

MEMORANDUM

Agenda Item No. 7(F)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: (Second Reading 3-2-21)
January 20, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to the Homebuyer Loan Program; amending sections 17-160 and 17-161 of the Code; changing target areas; providing for competitive selection of company to provide income certification of applicants; providing for payment of certified loan officers and closing agents; establishing loan position of homebuyer loans; revising repayment, loan, and resale terms

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



Geri Bonzon-Keenan
County Attorney

GBK/smm

Memorandum



Date: March 2, 2021

To: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Fiscal Impact Statement for Ordinance Relating to Homebuyer Loan Program by Amending Sections 17-160 and 17-161 of the Code of Miami-Dade County – Legistar 202578

The proposed ordinance seeks to amend sections 17-160 and 17-161 of the Code of Miami-Dade County, in the following ways: (1) having an independent income certification company certify the income of the program applicants, rather than certified loan officers with the lenders; (2) allowing fees to be charged to cover reasonable costs of the income certification and/or loan closing process; and (3) requiring that the County loan to be in subordinate position to a senior loan(s) (e.g., first mortgages).

The item introduces an independent income certification company which will provide services paid for by the County. As a result, there would be a fiscal impact associated with the implementation of this ordinance. The income certification does not guarantee they will close on a loan. The cost of the income certification company is estimated at \$125,000.00 annually, which will be paid with Surtax administrative funds. Current department staff will provide oversight to the contractor; therefore, the oversight will not have a fiscal impact to the County.

The item also allows lenders to charge fees to cover reasonable costs of the first mortgage lender's certification process. These fees will be a part of the loan to the homebuyer; therefore, this component will not have a fiscal impact to the County.

Lastly, while one of the amendments does specify that loans under this program shall be junior to senior financing, this is the current practice. As such, while being in a junior position poses a risk to the County in the event of default, this feature does not significantly increase the programs current risk profile.

A handwritten signature in black ink that reads "Morris Copeland".

Morris Copeland
Chief Community Services Officer

FIS01921 202578

Memorandum



Date: March 2, 2021

To: Honorable Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor *Daniella Levine Cava*

Subject: Social Equity Statement for Ordinance Relating to the Homebuyer Loan Program by Amending Sections 17-160 and 17-161 of the Code of Miami-Dade County – Legistar 202578

The proposed ordinance seeks to amend sections 17-160 and 17-161 of the Code of Miami-Dade County in the following ways: (1) having an income certification company, rather than certified loan officers, certify the income of program applicants; (2) allowing fees to be charged to cover reasonable costs of the income certification and/or closing process; and (3) requiring that the County loan to be in subordinate loan position to senior financing (e.g., first mortgages). Without these amendments, the involvement of the private sector as intended by the original legislation, cannot be implemented. For example, banking regulatory rules preclude use of “certified loan officers” but do permit participation of an “income certification company” in the review of loan applications.

A significant benefit to the community will be a new streamlined program that will encompass a faster review process. It is estimated that processing may be shortened to 30 to 60 days which can be important in the “locking” in of interest rates.

Public Housing and Community Development Department will continue to be responsible for the development of the program guidelines, training of the partner banks involved in the providing of the first mortgage component of these transactions, and servicing of the County’s portion of the home financing package.

In creating a more effective delivery channel for the junior mortgage Homebuyer Loan Program, these amendments will be assisting more families of low and moderate income achieve homeownership in Miami-Dade County which lags behind the rest of the country by at least five to 10 percentage points depending on the source of the research. Increasing Miami-Dade County’s homeownership rate is in line with the goal of creating community stability, and where real estate markets are consistently strong, homeownership can be part of the foundation for economic advancement.

Morris Copeland

Morris Copeland
Chief Community Services Officer

SE-202578



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: March 2, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(F)

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. 7(F)
3-2-21

ORDINANCE NO. _____

ORDINANCE RELATING TO THE HOMEBUYER LOAN PROGRAM; AMENDING SECTIONS 17-160 AND 17-161 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; CHANGING TARGET AREAS; PROVIDING FOR COMPETITIVE SELECTION OF COMPANY TO PROVIDE INCOME CERTIFICATION OF APPLICANTS; PROVIDING FOR PAYMENT OF CERTIFIED LOAN OFFICERS AND CLOSING AGENTS; ESTABLISHING LOAN POSITION OF HOMEBUYER LOANS; REVISING REPAYMENT, LOAN, AND RESALE TERMS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, on November 3, 2015, this Board adopted Ordinance No. 15-127, creating the Homebuyer Loan Program, codified in sections 17-160 and 17-161 of the Code of Miami-Dade County; and

WHEREAS, the Homebuyer Loan Program was intended to assist low- and moderate-income individuals and families, to encourage young professionals and college graduates to invest in and remain in Miami-Dade County, and to encourage homeownership among low- and moderate-income families in order to facilitate the achievement of personal and familial wealth and stabilize communities; and

WHEREAS, after passage of the ordinance, meetings with members of the industry occurred and led to suggestions to make the program more workable, including: (1) having an income certification company, rather than certified loan officers, certify the income of program applicants; (2) allowing fees to be charged to cover reasonable costs of the certification process; and (3) allowing the County's loan to be in a subordinate loan position; and

WHEREAS, in an effort to improve the program, County staff met with professionals in housing finance industry to see what changes could be instituted; and

WHEREAS, this Board desires to make the changes,

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

Section 1. Section 17-160 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:¹

Sec. 17-160. - Legislative Intent and Purpose.

