

MEMORANDUM

Agenda Item No. 7(C)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: November 3, 2015

FROM: Abigail Price-Williams
County Attorney

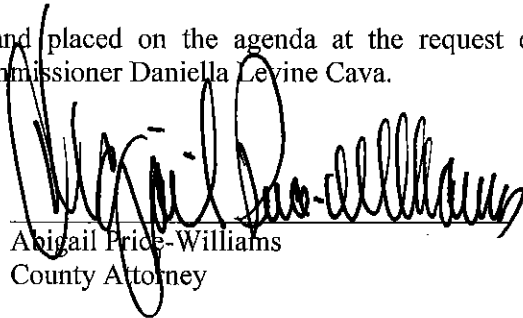
SUBJECT: Ordinance creating Article XII of Chapter 17 of the Code establishing Homebuyer Loan Program using Documentary Surtax funds; establishing program for certifying qualified loan officers to approve participant homebuyers for the program; establishing program for certifying qualified closing agents to close homebuyer loans; establishing essential terms of the program; amending section 29-7 of the Code to make the Documentary Surtax Program consistent with the Homebuyer Loan Program established herein

Ordinance No. 15-127

A substitute was presented at the 10-15-15 Economic Prosperity Committee. This substitute differs from the original in that it requires the County loan to be senior to other loans if the County's loan is for a greater amount, eliminates mortgage brokers from those who may become Certified Loan Officers, requires a greater level of compliance with the County loan terms in order to qualify for satisfaction of the loan after ten or 20 years, changes the shared equity provisions, requires a down payment, and corrects scrivener's errors. Also, a revised fiscal impact statement has been provided to correct the attachment.

This item was further amended to permit mortgage brokers to be Certified Loan Officers.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Chairman Jean Monestime and Co-Sponsor Commissioner Daniella Levine Cava.



Abigail Price-Williams
County Attorney

APW/smm

Memorandum



Date: November 3, 2015

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, likely belonging to Carlos A. Gimenez, the Mayor.

Subject: SUBSTITUTE - Ordinance Establishing Homebuyer Loan Program

The substitute differs from the original to provide a corrected attachment.

The proposed ordinance creates Article XII of Chapter 17 of the Code of Miami-Dade County, establishing the Homebuyer Loan Program using Documentary Surtax funds. In addition to certifying qualified loan officers to approve participant homebuyers for the program and certifying qualified closing agents to close homebuyer loans, it also establishes essential terms of the program and amends Section 29-7 of the Code to make the Documentary Surtax Program consistent with the changes proposed for the Homebuyer Loan Program.

Establishing the homebuyer loan program using documentary surtax funds will have an estimated \$83,000 fiscal impact to the County. It is estimated that one additional Homeownership Specialist at approximately \$73,000 for both salary and fringes will be required to support and conduct the minimum of two training workshops to be held annually to train the prospective qualified loan officers, as well as performing the required quality control review of the loan application packages within the 5-day established time frame. It is anticipated that the current homeownership program would realize some efficiencies in processing time which has been taken under consideration in this analysis. The proposed ordinance will also require approximately \$10,000 in other operating expenses to create and purchase brochures, flyers, and training materials to train loan officers. The forecast of expenditures included in the attached table assumes a five percent annual inflationary increase for salary and fringes and three percent for operating expenses, and is subject to change. The estimated expenses will be funded by Documentary Surtax revenues and will be subject to the Surtax statutory ten percent cap for administrative expenses. This expense is not part of the FY 2015-16 Proposed Budget.

A handwritten signature in black ink, likely belonging to Russell Benford, the Deputy Mayor.

Russell Benford
Deputy Mayor

Attachment
fis08615 sub

Fiscal Impact Table

Use Existing
Resources

Revenue Category	Value	Year 1	Future Yr 1	Future Yr 2	Future Yr 3	Future Yr 4	Future Yr 5	Yes	No
General Fund									
Proprietary									
Federal Funds									
State Funds	\$ 83,366	\$ 83,366	\$ 87,334	\$ 91,495	\$ 95,858	\$ 100,432	\$ 105,228		
Interagency Transfers									
Subtotal	\$ 83,366	\$ 83,366	\$ 87,334	\$ 91,495	\$ 95,858	\$ 100,432	\$ 105,228		
Expenditure Category									
Operating									
Salary	\$ 56,154	\$ 56,154	\$ 58,962	\$ 61,910	\$ 65,005	\$ 68,256	\$ 71,668		X
Fringes	\$ 17,212	\$ 17,212	\$ 18,073	\$ 18,976	\$ 19,925	\$ 20,921	\$ 21,967		
Court Costs									
Contractual Services									
Charges for County Services									
Other Operating	\$ 10,000	\$ 10,000	\$ 10,300	\$ 10,609	\$ 10,927	\$ 11,255	\$ 11,593		
Grants to Outside Organizations									
Capital									
Subtotal	\$ 83,366	\$ 83,366	\$ 87,334	\$ 91,495	\$ 95,858	\$ 100,432	\$ 105,228		
Non-Operating									
Debt Services									
Distribution of Funds In Trust									
Transfers									
Depreciation, Amortization, and Deletions									
Subtotal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Grand Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		

