



Legislation Text

File #: 13345, Version: 1

TITLE

Proposed Ordinance Related to Retail Transactions; Creating Section 18-1 of Hernando County Code Prohibiting Retail Businesses From Refusing to Accept Cash Payments for Goods or Services

BRIEF OVERVIEW

At Commissioner Champion's request, the Board of County Commissioners, during its meeting of November 28, 2023, directed the County Attorney's Office to draft a proposed ordinance that would prohibit retail businesses from operating on a "cashless" basis.

The proposed ordinance creates Section 18-1 of the Hernando County Code. The proposed code section would (1) prohibit a person selling or offering for sale consumer goods or services at retail to refuse to accept cash as payment, (2i) prohibit the posting of signs on the premises stating that cash payment is not accepted, and (3) 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 Hernando County Code Chapter 2, Article III for non-compliance. If enacted, the proposed ordinance will apply countywide, unless the City of Brooksville enacts an ordinance in conflict with the proposed ordinance, in which case the proposed ordinance will apply to the unincorporated areas only.

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.

The proposed ordinance applies to "brick-and-mortar businesses" selling or offering for sale consumer goods or services. Accordingly, the proposed ordinance will not apply to businesses that do not operate out of a permanent physical presence in Hernando County (e.g., telephone, mail, or internet-based transactions), to businesses that operate out of a vehicle or mobile space (e.g., food trucks, etc.), to businesses that are operating out of a temporary physical premises (e.g., pop-up restaurants, tent sales, etc.), or to government entities.

Furthermore, the proposed ordinance excludes from its scope (1) transactions at wholesale clubs that sell consumer goods and services through a membership model (e.g., Sam's Club, etc.), (2) transactions at retail stores selling consumer goods exclusively through a membership model that

requires payment by means of an affiliated mobile device application, (3) transactions for the rental of consumer goods, services, or accommodations for which posting of collateral or security is typically required (e.g., rentals for which the customer must pay a deposit), (4) consumer goods or services provided exclusively to employees and others authorized to be on the employer's premises (e.g., a company store), (5) sales in which the business suspects the use of counterfeit cash, (6) transactions involving the use of cash denominations larger than \$20.00 by a customer, (7) any transactions which the County is preempted from regulating by law (e.g., the sale of firearms, etc.), (8) single transactions the amount of which exceed \$5,000.00, (9) professional services (e.g., doctors, lawyers, dentists, architects, etc.), or (10) parking facilities.

The proposed ordinance provides that the cashless mandate will not go into effect until April 1, 2024. Considering that some businesses in the community are already operating in a cashless manner, 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. The number of businesses in Hernando County that would potentially need to be advised of the new Code requirement, so the cost of such a campaign is currently unknown.

Additionally, certain brick-and-mortar businesses may be impacted financially. For example, additional staffing costs may be incurred by 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.

FINANCIAL IMPACT

Unknown at this time. The proposed ordinance will be enforced as complaints are submitted by residents to the Code Enforcement Department. Considering that enforcement will be on a complaint basis, costs of compliance and enforcement are anticipated to be recovered through the code enforcement process and associated penalties assessed.

It is also assumed that mail notification or physical outreach materials will not be provided to affected businesses, rather dissemination of information will be exclusively via Hernando County's website, social media platforms, and other channels utilizing existing staff resources. As a result, the proposed ordinance is not anticipated to have a fiscal impact upon Hernando County. However, 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. The number of businesses in Hernando County that would potentially need to be advised is unknown, but it is estimated that the cost of a direct mail campaign of the required magnitude will not be insignificant.

LEGAL NOTE

The Board has the authority to enact the proposed ordinance pursuant to Fla. Stat. § 125.01.

RECOMMENDATION

A matter of policy. Following public comment, the Board should vote on whether or not to adopt the proposed ordinance.