

Memorandum



Date: April 12, 2022

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

AEDC
Supplement No. 2 to
Agenda Item No. 1(G)(1)

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Social Equity Statement for Ordinance Related to Retail Transactions, Creating Section 21-60 of the Code of Miami-Dade County, Florida; Prohibiting Retail Businesses from Refusing to Accept Cash Payments for Goods or Services - File No. 220100

The proposed ordinance creates Section 21-60 and amends Section 8CC-10 of the Code of Miami-Dade County, Florida. The proposed code section would (i) prohibit a person selling or offering for sale consumer goods or services at retail to refuse to accept cash as payment, (ii) prohibit the posting of signs on the premises stating that cash payment is not accepted, and (iii) prohibit charging a higher price to customers who pay by cash than to customers who use another form of payment. The proposed ordinance also establishes the definition of cash as United States coins and currency, allows for an establishment to refuse the acceptance of cash in denominations larger than twenty-dollar bills, and provides for penalties in accordance with Section 8CC-10 for non-compliance. The proposed ordinance applies Countywide as a minimum standard but allows for municipalities to establish and enforce more stringent regulations if desired.

The proposed ordinance will serve to ensure equal access to in-person retail services by the public. It will allow customers without bank cards and with privacy concerns to access necessary retail services and it will not deny access to those who prefer to use and to accept other methods of payments. It further prevents customers paying by cash from being penalized by the imposition of a higher price. Persons engaged in retail transactions will continue to have the discretion to limit or to refuse to accept higher denomination currency which will assist in alleviating concerns about losses due to fraud and theft. Additionally, the proposed ordinance would serve to protect individual privacy in retail transactions, prevents digital fraud and tracking, and prevents the non-consent sale of personal information.

As currently drafted, the proposed ordinance applies to “a person” selling or offering for sale consumer goods or services but does not define the term “person.” To provide additional clarity as to who may be impacted, a definition of the term indicating its applicability to business entities as well as individuals may be of value. Furthermore, it should be noted that professional service providers such as consultants, attorneys, etc. that generally provide high-dollar amount services are not exempted from the scope of the proposed ordinance.

Considering that some businesses in the community are already operating in a cashless manner (Citi Bike, Lime Scooters, parking garages, etc.), or are in the process of transitioning to cashless, consideration should be given to providing businesses advance notice of the proposed update to the Code. Should an outreach campaign involving physical notifications/mailings be required to inform impacted businesses, a corresponding budgetary allocation will be required to fund the effort. There are over 200,000 businesses in Miami-Dade County that would potentially need to be advised of the new Code requirement and it estimated that the cost of a direct mail campaign of this magnitude may be on the order of \$100,000.

Additionally, certain municipal agencies, particularly parking authorities, and private businesses which have already established cashless operations may be impacted financially. There may be additional operating costs associated with staffing garages and other operations currently configured as cashless in order to facilitate the acceptance and handling of cash. Some cashless businesses may need time to obtain equipment, employ and train additional personnel, or take other actions to achieve compliance. Furthermore, the proposed ordinance would require that retail transactions between individuals via internet applications such as OfferUp and Craigslist provide the option to pay in cash. Many online sellers of goods have a preference for electronic payments given the increased safety and security of the transaction. Consideration should be given to security concerns associated with requiring a cash option with relation to informal person-to-person transactions.

Compliance with the proposed ordinance, when possible, can be facilitated via the establishment of an effective date into the future which would allow for notification and outreach to potentially affected businesses ahead of the requirement becoming effective. If a transition period is not possible, consideration can be given to amending the penalty for a first violation to a warning rather than a \$100.00 fine. Furthermore, many businesses, including government agencies, go cashless to prevent forms of internal fraud. Limiting cash transactions is a strategy for private businesses, especially small businesses, to maintain controls and mitigate risk.

Separately, it should be noted that there are currently bills pending in the Florida Legislature that would require businesses to accept cash up to \$20.00 for certain transactions (HB 233 and SB 408). These bills largely align with the proposed ordinance, however, do contain a number of key exemptions that are not considered in the County legislation. The exemptions in the State bills include:

- (a) Sales that are not conducted in person, including telephone, mail, and Internet-based transactions, or other electronic transactions.
- (b) A parking facility owned by a municipality, regardless of who operates the facility.
- (c) A parking facility that accepts electronic funds transfer.
- (d) A business providing services by accountants, architects, attorneys, engineers, financial advisers, insurance agents, interior designers, software developers, or management and other consultants, not including services provided by licensed medical or allied health care practitioners.
- (e) Sales in which the business suspects the use of counterfeit cash.
- (f) The use of cash denominations larger than \$20 by a customer.
- (g) Single transactions above \$5,000.

The proposed ordinance, through Section 21-60, addresses the possibility of pre-emption should these bills become law.



Jimmy Morales
Chief Operations Officer