MEMORANDUM

Agenda Item No. 11(A)(4)

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

DATE: February 15, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution opposing Senate Bill (SB) 1728, or similar legislation that would allow residential property insurers to offer only homeowners' insurance policies that reimburse roof losses on a depreciated value or actual cash value basis rather than on the basis of replacement costs

Resolution No. R-168-22

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Joe A. Martinez.

Geri Bonzon-Keenan
County Attorney

GBK/jp

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(Revised)

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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)(4)
2-15-22

RESOLUTION NO. R-168-22

RESOLUTION OPPOSING SENATE BILL (SB) 1728, OR SIMILAR LEGISLATION THAT WOULD ALLOW RESIDENTIAL PROPERTY INSURERS TO OFFER ONLY HOMEOWNERS' INSURANCE POLICIES THAT REIMBURSE ROOF LOSSES ON A DEPRECIATED VALUE OR ACTUAL CASH VALUE BASIS RATHER THAN ON THE BASIS OF REPLACEMENT COSTS

WHEREAS, there are two primary settlement options available when purchasing a homeowner's property insurance policy: replacement cost and actual cash value; and

WHEREAS, replacement cost is usually defined in the policy as the cost to repair or replace the damaged property with materials of like kind and quality, without any deduction for depreciation; and

WHEREAS, replacement cost is designed to cover the difference between what the property is actually worth and what it would cost to rebuild or repair that property; and

WHEREAS, following a covered loss, the insurer assumes the full cost of repairing or replacing the damaged property; and

WHEREAS, by contrast, actual cash value is the cost to repair or replace the damaged property with material of like kind and quality, minus the cost of depreciation due to use, wear, obsolescence, or age; and

WHEREAS, following a covered loss, the insured assumes the cost to cover the difference between the depreciated value of the damaged property and the cost of repairing or replacing it; and

WHEREAS, Florida law currently requires insurers writing homeowners property insurance policies to offer an adjustment to the dwelling, including the roof, on the basis of replacement cost; and

WHEREAS, while the Florida Office of Insurance Regulation can approve policy forms that adjust roof losses on the basis of actual cash value—such as the depreciated value of the roof—the insurer must still offer a replacement cost adjustment on the roof before issuing the policy; and

WHEREAS, during the 2021 session of the Florida Legislature, Senate Bill (SB) 76 and House Bill (HB) 305 were filed for consideration by Senator Jim Boyd (R – Bradenton) and Representative Bob Rommel (R – Naples), respectively; and

WHEREAS, as originally filed, SB 76 and HB 305 would have, among other things, allowed residential property insurers to no longer provide full replacement coverage for roofs that are at least 10 years old, even though the typical lifespan of a roof in Florida is 25 to 30 years; and

WHEREAS, under these bills as originally filed, if a homeowner's roof is at least 10 years old and gets destroyed during a hurricane, for instance, the homeowner's insurance company could only pay what the roof is worth at the time as opposed to the full replacement cost of the roof; and

WHEREAS, given these concerns, on March 2, 2021 this Board adopted Resolution No. R-190-21 which opposed SB 76, HB 305, or similar legislation that would have allowed residential property insurers to no longer provide full replacement coverage for roofs of a certain age; and

WHEREAS, this provision was subsequently removed from SB 76, which ultimately became law as Chapter 2021-77, Laws of Florida; and

WHEREAS, during the 2022 session of the Florida Legislature, however, Senator Boyd has filed SB 1728 for consideration which would, among other things, allow residential property insurers to no longer provide full replacement coverage for roofs that are at least 10 years old, with certain exceptions; and

WHEREAS, specifically, the bill would still require residential property insurers to offer policies that provide replacement cost reimbursement, regardless of a roof's age, for (1) a covered total loss to a primary structure in accordance with the valued policy law, and (2) a loss to the roof caused by a storm declared to be a hurricane by the National Hurricane Center; and

WHEREAS, even with these additional requirements, however, SB 1728, like SB 76 and HB 305 as originally filed from the 2021 session, would substantially weaken the current requirement under Florida law that insurers must offer homeowners' policies that provide replacement cost reimbursement, regardless of the roof's age; and

WHEREAS, SB 1728, if enacted, may thus disenfranchise homeowners who have for years been paying their premium by allowing insurance companies to only pay a fraction of the cost to replace the roof, resulting in a substantial decrease in coverage for many homeowners throughout the state; and

WHEREAS, accordingly, this Board desires to oppose SB 1728, or similar legislation,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Opposes SB 1728, or similar legislation that would allow residential property insurers to offer only homeowners' insurance policies that reimburse roof losses on a depreciated value or actual cash value basis rather than on the basis of replacement costs.

Section 2. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, Senate President, House Speaker, Senator Jim Boyd, and the Chair and Members of the Miami-Dade State Legislative Delegation.

Section 3. Directs the County's state lobbyists to advocate against the legislation described in section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2022 State Legislative Package to include this item.

The Prime Sponsor of the foregoing resolution is Commissioner Joe A. Martinez. It was offered by Commissioner **Rebeca Sosa**, who moved its adoption. The motion was seconded by Commissioner **Raquel A. Regalado** and upon being put to a vote, the vote was as follows:

Jose "Pepe" Diaz, Chairman **aye**
Oliver G. Gilbert, III, Vice-Chairman **aye**

Sen. René García	**aye**	Keon Hardemon	**aye**
Sally A. Heyman	**absent**	Danielle Cohen Higgins	**aye**
Eileen Higgins	**absent**	Joe A. Martinez	**absent**
Kionne L. McGhee	**absent**	Jean Monestime	**aye**
Raquel A. Regalado	**aye**	Rebeca Sosa	**aye**
Sen. Javier D. Souto	**absent**		

The Chairperson thereupon declared this resolution duly passed and adopted this 15th day of February, 2022. 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

Melissa Adames
By:________________________
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

MJM

Michael J. Mastrucci