

EXHIBIT NO. 1

~~33~~ ~~31~~ ~~3~~
~~5-13-08~~ ~~4-22-08~~ ~~4-14-08~~
City of Alexandria, Virginia
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MEMORANDUM ~~5-27-08~~ ~~12~~ ~~5-5-08~~
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6-24-08

DATE: APRIL 9, 2008

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER *J*

SUBJECT: ORDINANCE TO INCREASE THE BUSINESS LICENSE TAX RATE
APPLICABLE TO PAYDAY AND CAR TITLE LENDERS

ISSUE: Whether or not to increase the business license (BPOL) tax rate for payday and car title lenders.

RECOMMENDATION: That City Council approve this proposed ordinance (Attachment I) on first reading on Monday, April 14, and set it for public hearing on Tuesday, April 22, and second reading and final passage on Monday, May 5. The proposed ordinance would establish a \$0.58 per \$100 of gross receipts tax rate on payday and car title lenders.

BACKGROUND: In 2002, the General Assembly enacted the Payday Loan Act allowing certain lenders to make loans at an effective annual interest rate as high as 391 percent annually. According to a study conducted by the Center for Responsible Lending, the average borrower will pay \$793 for a \$325 loan. In Virginia, payday lending averages eight loans annually per borrower and predatory payday lending costs Virginia families approximately \$160 million in fees annually.

On November 19, 2007, City Council adopted Resolution 2253 expressing its concerns about the interest rates charged by payday lenders and the detrimental effects these loans may have on City residents. In the 2007 Legislative Package, the City asked its delegates to support legislation prohibiting payday lending. In the 2008 Legislative Package, the City asked that they support legislation that either prohibits payday lending or caps interest rates at 36 percent. Both Maryland and the District of Columbia have outlawed usurious interest rates for payday loans.

DISCUSSION: Currently, payday and car title lending falls under the Financial Services category for BPOL, which is taxed at a rate of \$0.35 per \$100 of gross receipts. Virginia law authorizes the City to create classifications within the Financial Services category and set different rates for each classification, as long as the rate does not exceed \$0.58 per \$100 of gross receipts.

Establishing a payday and car title lender category within the Financial Services category for BPOL and setting a tax rate of \$0.58 per \$100 of gross receipts for that subcategory would generate \$13,000 in additional revenue annually (\$11,000 from car title lenders and \$2,000 from payday lenders). All other businesses in the Financial Services category would have their BPOL rate remain unchanged at \$0.35 per \$100 of gross receipts.

FISCAL IMPACT: The tax rate increase for payday and car title lenders would generate approximately \$13,000 annually in additional General Fund revenue which Council has discussed allocating entirely to consumer financial education.

ATTACHMENT: Proposed Ordinance

STAFF:

Mark Jinks, Deputy City Manager

Laura B. Triggs, Director of Finance

Bruce Johnson, Director, Office of Management and Budget

Debbie Kidd, Division Chief, Revenue Administration

Introduction and first reading: 4/14/08
Public hearing: 4/22/08
Second reading and enactment: 5/05/08

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE to amend and reordain Section 9-1-71.1 (FINANCIAL SERVICES) of Article C (NONREGULATORY LICENSES), Chapter 1 (BUSINESS LICENSES), Title 9 (LICENSING AND REGULATION), of the Code of the City of Alexandria, Virginia, 1981, as amended.

Summary

The proposed ordinance increases the BPOL tax rate for Pay Day and Car Title Loan businesses with annual gross receipts of \$100,000 or more, from \$0.35 per \$100 of gross receipts to \$0.58 per \$100 of gross receipts.

Sponsor

Councilman Justin M. Wilson

Staff

**Mark Jinks, Deputy City Manager
Laura Triggs, Director Finance
Ignacio B. Pessoa, City Attorney**

Authority

**§§58.1-3700, et. seq., Code of Virginia (1950), as amended
§2.02, Alexandria City Charter**

Estimated Costs of Implementation

None

Attachments in Addition to Proposed Ordinance and its Attachments (if any)

None

ORDINANCE NO. _____

AN ORDINANCE to amend and reordain Section 9-1-71.1 (FINANCIAL SERVICES) of Article C (NONREGULATORY LICENSES), Chapter 1 (BUSINESS LICENSES), Title 9 (LICENSING AND REGULATION), of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 9-1-71.1 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is amended and reordained to read as follows:

Sec. 9-1-71.1 Financial services.

