

MEMORANDUM

Agenda Item No. 11(A)(36)

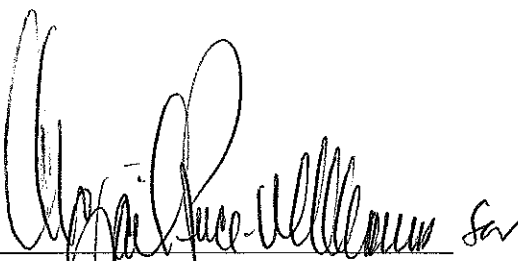
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: July 3, 2012

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

SUBJECT: Resolution urging the Florida Legislature to enact limited amnesty from penalties and interest to encourage taxpayers who improperly received homestead exemptions to come forward, pay past taxes, and have their properties properly placed on the tax roll for future tax years

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz.



R. A. Cuevas, Jr.
County Attorney

RAC/jls



MEMORANDUM

(Revised)

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

DATE: July 3, 2012

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

SUBJECT: Agenda Item No. 11(A)(36)

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. 11(A)(36)

Veto _____

7-3-12

Override _____

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO ENACT LIMITED AMNESTY FROM PENALTIES AND INTEREST TO ENCOURAGE TAXPAYERS WHO IMPROPERLY RECEIVED HOMESTEAD EXEMPTIONS TO COME FORWARD, PAY PAST TAXES, AND HAVE THEIR PROPERTIES PROPERLY PLACED ON THE TAX ROLL FOR FUTURE TAX YEARS

WHEREAS, Florida law provides for a homestead exemption from ad valorem taxes and a cap or limitation on increases in the assessment on homestead property, including those provided in sections 196.031 and 193.155, Florida Statutes (“Exemptions”); and

WHEREAS, due in part to the decline in the real estate market caused by the current recession and the resulting financial pressures on residential property owners, there has been an increase in the number of instances in which taxpayers have improperly claimed and received such Exemptions; and

WHEREAS, instances in which taxpayers have improperly received Exemptions both shifts the tax burden to other taxpayers and reduces the revenues that should otherwise be available to fund schools, public safety, and local government services; and

WHEREAS, under Florida law, punishments for improper Exemptions currently include a lien of back taxes extending back ten years, plus a penalty of 50 percent of the unpaid taxes, plus interest at the rate of 15 percent per year; and

WHEREAS, existing law allows for the waiver of penalties and interest on an improper homestead exemption only in very limited circumstances, for example, based upon a “clerical mistake or an omission by the Property Appraiser,” section 196.161 (1) (b), Florida

Statutes; and that, therefore, existing law would need to be changed in order to implement a meaningful amnesty program; and

WHEREAS, such limited waiver provisions as exist under current law may have an unduly punitive effect in cases where an Exemption was obtained or kept mistakenly rather than fraudulently; and

WHEREAS, such limited waiver provisions may also have the unintended consequences of discouraging taxpayers who might otherwise be prepared to come forward, pay back taxes, and have their properties properly placed on the tax roll; and

WHEREAS, reasonable positive incentives, such as programs for limited amnesty from penalties and interest, may better serve to obtain compliance with the tax laws and increase the flow of ad valorem revenues used to fund schools, public safety, and other local government services,

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 enact limited amnesty from penalties and interest for taxpayers who have improperly received homestead tax exemptions and limitations to encourage those taxpayers to come forward, to pay back taxes, and to cooperate with efforts to have their properties properly placed on the tax roll for future tax years.

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

Section 3. Directs the County's state 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 2013 state legislative package when it is presented to the Board.

The Prime Sponsor of the foregoing resolution is Commissioner Jose "Pepe" Diaz. 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 | |

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of July, 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.

Twl

Thomas W. Logue