WHEREAS, Section 163.08 includes findings by the Florida Legislature that there is a compelling state interest in enabling property owners to voluntarily finance energy efficient and renewable energy improvements with local government assistance; and

WHEREAS, on November 4, 2011, this Board passed Ordinance 10-78, which established a voluntary energy efficiency and renewable energy program pursuant to Section 163.08 to provide Miami-Dade County homeowners options to fund energy efficient and renewable energy improvements through federal or state grant funds, private loans from a financial institution, and loans from the County and private or not-for-profit sources of funds; and

WHEREAS, energy efficiency and renewable energy retrofits create much needed local “Green-Collar” construction jobs in our county; and

WHEREAS, districts have been established in other parts of the U.S. to fund energy efficiency improvements and renewable energy improvements through loans to property owners who agree to repay such loans through a special assessment on their ad valorem tax bill; and

WHEREAS, the U.S. Department of Energy encouraged the use of such voluntary PACE assessments as an innovative way for local governments to spur energy efficiency renovation and job creation; and

WHEREAS, Fannie Mae and Freddie Mac, which hold approximately half of the home mortgages in the U.S., issued letters in May, 2010, contradicting the policies of the Department of Energy and the White House, indicating that PACE districts put lenders second in line to collect if a homeowner defaults on a loan; and

WHEREAS, these actions have largely frozen PACE programs for residential housing; and

WHEREAS, Congresswoman Nan Hayworth (R - New York) has sponsored H.R. 2599, the PACE Assessment Protection Act of 2011 to prohibit Fannie Mae, Freddie Mac, and other Federal residential and commercial mortgage lending regulators from adopting policies that contravene established state and local property assessed clean energy laws; and

WHEREAS, several members of the Florida Congressional delegation have signed onto the bill as cosponsors, including Representatives Mario Diaz-Balart, Alcee Hastings, Thomas Rooney, Ileana Ros-Lehtinen, Steve Southerland, Alan West and C.W. Bill Young; and

WHEREAS, this Board would like to express its support for this H.R. 2599,

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

Section 1. Urges Congress to pass H.R. 2599, the PACE Assessment Protection Act, or similar legislation that would prevent Fannie Mae, Freddie Mac, and other Federal residential and commercial mortgage lending regulators from adopting policies that contravene established State and local property assessed clean energy laws.

Section 2. Urges the remaining members of the Florida Congressional Delegation to cosponsor this legislation.

Section 3. Directs the Clerk of the Board to transmit certified copies of this resolution to the members of the Florida Congressional Delegation.

Section 4. Directs the County's federal lobbyists to support the legislation set forth in Section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to include this item in the 2012 federal legislative package.

The Prime Sponsor of the foregoing resolution is Commissioner Jean Monestime. 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:

Joe A. Martinez, Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

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The Chairperson thereupon declared the resolution duly passed and adopted this 24th day of January, 2012. 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.

Handwritten signature of Jess M. McCarty, consisting of stylized initials and the letters 'JMM'.

Jess M. McCarty