

MEMORANDUM

Agenda Item No. 7(B)

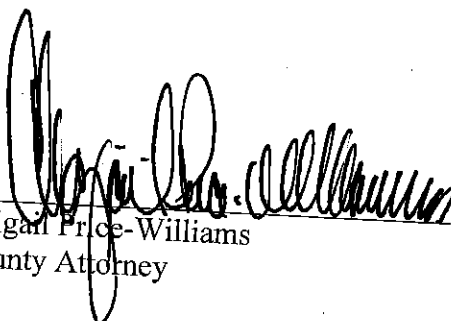
TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: (Second Reading 6-4-19)
March 19, 2019

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to animals;
creating section 5-10.1 of the
Code; prohibiting pet leasing
and pet-collateral transactions;
amending section 8CC-10 of the
Code; establishing civil penalties
for violation of section 5-10.1

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Daniella Levine Cava and Co-Sponsors Commissioner Barbara J. Jordan and Senator Javier D. Souto.


Abigail Price-Williams
County Attorney

APW/lmp

Memorandum

MIAMI-DADE
COUNTY

Date: June 4, 2019

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor



Subject: Fiscal Impact Statement for Ordinance Relating to Animals; Prohibiting Pet Leasing and Pet-Collateral Transactions

The implementation of this ordinance will not result in additional staffing needs or future operational costs. Currently, the Animal Services Department investigates complaints related to the purchase of pets across the County. Enforcement efforts for violations under the proposed ordinance would, likely, be complaint driven by the consumer(s) and would be conducted with existing staff. Although it is difficult to determine at this time, the proposed ordinance may have a positive fiscal impact to the County based on revenues received from the proposed civil citations.



Alina Hudak
Deputy Mayor

Fis03219 190623

Memorandum



Date: June 4, 2019

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez".

Subject: Social Equity Statement for Ordinance Relating To Animals Clarifying Existing
Language By Amending Section 5-1 and Creating Section 5-13.2

The proposed ordinance amends Chapter 5, Section 1, of the Code of Miami-Dade County by clarifying the existing definitions of a breeder, hobby breeder, pet dealer and kennel. The addition of section 5-13.2 provides clarification related to existing licensing and regulation requirements related to individuals or business entities operating as a breeder, pet dealer or kennel.

There is no social equity impact as the proposed ordinance clarifies the prohibitions for individuals and establishments to conduct these type of businesses in Miami-Dade County, closing the loop hole of unauthorized pet sales.

A handwritten signature in black ink, appearing to read "Alina T. Hudak".

Alina T. Hudak
Deputy Mayor



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: June 4, 2019

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(B)

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
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) 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. 7(B)

Veto _____

6-4-19

Override _____

ORDINANCE NO. _____

ORDINANCE RELATING TO ANIMALS; CREATING SECTION 5-10.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROHIBITING PET LEASING AND PET-COLLATERAL TRANSACTIONS; AMENDING SECTION 8CC-10 OF THE CODE; ESTABLISHING CIVIL PENALTIES FOR VIOLATION OF SECTION 5-10.1; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, a harmful and at times predatory practice known as “pet leasing” has become increasingly widespread nationwide; and

WHEREAS, a typical pet lease has the following characteristics:

- a person takes possession of a pet but does not become the owner of the pet; rather, the company that leases the pet retains ownership of it;
- the person leasing the pet must make monthly payments to the leasing company; and
- if the person leasing the pet defaults on the monthly payments, the leasing company repossesses the pet; and

WHEREAS, under some pet leases, even if the person leasing the pet pays all of the monthly payments, the person must pay an onerous fee at the end of the lease term if the person wishes to become the owner of the pet rather than surrender the pet to the leasing company; and

WHEREAS, some pet leasing companies steer would-be pet owners into financially onerous, high-interest loans so that a would-be pet owner can keep a leased pet rather than surrender the pet to the leasing company at the end of the lease term; and

WHEREAS, pet-leasing companies have been accused of tricking consumers into pet leases by mischaracterizing pet transactions or not fully disclosing the terms of the pet transactions; and

WHEREAS, for example, there have been reports of consumers signing paperwork that the consumers think gives them ownership of the pet, but in reality, the pet dealer has concealed from the consumer that the paperwork is actually a pet lease, which does not confer ownership rights over the pet; and

