

EXHIBIT NO. 1

31
4-22-08

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~~4-14-08~~

City of Alexandria, Virginia

MEMORANDUM

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

6 Introduction: 4/14/08

7 First Reading: 4/14/08

8 Publication:

9 Public Hearing:

10 Second Reading:

11 Final Passage:

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4-22-08

Jackie Henderson/Alex
04/22/2008 08:00 AM

To council@krupicka.com, justin.wilson@alexandriava.gov,
beth Temple/Alex@Alex, CLAUDIAC@COMCAST.NET,
hubler@erols.com, krupickaaide@comcast.net, Harlene
Gloria Sitton/Alex@Alex

bcc

Subject Fw: Resolution of the Human Rights Commission in Support
of Proposed Ordinance

----- Forwarded by Jackie Henderson/Alex on 04/22/2008 07:59 AM -----



Michele Evans/Alex
04/21/2008 05:57 PM

To Jean Niebauer/Alex@Alex,
Jackie.Henderson@alexandriava.gov
cc Valerie Brown/Alex

Subject Re: Resolution of the Human Rights Commission in Support
of Proposed Ordinance

Jackie,
would you please distribute this to Council for tomorrow night ?
thanks
Michele
Jean Niebauer/Alex

Jean Niebauer/Alex
04/21/2008 04:28 PM

To Michele Evans/Alex@Alex
cc Valerie Brown/Alex@Alex, cs.avery@comcast.net,
thgirls@comcast.net, matsharris@hotmail.com,
DHAtaLaw@aol.com, tatumtenk@aol.com,
JMCLELLAN@NVCC.EDU, JoAnn Maldonado/Alex@Alex,
andrewarivera@aol.com, pat@jpspurlock.com,
TURNERN@THEIACP.ORG,
JENNYRWADE@YAHOO.COM,
kezia_w_2000@yahoo.com, harrellc@howrey.com

Subject Resolution of the Human Rights Commission in Support of
Proposed Ordinance

Hi, Michele: On the motion of Jim McClellan , seconded by Raymond Johnson , the Human Rights Commission passed , by a vote of 8 in favor and 1 opposed (4 absent), an oral resolution in support of the City Council 's proposed ordinance to increase the BPOL tax rate applicable to payday and car title lenders . They would like to have this statement included in the record for the public hearing on this matter , #31 on the docket for April 22. Thanks. Jean

Jean Kelleher Niebauer
Director, Office of Human Rights

City of Alexandria , Virginia

703.838.6390

SPEAKER'S FORM

DOCKET ITEM NO. 31

**PLEASE COMPLETE THIS FORM AND GIVE IT TO THE CITY CLERK
BEFORE YOU SPEAK ON A DOCKET ITEM**

PLEASE ANNOUNCE THE INFORMATION SPECIFIED BELOW PRIOR TO SPEAKING.

1. NAME: Sam Choate
2. ADDRESS: 777 Gloucester St. Brunswick, GA
TELEPHONE NO. (912) 264-4211 E-MAIL ADDRESS: schoate@gilberthartellaw.com
3. WHOM DO YOU REPRESENT, IF OTHER THAN YOURSELF? _____
Community Financial Services Association of America, Inc. Alexandria VA.
4. WHAT IS YOUR POSITION ON THE ITEM?
FOR: _____ AGAINST: OTHER: _____
5. NATURE OF YOUR INTEREST IN ITEM (PROPERTY OWNER, ATTORNEY, LOBBYIST, CIVIC INTEREST, ETC.):
Counsel to the Community Financial Service Assoc. ("CFSA")
6. ARE YOU RECEIVING COMPENSATION FOR THIS APPEARANCE BEFORE COUNCIL?
YES NO _____

This form shall be kept as a part of the permanent record in those instances where financial interest or compensation is indicated by the speaker.

A maximum of three minutes will be allowed for your presentation, except that one officer or other designated member speaking on behalf of each *bona fide* neighborhood civic association or unit owners' association desiring to be heard on a docket item shall be allowed five minutes. In order to obtain five minutes, you must identify yourself as a designated speaker, and identify the neighborhood civic association or unit owners' association you represent, at the start of your presentation. If you have a prepared statement, please leave a copy with the Clerk.

