

MEMORANDUM

Agenda Item No. 11(A)(7)

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

DATE: June 14, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution urging the Florida
Legislature to allocate additional
funding and delegate additional
powers to the Florida Department
of Business and Professional
Regulation related to
Homeowners' Associations;
further urging the Florida
Legislature to create a
Homeowners' Association
Ombudsman

Resolution No. R-592-22

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/gh



MEMORANDUM

(Revised)

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

DATE: June 14, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 11(A)(7)

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)(7)
6-14-22

RESOLUTION NO. _____ R-592-22

RESOLUTION URGING THE FLORIDA LEGISLATURE TO
ALLOCATE ADDITIONAL FUNDING AND DELEGATE
ADDITIONAL POWERS TO THE FLORIDA DEPARTMENT
OF BUSINESS AND PROFESSIONAL REGULATION
RELATED TO HOMEOWNERS' ASSOCIATIONS; FURTHER
URGING THE FLORIDA LEGISLATURE TO CREATE A
HOMEOWNERS' ASSOCIATION OMBUDSMAN

WHEREAS, a homeowners' association (HOA) is a type of community association governed under chapter 720 of the Florida Statutes; and

WHEREAS, a large number of Miami-Dade County residents live in common interest communities served by HOAs ("HOA property owners"); and

WHEREAS, such communities are managed and overseen by HOAs which are entrusted with powers and duties to protect the rights of HOA property owners, including the management of HOA funds for the betterment of the HOA community; and

WHEREAS, although many HOA communities run smoothly, instances of HOA fraud or mismanagement are rising problems in Miami-Dade County, adversely impacting public safety and welfare; and

WHEREAS, HOA fraud and mismanagement have resulted in the misapplication of HOA fees that should properly have been used to maintain common areas for the benefit of HOA members, thereby leading to increased maintenance fees and special assessments, burdening HOA members, and impairing the social and economic quality of life of County residents; and

WHEREAS, with respect to condominiums, the Department of Business and Professional Regulation (DBPR) has broad authority to investigate complaints and to enforce rules regarding condominium operation and management, and to assist condominium owners with answers to questions through an ombudsman; and

WHEREAS, with respect to HOAs, however, DBPR does not have the same broad authority to investigate complaints seeking enforcement of HOA property owner rights under chapter 720, and its powers are limited to resolving disputes such as elections, recalls, and covenant enforcement; and

WHEREAS, providing additional funding to DBPR, as well as broadening DBPR's authority to investigate and enforce HOA member complaints regarding operations and management, would increase DBPR's ability to adequately address, monitor, and enforce the provisions of chapter 720, Florida Statutes; and

WHEREAS, the creation of a DBPR ombudsman to assist HOA property owners with answers to questions, similar to the DBPR condominium ombudsman, would be in the public's best interests; and

WHEREAS, this Board seeks to support legislation to protect the economic and social welfare of the residents in Miami-Dade County; and

WHEREAS, in an effort to prevent HOA fraud and mismanagement, this Board desires to urge the Florida legislature to: (1) allocate additional funding to DBPR to increase its staffing and resources, (2) increase the scope of DBPR's powers, and (3) create an ombudsman to address questions posed by HOA property owners,

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: (1) allocate additional funding to DBPR; (2) expand the scope of the DBPR’s powers, including the authority to investigate HOA member complaints regarding operations and management and to enforce the provisions of chapter 720; and (3) create an ombudsman to answer questions and to assist in educating HOA property owners.

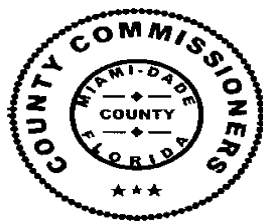
Section 2. Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, Senate President, House Speaker, members of the Miami-Dade County State Legislative Delegation, and the DBPR Secretary.

Section 3. Directs the County’s state lobbyists to advocate for the passage of the legislation and for the actions set forth in section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to include this item in the 2023 State Legislative Package when it is presented to the Board.

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 **Eileen Higgins** and upon being put to a vote, the vote was as follows:

	Jose “Pepe” Diaz, Chairman	aye	
	Oliver G. Gilbert, III, Vice-Chairman	absent	
Sen. René García	aye	Keon Hardemon	absent
Sally A. Heyman	aye	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Joe A. Martinez	aye
Kionne L. McGhee	absent	Jean Monestime	absent
Raquel A. Regalado	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 14th day of June, 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

By: **Basia Pruna**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in dark ink, appearing to be "DH", is written over a horizontal line.

Debra Herman