

EXHIBIT NO. 1

City of Alexandria, Virginia

MEMORANDUM

DATE: APRIL 9, 2008

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

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

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.
2
3

WILLIAM D. EUILLE
Mayor

4
5
6 Introduction: 4/14/08
7 First Reading: 4/14/08
8 Publication:
9 Public Hearing:
10 Second Reading:
11 Final Passage:
12
13
14
15
16
17
18
19
20
21
22
23
24

✓
12

5-5-08

Ignacio Pessoa/Alex
05/02/2008 12:08 PM

To wmeuille@wdeuille.com, alexvamayor@aol.com,
delpepper@aol.com, ludwig@gainwithgaines.com,
Councilmangaines@aol.com, rob@krupicka.com,
cc Jim Hartmann/Alex@Alex, Mark Jinks/Alex@Alex, Michele
Evans/Alex@Alex, Bruce Johnson/Alex@Alex, Laura
Triggs/Alex@Alex, Rose Boyd/Alex@Alex, Jean
bcc
Subject Monday May 5 Budget Meeting, Docket item No. 12, Pay Day and
Car Title BPOL Tax Ordinance

As you will remember, at the conclusion of the April 22 public hearing on this ordinance, industry representatives approached the City to suggest that, in lieu of the ordinance to increase the BPOL tax applicable to these lenders, the industry would make a contribution to the City to fund an equivalent consumer credit education effort by the City.

Because of prior travel commitments by several industry participants, it was not possible for City staff and representatives of the Human Rights and Consumer Affairs Commissions to meet with the lenders and discuss this proposal prior to Monday's budget adoption meeting. However, the industry remains committed to pursue this option, and we have scheduled a meeting for Wednesday, May 7 at 3:30 PM in City Hall.

I therefore request that City Council defer final passage of this ordinance on Monday, to allow discussions to proceed. Adoption of this revenue measure is not legally required until the start of the new fiscal year. Thus, if the discussions are successful, the revenue source will be a gift or grant to the City; if not successful, Council can adopt the ordinance at any time prior to July 1, 2008. In either event, the budget will remain in balance, as required by the City Charter.

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