Note: Fiscal impact narrative (paragraph above the table) should contain the following, if applicable:

1. Description of the anticipated increase or decrease of expenditures listed above and current and subsequent fiscal years, if any,
2. Description of projected dollar value of anticipated expenditures that will be absorbed within existing resources within the current fiscal year;
3. Description of subsequent governmental action that will be required in order to determine anticipated revenues and expenditures, including new revenues (federal, state, or the need to increase existing fees)
4. Any long-term fiscal implications as a result of the implementation of the proposed legislation, if any, in cases where risk factors or other variables that may impact future revenues or expenditures are uncertain, volatile, or difficult to project, a description of risk factors or variables and estimate or projection of anticipated or projected impacts to revenues and expenditures
5. Description of all assumptions used to project the fiscal impact of the proposed legislation and include estimate anticipated revenues and expenditures
6. In the cases where the Mayor has determined a "no fiscal impact", a description of the assumptions and analysis used to reach that conclusion

Memorandum



Date: November 3, 2015

To: Honorable Chairman Jean Monestime
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 Establishing Homebuyer Loan Program –
Legistar 151592

The proposed ordinance creates Article XII of Chapter 17 of the Code of Miami-Dade County, establishing the Homebuyer Loan Program using Documentary Surtax funds. In addition to certifying qualified loan officers to approve participant homebuyers for the program and certifying qualified closing agents to close homebuyer loans, it also establishes essential terms of the program and amends Section 29-7 of the Code to make the Documentary Surtax Program consistent with the changes for the Homebuyer Loan Program.

The proposed ordinance is not anticipated to have a quantifiable social equity impact benefit or burden on the residents of Miami-Dade County. It is anticipated that the proposed ordinance will create alternative options and efficiencies in the process for issuing first-time homebuyer loans using Documentary Stamp Surtax funds, which may facilitate increased homeownership opportunities for eligible homebuyers.

A handwritten signature in black ink, appearing to read "Russell Benford".

Russell Benford, Deputy Mayor



MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: November 3, 2015

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(C)

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 _____, 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
Veto _____
Override _____

Agenda Item No. 7(C)
11-3-15

ORDINANCE NO. 15-127

ORDINANCE CREATING ARTICLE XII OF CHAPTER 17 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, ESTABLISHING HOMEBUYER LOAN PROGRAM USING DOCUMENTARY SURTAX FUNDS; ESTABLISHING PROGRAM FOR CERTIFYING QUALIFIED LOAN OFFICERS TO APPROVE PARTICIPANT HOMEBUYERS FOR THE PROGRAM; ESTABLISHING PROGRAM FOR CERTIFYING QUALIFIED CLOSING AGENTS TO CLOSE HOMEBUYER LOANS; ESTABLISHING ESSENTIAL TERMS OF THE PROGRAM; AMENDING SECTION 29-7 OF THE CODE OF MIAMI-DADE COUNTY TO MAKE THE DOCUMENTARY SURTAX PROGRAM CONSISTENT WITH THE HOMEBUYER LOAN PROGRAM ESTABLISHED HEREIN; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Article XII of Chapter 17 of the Code of Miami-Dade County, Florida, is hereby created and shall 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-

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.

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"), 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.

Section 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 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 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<<²>>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

² Committee amendments are indicated as follows: Words double stricken through and/or [[double bracketed]] are deleted, words double underlined and/or >>double arrowed<< are added.

Commissioners (the "Board"). There shall be no fees 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 prior to the borrower's execution of a purchase and sale agreement for a home.

(C) *Loan Review and Approval.* The Department shall conduct a quality control 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.

(D) *Loan Closing.* The Department staff shall process the completed Homebuyer Loan Program application package through post-closing. During that time, the Department 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 and may not be substantially modified without the consent of the Department. The Department shall provide instructions to Certified Closing Agents 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.

(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 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 by offering more favorable loan terms for Homebuyer Loans used to acquire homes in the NRSAs and NOAs.

(i) Target Area Loans. Homebuyer Loans used to acquire homes in the County's NRSAs and NOAs shall have a one percent (1%) 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 shall have a 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.