There is hereby created and established a homebuyer assistance program to be known as the “Homebuyer Loan Program,” which shall provide mortgage loan assistance to assist qualified low- and moderate-income individuals and families in the purchase of a primary residence. This program is intended to assist low- and moderate-income individuals and families, to encourage young professionals and college graduates to invest in and remain in Miami-Dade County, and to encourage homeownership among low- and moderate-income families in order to facilitate the achievement of personal and familial wealth and stabilize communities. The program is also intended to encourage homeownership in the County’s ~~[[Neighborhood Revitalization Strategy Areas (“NRSA”) and Neighborhood Outreach Areas (“NOA”),]]~~ >>Vulnerability Ranked Eligible Block Groups,<< as defined in the County’s Five-Year Consolidated Plan filed with the United States Department of Housing and Urban Development (“U.S. HUD”) for federal Community Development Block Grant, Home Investment Partnerships Program and Emergency Solutions Grant funding.

The Homebuyer Loan Program shall be the mechanism for providing homebuyer mortgage loan assistance using Documentary Surtax funds. This Homebuyer Loan Program ordinance shall apply only to the use of Documentary Surtax funds and shall not govern the use of state or federal funds.

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.

Section 2. Section 17-161 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 17-161. - Administration of the Homebuyer Loan Program.

- (A) The Homebuyer Loan Program shall be administered through the County's Public Housing and Community Development department (the "Department"), or successor department or other department as designated by the County Mayor. >>The income certification of applicants shall be performed by an outside company ("income certification company") selected through a competitive request for proposals process. The County Mayor or County Mayor's designee shall appoint a selection committee for review of the request for proposals and the selection committee shall make a recommendation to the County Mayor regarding the outside company to be awarded a contract. The County Mayor or the County's designee shall negotiate with the selected company to determine a scope of work, payment, and related terms.<< The Department shall develop the Homebuyer Loan Program Guidelines consistent with this ordinance, which guidelines may be revised by the County Mayor or County Mayor's designee from time to time and which shall be made available on the Department's website and provided to all Certified Loan Officers and [~~Certified Closing Agents~~] >>the income certification company<<. The program rules described in this ordinance shall supersede any other homebuyer mortgage assistance program guidelines or legislation not in conformance herewith.
- (B) *Qualification of Borrowers.* Qualification of borrowers shall be conducted by "Certified Loan Officers", which shall mean loan originators and mortgage brokers licensed by the State of Florida who have received a certification of qualification by the County following a training program to be conducted by the County or other agency, as may be delegated by the Board of County Commissioners (the "Board"). There shall be [~~no~~] >>industry standard<< fees >>and<< [~~or~~] costs charged by the Certified Loan Officers to either the County, applicants, or approved borrowers for processing loan applications or qualifying borrowers for the County's Homebuyer Loan Program.

Certified Loan Officers shall submit the borrower's completed Homebuyer Loan Program application package, including completed application forms, qualification letter, conditional underwriting approval, fully executed purchase and sale agreement (if executed), and conditional approval of the first lender along with supporting documentation to the Department. A full list of documents to be submitted to the Department shall be developed by the Department, or successor department, and provided to the Certified Loan Officers during the training program required herein. In order to expedite the home buying process, Certified Loan Officers may ~~[[approve borrowers]]~~ >>issue a pre-qualification letter to a borrower<< prior to the borrower's execution of a purchase and sale agreement for a home.

(C) *Loan Review and Approval.* The ~~[[Department]]~~ >>Certified Loan Officers<< shall conduct ~~[[a quality control]]~~ >>an<< underwriting review to ensure completeness of the Homebuyer Loan Program application package and that each borrower meets the basic qualifications of the program. This review shall be completed no more than five (5) business days from the time the completed Homebuyer Loan Program application package is ~~[[submitted to the Department]]~~ >>received by the Certified Loan Officer<<.

(D) *Loan Closing.* The ~~[[Department staff]]~~ >>Certified Loan Officers<< shall process the completed Homebuyer Loan Program application package through post-closing. During that time, the ~~[[Department]]~~ >>Certified Loan Officers<< shall review the title policy, insurance and first lender loan commitment. The Department may establish additional items to be reviewed prior to closing. The Department shall issue a loan commitment for funding and process the request for funding to the Finance Department, or other funding department, for disbursement of the loan funds at the time of closing.