(a) Except as provided in subsections (b) and (c) below, every person conducting or operating a business that provides financial services in, and who maintains a definite place of business in, the city shall pay for the privilege of doing so an annual license tax of \$50 or, if the business annual gross receipts with situs in the city equal or exceed \$100,000, \$0.35 per \$100 of the business' gross receipts with such situs.

(b) Every person conducting or operating a financial services business that is in the business of providing pay day loans, pursuant to the Pay Day Loan Act, Sections 6.1-144 et seq. of the Code of Virginia, 1950, as amended, in, and who maintains a definite place of business in, the city shall pay for the privilege of doing so an annual license tax of \$50 or, if the business' annual gross receipts with situs in the city equal or exceed \$100,000, \$0.58 per \$100 of the business' gross receipts with such situs.

(c)(1) Every person conducting or operating a financial services business that is in the business of providing motor vehicle title loans as defined in this subsection in, and who maintains a definite place of business in, the city shall pay for the privilege of doing so an annual license tax of \$50 or, if the business' annual gross receipts with situs in the city equal or exceed \$100,000, \$0.58 per \$100 of the business' gross receipts with such situs.

(2) As used in this subsection, (i) "title loan" means a loan of money secured by a bailment of the title to a motor vehicle or by a security interest in a motor vehicle, except for a bona fide purchase money security interest or refinancing thereof, and (ii) "motor vehicle" means an automobile, motorcycle, mobile home, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated on the public streets and highways of the Commonwealth, that is self-propelled or designed for self-propulsion and used to transport persons or property, and that is owned by a natural person.

Section 3. That the license tax rate provided for a business subject to subsections (b) or (c) of Section 9-1-71.1 as amended by this ordinance shall become effective for gross receipts received by such business on an after July 1, 2008; gross receipts received by such business prior thereto shall be subject to the rate provided in subsection (a) of Section 9-1-71.1 as amended by this ordinance.

Section 3. That this ordinance shall become effective on the date ant at the time

1 of final passage.

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WILLIAM D. EUILLE
Mayor

Introduction: 4/14/08
First Reading: 4/14/08
Publication:
Public Hearing:
Second Reading:
Final Passage:

45

6-24-08

Ignacio Pessoa/Alex
06/23/2008 07:53 PM

To wmeuille@wdeuille.com, alexvamayor@aol.com,
delpepper@aol.com, Councilmangaines@aol.com,
rob@krupicka.com, smedbergpc@aol.com,
cc Jim Hartmann/Alex@Alex, Mark Jinks/Alex@Alex, Rose
Boyd/Alex@Alex, Laura Triggs/Alex@Alex, Jean
Niebauer/Alex@Alex, Bruce Johnson/Alex@Alex, Karen
bcc

Subject Docket Item 45, Pay day and Car Title Lenders BPOL Tax Increase

Attached is a memo outlining the proposed agreements with the pay day and car title lending industries to fund consumer financial education programs in the City, in lieu of adopting the proposed BPOL tax rate increase for such lenders.

Please let me know if you have any questions at this time.

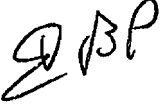
Ignacio



Pay Day Loan Memo.pdf

MEMORANDUM

TO: THE HONORABLE MAYOR AND
MEMBERS OF CITY COUNCIL

FROM: IGNACIO B. PESSOA 
CITY ATTORNEY

DATE: JUNE 23, 2008

SUBJECT: VOLUNTARY AGREEMENT WITH
PAY DAY AND CAR TITLE LENDERS

ISSUE: Consideration of a voluntary agreement with pay day and car title lenders.

RECOMMENDATION: That City Council approve a voluntary agreement with the pay day and car title lending industry to fund consumer financial education programs in the City, and pass by indefinitely the ordinance to increase the BPOL tax rate applicable to such lenders.

