

MEMORANDUM

Agenda Item No. 11(A)(22)

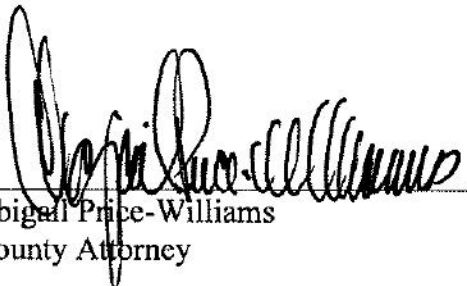
TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: April 7, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution urging the Florida Legislature to enact legislation prohibiting payday lenders that utilize “rent-a-bank” practices from doing business in the state; and urging the Florida Office of Financial Regulation to strictly enforce existing payday lending regulations, in light of the likely increased demand for payday loans resulting from the economic impact of the coronavirus disease 2019 (COVID-19) pandemic

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Daniella Levine Cava.


Abigail Price-Williams
County Attorney

APW/uw



MEMORANDUM
(Revised)

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

DATE: April 7, 2020

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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
- 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
Veto _____
Override _____

Agenda Item No. 11(A)(22)
4-7-20

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO ENACT LEGISLATION PROHIBITING PAYDAY LENDERS THAT UTILIZE “RENT-A-BANK” PRACTICES FROM DOING BUSINESS IN THE STATE; AND URGING THE FLORIDA OFFICE OF FINANCIAL REGULATION TO STRICTLY ENFORCE EXISTING PAYDAY LENDING REGULATIONS, IN LIGHT OF THE LIKELY INCREASED DEMAND FOR PAYDAY LOANS RESULTING FROM THE ECONOMIC IMPACT OF THE CORONAVIRUS DISEASE 2019 (COVID-19) PANDEMIC

WHEREAS, coronavirus disease 2019 (COVID-19) is an infectious disease caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), a novel coronavirus that was first identified in Wuhan, Hubei Province, China in December 2019; and

WHEREAS, the disease has since spread globally, and on March 11, 2020 the World Health Organization officially declared COVID-19 a pandemic; and

WHEREAS, as of March 29, 2020, the total number of confirmed cases of COVID-19 worldwide is over 718,000, with more than 140,000 of those in the United States; and

WHEREAS, COVID-19 can spread among humans through respiratory transmission and presents with symptoms similar to those of influenza; and

WHEREAS, on March 9, 2020, Governor Ron DeSantis issued Executive Order 20-52 declaring a state of emergency for the entire State of Florida as a result of COVID-19; and

WHEREAS, on March 12, 2020, Mayor Carlos A. Gimenez declared a state of emergency for Miami-Dade County as a result of COVID-19; and

WHEREAS, to help curb the spread of COVID-19, state and local governments throughout the country have ordered non-essential businesses to close and have strongly urged residents to stay at home; and

WHEREAS, consequently, many businesses are now facing a dire threat to their survival, and an increasingly large number of employees are being laid off or furloughed; and

WHEREAS, indeed, the economic impact of the COVID-19 pandemic is expected to be quite severe, with economists estimating the pandemic to last between 12 and 24 months and the economic damage to be in the trillions of dollars; and

WHEREAS, as a result of this steep economic downturn, there is likely to be an increased demand for individuals to seek out deferred presentment transactions, more commonly known as payday loans; and

WHEREAS, a payday loan is the provision of currency by a lender or financial institution in exchange for a borrower's check and the lender's agreement to hold the check for a specific number of days until depositing, presenting, or redeeming the payment instrument; and

WHEREAS, Florida law currently authorizes payday loans for a maximum loan amount of \$500, exclusive of fees, a term of at least seven days to a maximum of 31 days, and fees of up to 10 percent of the loan amount; and

WHEREAS, part IV of chapter 560 of the Florida Statutes governs payday loans, and the Florida Office of Financial Regulation's Division of Consumer Finance regulates payday lenders; and

WHEREAS, while state-chartered banks must comply with the interest rate laws of their own states, they generally are not bound by the interest rate laws of other states; and

WHEREAS, as such, payday lenders sometimes contract with federal and state-chartered banks in other states—particularly those with less strict interest rate laws—as fronts to offer predatory, high-interest loans across the country, a practice known as “rent-a-bank” payday lending; and

WHEREAS, “rent-a-bank” payday lending allows a payday lender to evade the usury laws and other interest-rate caps in the state where the borrower resides by contracting with a federal bank or a state-chartered bank in another state; and

WHEREAS, for instance, the effective annual interest rate for a typical payday loan in Texas can be 600 percent or more; and

WHEREAS, payday lending can trap lower-income people who don’t otherwise have access to consumer credit into endless cycles of debt; and

WHEREAS, according to the Pew Charitable Trusts, the average payday loan borrower earns about \$30,000 per year, and about 58 percent have trouble meeting their monthly expenses; and

WHEREAS, the average payday borrower is in debt for nearly half the year because they borrow again to help repay the original loan, spending on average \$520 per year in fees to repeatedly borrow \$375; and

WHEREAS, this Board believes that people should have access to loans that don’t trap them in endless cycles of debt, and that consumers should be protected from high-interest predatory loans, particularly during this strenuous economic time,

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 legislation prohibiting payday lenders that utilize “rent-a-bank” practices from doing business in the state.

Section 2. Urges the Florida Office of Financial Regulation to strictly enforce existing payday lending regulations.

Section 3. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, Senate President, and House Speaker, the Chair and members of the Miami-Dade County State Legislative Delegation, and the Commissioner of the Florida Office of Financial Regulation.

Section 4. Directs the County’s state lobbyists to advocate for the actions set forth in sections 1 and 2 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2020 State Legislative Package to include this item and to include this item in the 2021 State Legislative Package when it is presented to the Board.

The Prime Sponsor of the foregoing resolution is Commissioner Daniella Levine Cava. 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:

Audrey M. Edmonson, Chairwoman	
Rebeca Sosa, Vice Chairwoman	
Esteban L. Bovo, Jr.	Daniella Levine Cava
Jose “Pepe” Diaz	Sally A. Heyman
Eileen Higgins	Barbara J. Jordan
Joe A. Martinez	Jean Monestime
Dennis C. Moss	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this 7th day of April, 2020. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the 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.

MSM

Michael J. Mastrucci