

By Senator Jones

40-1574-01

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Senate Memorial No. \_\_\_\_\_

A memorial to the Federal Emergency Management Agency, urging the agency to adopt a policy towards the Florida Keys that is consistent with Florida law and its own policy.

WHEREAS, under the Florida Statute of Limitations, section 95.11(3)(c), Florida Statutes, Judge Richard Payne ruled on October 6, 2000, that Monroe County could not enforce removal of downstairs enclosures that were built over 4 years prior to enforcement action, and

WHEREAS, the Federal Emergency Management Agency (FEMA), in a letter dated July 29, 1991, threatened to suspend Monroe County from the National Flood Insurance Program (NFIP) if the county established a 4-year limitation on code violations, and

WHEREAS, FEMA, in a letter to Monroe County dated December 12, 2000, from its Associate Director for Mitigation, Michael J. Armstrong, stated that if Monroe County did not appeal Judge Payne's ruling of October 6, 2000, FEMA would consider this action as a defect in the county's floodplain management program, and

WHEREAS, Monroe County was denied a rehearing on January 19, 2001, by Judge Payne to reconsider the ruling to remove all illegal downstairs enclosures, and

WHEREAS, FEMA records show that Monroe County has a high participation and a low claim history in the NFIP, and

WHEREAS, 76,000 pre-firm structures, out of 4.3 million pre-firm structures that have had two or more losses since 1978, represent 33 percent of all losses paid by FEMA, and

1           WHEREAS, only 1.9 million pre-firm structures out of  
2 4.3 million pre-firm structures have their lowest floors above  
3 base flood level, and it is punitive to mandate that Monroe  
4 County remove more than 4,000 downstairs enclosures because  
5 they are below base flood level, and

6           WHEREAS, 23 percent of NFIP claim dollars paid from  
7 1978 to 1996 went to areas not identified as special hazard  
8 flood areas, and

9           WHEREAS, Texas and Louisiana account for 40 percent of  
10 all repeated flood claims (1.1 billion), and

11           WHEREAS, with the exception of Key Biscayne, the  
12 majority of repeated flood claims comes from the gulf coast on  
13 the top half of the State of Florida, and

14           WHEREAS, the current FEMA policy towards the Florida  
15 Keys is arbitrary, capricious, and inconsistent with its  
16 national policy, and its enforcement of a special pilot  
17 program does not align with FEMA's own stated goals, and

18           WHEREAS, the enforcement of FEMA's pilot program is  
19 inconsistent with Florida law and would create enormous  
20 economic hardships on the economy of the Florida Keys, and

21           WHEREAS, the removal of more than 4,000 downstairs  
22 enclosures would work against the stated policy of the  
23 Department of Community Affairs to provide affordable housing  
24 for the people of Monroe County, and

25           WHEREAS, the Florida Legislature recognizes that Monroe  
26 County must follow the laws of the State of Florida and its  
27 circuit judges, NOW, THEREFORE,

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29 Be It Resolved by the Legislature of the State of Florida:

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1           That the Federal Emergency Management Agency is urged  
2 to adopt a policy toward the Florida Keys that is consistent  
3 with Florida law and its own national policy.

4           BE IT FURTHER RESOLVED that copies of this memorial be  
5 dispatched to the President of the United States, the  
6 President of the United States Senate, the Speaker of the  
7 United States House of Representatives, each member of the  
8 Florida delegation to the United States Congress, and the  
9 Director of the Federal Emergency Management Agency.

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