(c) Shared Equity. Following loan closing on the Homebuyer Loan, if borrower sells, transfers or otherwise conveys the property within six years after closing on the Homebuyer Loan (the "Shared Equity Period"), borrower shall share with the County a percentage of the proceeds of the resale in the following manner:

<u>Shared Equity Period: Number of Years after Closing on Homebuyer Loan with the County</u>	<u>Percentage of Profit from Resale to be Paid to the County</u>
<u>1</u>	<u>100%</u>
<u>2</u>	<u>100%</u>
<u>3</u>	<u>100%</u>
<u>4</u>	<u>50%</u>
<u>5</u>	<u>50%</u>
<u>6 or more</u>	<u>0%</u>

During the Shared Equity Period, Borrower shall not resell the property for less than fair market value, as determined by an appraisal from a licensed appraiser. In year five of the Shared Equity Period, if Borrower resells the property but purchases another home in Miami-Dade County within 180 days and resides in that home as Borrower's primary residence, the profit retained by the County

as shared equity shall be returned to the Borrower. The County shall hold its portion of the shared equity in escrow for 180 days, plus any reasonable extension of time permitted at the discretion of the County Mayor or County Mayor's designee. There shall be no maximum resale price. At any time, the borrower shall have the right to pay the County's Homebuyer Loan in full, and upon the payment of all outstanding principal, interest and unpaid fees or costs, as set forth in the loan documents, the borrower and the property shall be released from all restrictions. As such, the borrower shall not be required to reside in the property for any set period of time, so long as the Homebuyer Loan is repaid in full and in accordance with the Shared Equity provisions set forth herein. There shall be no pre-payment penalties other than the Shared Equity provisions described in this ordinance.

- (d) Maximum Loan Amount. The maximum loan amount for a Homebuyer Loan offered through this program shall be determined by the Certified Loan Officers, but in no event shall the amount of such loan be greater than \$100,000.00 for Target Area Loans or \$80,000.00 for Non-Target Area Loans.

In order to avoid borrowers being cost-burdened by housing expenses, the Homebuyer Loan shall be implemented in a manner so as to ensure that no more than 40 percent of the borrower's gross household income is used to pay for "Housing Costs," which means all mortgage payments, insurance and taxes. Borrower's payments on the Homebuyer Loan shall be established at the time of loan closing and shall remain the same for the entire term of the homebuyer loan unless borrower and the County mutually agree on a loan modification.

- (e) Down Payment Required. The County shall require a down payment of at least one percent (1%) of the purchase price, to be paid from the Borrower's own funds.

- (4) Purchase Price Maximum. The maximum purchase price for borrowers to purchase a home with a Homebuyer Loan shall be 90 percent of the area median purchase price, as determined using purchase price limits established by U.S. HUD for the Home Investment Partnerships ("HOME") program (the "Maximum Purchase Price"). The Maximum Purchase Price shall be established using the most current data as of the date of execution of the contract for purchase and sale. With respect to the issuance of a Homebuyer Loan, the Maximum Purchase Price set forth in this ordinance shall supersede any other maximum purchase price set forth in any County resolution or ordinance. However, the Maximum Purchase Price established by other County programs or legislation, such as the Infill Housing Initiative Program, Workforce Housing Development Program, or the sale of County-owned properties, shall not be affected by this ordinance.

- (5) Loan Servicing. The Department, or successor department or other department as designated by the County Mayor or County Mayor's designee, shall serve as the loan servicer on all Homebuyer Loans.

- (6) Borrower Eligibility. Borrowers shall be "First Time Homebuyers," as defined by the HOME program at 24 C.F.R. § 92.2, with household incomes not greater than the 140 percent of area median income, as established by U.S. HUD.

Further eligibility requirements shall be set forth in the Homebuyer Loan Program Guidelines, established by the Department, which shall be consistent with Section 125.0167 of the Florida Statutes and Section 29-7 of the Miami-Dade County Code of Ordinances.

- (7) Inspections Required. Prior to loan closing, borrowers must obtain an inspection by a qualified home inspector of the home they intend to purchase. The breadth of the home inspection shall be sufficient to alert homebuyers to significant defects in the home, including structural problems, and identify whether the home is in compliance with the Miami-Dade County Building Code.
- (8) Use of Repaid Loan Funds and Program Income. The Homebuyer Loan Program shall operate as a “revolving” loan fund. All repaid Homebuyer Loan funds or program income received through administration of the Homebuyer Loan Program shall be reallocated by the County back into the Homebuyer Loan Program to be used for additional Homebuyer Loans. The Department shall incorporate this policy into its action plans, Local Housing Assistance Plans, legislative items, and policy documents governing the County’s use of Documentary Surtax funds.<<

Section 2. Section 29-7 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 29-7. Documentary Stamps.

* * *

- (E) Administration, collection and use.

* * *

- (g) Subject to the limitations and requirements set forth above, the revenue shall be expended by the County only in accordance with the Miami-Dade County Affordable Housing Program Guidelines >>and the Homebuyer Loan Program established pursuant to Section 17-160, *et. seq.* of the Code of Miami-Dade County, Florida.<<

* * *

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: November 3, 2015

Approved by County Attorney as
to form and legal sufficiency:

APW
PDW

Prepared by:

Brenda Kuhns Neuman

Prime Sponsor: Chairman Jean Monestime
Co-Sponsor: Commissioner Daniella Levine Cava