WHEREAS, similar to a pet lease, some pet-sale transactions are structured so that the pet buyer takes possession of the pet and makes monthly payments toward the cost of the pet, but if the buyer defaults on the payments, the seller has the right to repossess the pet as collateral in satisfaction of the debt owed under the pet-sale transaction; and

WHEREAS, some consumers have signed agreements thinking that they are entering into monthly payment plans to purchase a pet, but the pet dealer has concealed from the consumer that the pet serves as collateral to the payment plan; and

WHEREAS, pet leases and pet-collateral transactions can be financially predatory and emotionally distressing to Miami-Dade County residents and their families; and

WHEREAS, pet leases and pet-collateral transactions are cruel to pets, who undergo emotional distress upon being removed from the families with whom they may have been living for an extended period of time; and

WHEREAS, pets that undergo emotional distress may also develop behavioral issues, which in turn make them less adoptable to new families; and

WHEREAS, pets that cannot be adopted are often surrendered to the Miami-Dade County Animal Services Department, which in turn puts strain on County resources, as the County must provide care and shelter for these surrendered pets, all while attempting to find suitable, permanent homes for the pets in County custody; and

WHEREAS, New York, Nevada, and California have enacted laws restricting or prohibiting pet leasing and pet-collateral transactions; and

WHEREAS, this Board finds it appropriate to prohibit pet leasing and pet-collateral transactions for the welfare of Miami-Dade County residents and their pets; and

WHEREAS, to enforce this prohibition, this Board wishes to establish civil penalties against any person or entity who violates the prohibition,

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

Section 1. The foregoing recitals are incorporated herein and are approved.

Section 2. Section 5-10.1 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:¹

>>Sec. 5-10.1. Prohibition of pet leasing and pet-collateral transactions.

- (a) It shall be unlawful to lease a dog or cat. Any such contract entered into after the effective date of this ordinance shall be void as against public policy, and the person who took possession of the dog or cat under such a contract shall be deemed the legal owner of the dog or cat.
- (b) No contract for the sale or transfer of a dog or a cat or the financing of such sale or transfer shall include any provision

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.

that authorizes the use of a dog or a cat as collateral, by which such dog or cat may be repossessed if the purchaser defaults under such contract. Any such contract or financing arrangement entered into after the effective date of this ordinance shall be void as against public policy, and the person who took possession of the dog or cat under such a contract shall be deemed to remain the legal owner of the dog or cat regardless of any default.

- (c) Any seller or transferor of animals who violates the provisions of this section shall be subject to a civil penalty. Each prohibited transaction shall subject the violator to a separate civil penalty.
- (d) Nothing in this section shall be construed to prohibit:
 - (1) The purchase of a dog or cat through an unsecured personal loan; or
 - (2) Adoption or sale contracts involving public or private animal shelters, animal rescue organizations, pet dealers, breeders, or other persons or entities that provide that animals may be reclaimed because the adopter or purchaser is not providing appropriate care for the animal or because the animal was lost or stray and the original owner has been located and wishes to reclaim the animal, provided that such reclamation provisions are clearly set out in the agreement.
- (e) Exemptions. This section shall not apply to agreements involving provision of animals for lawful breeding purposes; lawful use in professional shows and exhibitions; and working purposes, such as service animals, guard dogs in compliance with section 5-13.1, or law enforcement dogs.<<

Section 3. Section 8CC-10 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

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

The following table shows the sections of this Code, as they may be amended from time to time, which may be enforced pursuant to the provisions of this chapter; and the dollar amount of civil penalty for the violation of these sections as they may be amended.

8

* * *

<u>Code Section</u>	<u>Description of Violation</u>	<u>Civil Penalty</u>
	* * *	
>>5-10.1	<u>Selling or transferring a dog or cat in a pet lease or pet-collateral agreement.</u>	<u>500.00<<</u>

Section 4. 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 5. 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 6. 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:

Christopher J. Wahl
Dennis A. Kerbel

APW
CJW

Prime Sponsor: Commissioner Daniella Levine Cava
Co-Sponsors: Commissioner Barbara J. Jordan
Senator Javier D. Souto