Additional time not to exceed 15 minutes may be obtained with the consent of the majority of the council present; provided notice requesting additional time with reasons stated is filed with the City Clerk in writing before 5:00 p.m. of the day preceding the meeting.

The public normally may speak on docket items only at public hearing meetings, and not at regular legislative meetings. Public hearing meetings are usually held on the Saturday following the second Tuesday in each month; regular legislative meetings on the second and fourth Tuesdays in each month. The rule with respect to when a person may speak to a docket item at a legislative meeting can be waived by a majority vote of council members present but such a waiver is not normal practice. When a speaker is recognized, the rules of procedures for speakers at public hearing meetings shall apply. If an item is docketed *for public hearing* at a regular legislative meeting, the public may speak to that item, and the rules of procedures for speakers at public hearing meetings shall apply.

In addition, the public may speak on matters which are not on the docket during the Public Discussion Period at public hearing meetings. The mayor may grant permission to a person, who is unable to participate in public discussion at a public hearing meeting for medical, religious, family emergency or other similarly substantial reasons, to speak at a regular legislative meeting. When such permission is granted, the rules of procedures for public discussion at public hearing meetings shall apply.

Guidelines for the Public Discussion Period

- (a) All speaker request forms for the public discussion period must be submitted by the time the item is called by the city clerk.
- (b) No speaker will be allowed more than three minutes; except that one officer or other designated member speaking on behalf of each *bona fide* neighborhood civic association or unit owners' association desiring to be heard during the public discussion period shall be allowed five minutes. In order to obtain five minutes, you must identify yourself as a designated speaker, and identify the neighborhood civic association or unit owners' association you represent, at the start of your presentation.
- (c) If more speakers are signed up than would be allotted for in 30 minutes, the mayor will organize speaker requests by subject or position, and allocated appropriate times, trying to ensure that speakers on unrelated subjects will also be allowed to speak during the 30 minute public discussion period.
- (d) If speakers seeking to address council on the same subject cannot agree on a particular order or method that they would like the speakers to be called on, the speakers shall be called in the chronological order of their request forms' submission.
- (e) Any speakers not called during the public discussion period will have the option to speak at the conclusion of the meeting, after all docketed items have been heard.

DOCKET ITEM NO. 4-22 mtg.

**PLEASE COMPLETE THIS FORM AND GIVE IT TO THE CITY CLERK
BEFORE YOU SPEAK ON A DOCKET ITEM**

PLEASE ANNOUNCE THE INFORMATION SPECIFIED BELOW PRIOR TO SPEAKING.

1. NAME: Lewis Wiener
2. ADDRESS: 1275 Pennsylvania Ave. NW, Washington, DC 20004
 TELEPHONE NO. 202-383-0140 E-MAIL ADDRESS: _____
3. WHOM DO YOU REPRESENT, IF OTHER THAN YOURSELF? _____
Advance America
4. WHAT IS YOUR POSITION ON THE ITEM?
 FOR: _____ AGAINST: _____ OTHER: _____
5. NATURE OF YOUR INTEREST IN ITEM (PROPERTY OWNER, ATTORNEY, LOBBYIST, CIVIC INTEREST, ETC.):

6. ARE YOU RECEIVING COMPENSATION FOR THIS APPEARANCE BEFORE COUNCIL?
 YES NO

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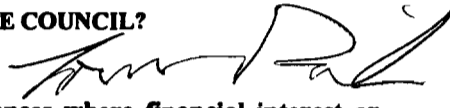
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PLEASE ANNOUNCE THE INFORMATION SPECIFIED BELOW PRIOR TO SPEAKING.

1. NAME: Lonnie C. Rich
2. ADDRESS: 101 W. Uhler Ter, Alexandria VA 22301
TELEPHONE NO. 703-836-7441 E-MAIL ADDRESS: lcrich@rgreclaw.com
3. WHOM DO YOU REPRESENT, IF OTHER THAN YOURSELF? LoanMax

4. WHAT IS YOUR POSITION ON THE ITEM?
FOR: _____ AGAINST: OTHER: _____

5. NATURE OF YOUR INTEREST IN ITEM (PROPERTY OWNER, ATTORNEY, LOBBYIST, CIVIC INTEREST, ETC.):
Attorney

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