BACKGROUND: On April 14, 2008, City Council passed on first reading an ordinance to increase the BPOL tax rate applicable to pay day and car title lenders from \$0.35 per \$100 of gross receipts to \$0.58 per \$100. In the FY 2009 Budget, the revenue from this rate increase, estimated at \$13,000 annually, is programmed for consumer financial education efforts by the City. During and after the April 22 public hearing on the ordinance, industry representatives challenged the City's authority to enact the ordinance, but suggested the establishment of a voluntary program through which the industry would contribute funding for such an educational program, in lieu of the tax rate increase. Council deferred further consideration of the ordinance to allow City representatives – Rose Boyd, Laura Triggs and Jean Niebauer, together with Karen Snow of my office and members of the Consumer Affairs and Human Rights Commissions – to work toward an agreed upon resolution.

DISCUSSION: After several weeks of negotiation, the City received two final proposals from the loan industry representatives to offer financial assistance, grants and consumer education in lieu of enacting the proposed ordinance. These proposals are summarized below.

First, Loan Max, the sole car title loan company in the City, has proposed the following:

1. \$15,000 financial commitment to foster consumer literacy in the City. This \$15,000 grant would consist of:

a.. A \$5,000 up front payment to the City's Dollar Wise program. The City's Dollar Wise program is part of the National Dollar Wise Campaign for financial education, sponsored by the United States Conference of Mayors.

See, <http://dollarwiseonline.org/default.asp>. The City would use this money to start its consumer education programs.

b. At least an additional \$10,000 in grant payments over a 12-month period. These additional grants are conditioned on the City advising Loan Max regarding the specifics of the consumer education program; establishing a reasonable budget and submitting a report to Loan Max as to how the prior funds were spent.

2. Loan Max will have a representative on the City's Dollar Wise Committee.

3. Loan Max will work with City staff to develop a "best practices" lending policy in the City.

4. Based on the success of the consumer education program funded with the initial grant funds, Loan Max will continue to participate financially in the City's consumer education program in future years.

Second, the Community Financial Services Association of America ("CFSA"), a trade association based in the City which represents some pay day loan companies has proposed the following:

1. A financial commitment of \$5,000. This commitment comprises:

a. A \$2500.00 grant to a community-based 501(c)(3) organization of the City's choice. The grant will be provided in conjunction with a youth-based financial literacy program to provide \$100 United States savings bonds to 50 program participants between 14 and 18 years old. This program must be completed by December 31, 2008; and

b. A contribution of \$2,500 to the City's Dollar Wise program.

2. CFSA will become a member of the City's Dollar Wise Committee.

3. Based on the success of CFSA-funded efforts, CFSA would agree to discuss future endeavors with the City to promote financial literacy in the City.

CFSA's final proposal was received on the afternoon of Friday, June 20. In accordance with City Council's directive, on June 18, 2008, staff presented the car title loan industry's proposal set forth above, and the status of negotiations with the pay day loan industry to the Consumer Affairs Commission. The Consumer Affairs Commission's recommendation was that, "Given the commitments from the car title loan industry and an indication of interest from the pay day loan industry to negotiate a proposal to promote consumer literacy in the City in lieu of adoption of the ordinance. The Consumer Affairs Commission recommends that the ordinance be tabled for three (3) months to allow City staff more time to negotiate with CFSA and other interested pay

day loan companies to negotiate for an arrangement more closely parallel to the car title industry's offer. In addition, other groups in the City should be involved, e.g., Tenants and Workers Support Committee, Urban League and Bienvenidos."

The value of the industry-proffered program grants and assistance described above exceeds the anticipated revenue from the proposed tax rate increase. City staff believes that the pay day loan industry's final proposal meets the goals articulated by the Consumer Affairs Commission. Accordingly, staff recommends and I concur that City Council should at this time approve the voluntary agreements with the pay day and car title lenders, and pass by indefinitely the ordinance to increase the BPOL tax rate applicable to such lenders.

cc: James Hartmann
City Manger

Mark Jinks
Deputy City Manger

Bruce Johnson
Director, OMB

Rose Boyd
Director of Citizens Assistance

Laura Triggs
Director of Finance

Jean Niebauer
Director, Office of Human Rights