

By Senator Jones

40-1983A-01

1 Senate Resolution No. _____

2 A resolution encouraging the Federal Emergency
3 Management Agency to adopt a policy towards the
4 Florida Keys that is consistent with Florida
5 law and its own policy.

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

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

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

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

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

28 WHEREAS, 76,000 pre-firm structures, out of 4.3 million
29 pre-firm structures that have had two or more losses since
30 1978, represent 33 percent of all losses paid by FEMA, and

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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 Senate 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 Senate of the State of Florida:

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