Loan closing shall be conducted by a "~~[[Certified]]~~ Closing Agent," which shall mean a title insurer, title insurance agent or agency, or attorney agent in the agent's or agency's capacity licensed by the State of Florida ~~[[who has received a certification of qualification by the County following a training program conducted by the County or other agency, as may be delegated by the Board]].~~

At loan closing, the borrower shall execute the County’s loan documents, which shall consist of a promissory note, a mortgage, and a restrictive covenant. The loan documents shall be provided to the Certified ~~[[Closing Agents]]~~>>Loan Officers<< and may not be substantially modified without the consent of the Department. The Department shall provide instructions to Certified ~~[[Closing Agents]]~~>>Loan Officers<< describing how the County’s loan documents are to be completed. All provisions regarding the terms of the loans shall be encompassed in the documents provided.

>>After the loan closing, the Department shall conduct a random quality control review of the underwriting to insure completeness of the Homebuyer Loan Program application package, process and that borrowers meet the basic qualifications of the Program.<<

(E) The loans provided through the Homebuyer Loan Program (the “Homebuyer Loan”) shall include the following terms.

(1) **Limitations on Use and Resale of Property.** Borrower shall use the property as a primary residence. The property may not be rented, leased, or otherwise used as income or investment property for as long as the loan remains in effect. Violation of this provision shall cause the loan to be accelerated and the entire balance of the loan, including principal and interest, shall become immediately due and payable to the County. If the borrower sells, transfers, rents or vacates the property, the entire balance of the loan, including principal and interest, shall become due upon vacating, selling, renting or transferring the property.

A restrictive covenant shall be required as a part of the Homebuyer Loan Program, which covenant shall include the residency, resale restrictions and shared equity restrictions set forth in this ordinance as well as other terms included at the discretion of the Department not inconsistent with this ordinance.

(2) *Subordination of the County’s Homebuyer Loan.* The County’s loan provided through the Homebuyer Loan Program shall be a second mortgage loan in priority, subordinate to the first >>mortgage<<

lender~~[[, so long as the first loan (a) is for an amount greater than the amount of the County's Homebuyer Loan, (b) has a fixed interest rate considered to be a reasonable market rate, (c) has no balloon payment, and (d) has no pre-payment penalty. If the other loan(s) are for amounts less than the amount of County's Homebuyer Loan, then the County's Homebuyer Loan shall be the senior loan with priority over the other lender(s)]]~~. The County's loan provided through the Homebuyer Loan Program may be a third mortgage loan or lower in priority, at the discretion of the Department, so long as the senior lender is known to be a state, county, city, local housing agency, or nonprofit organization. All loans other than the first mortgage loan must be subordinate to the County's Homebuyer Loan Program loan, unless the subordination is expressly consented to by the Department upon a finding that such subordination is in the best interest of the County.

3) *Loan Terms.*

- (a) *Term of Loan.* The Homebuyer Loan shall be for a term of 30 years, and interest and payments shall be calculated based upon a 30-year term.
- (b) *Interest rate.* The Homebuyer Loan program shall encourage homeownership in the County's ~~[[NRSAs and NOAs]]~~ >>County's Vulnerability Ranked Eligible Block Groups<< by offering more favorable loan terms for Homebuyer Loans used to acquire homes in the ~~[[NRSAs and NOAs]]~~ >>County's Vulnerability Ranked Eligible Block Groups<<.
- (i) *Target Area Loans.* Homebuyer Loans used to acquire homes in the County's ~~[[NRSAs and NOAs]]~~ >>County's Vulnerability Ranked Eligible Block Groups<< shall have a one percent ~~[[4%]]~~ compounded interest rate~~[[and shall be recorded as satisfied after ten (10) years, so long as the Homebuyer Loan is not in default or in arrears at the time of satisfaction, Borrower has resided in the property for the entire life of the loan, and~~

~~Borrower has demonstrated a general diligence and overall compliance with the loan terms. The County Mayor or County Mayor's designee shall publish standards by which the Borrower's general diligence and overall compliance with the loan terms may be established]].~~

- (ii) *Non-Target Area Loans.* Homebuyer Loans used to acquire homes outside of the County's ~~[[NRSAs and NOAs]]~~ >>County's Vulnerability Ranked Eligible Block Groups<< shall have a >>two percent<< ~~[[2 percent (2%)]]~~ compounded interest rate ~~[[and shall be recorded as satisfied after twenty (20) years, so long as the Homebuyer Loan is not in default or in arrears at the time of satisfaction, Borrower has resided in the property for the entire life of the loan, and Borrower has demonstrated a general diligence and overall compliance with the loan terms. The County Mayor or County Mayor's designee shall publish standards by which the Borrower's general diligence and overall compliance with the loan terms may be established]].~~

Section 3. 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 4. 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 5. 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:



Shannon D. Summerset-Williams

Prime Sponsor: Commissioner Jean Monestime