

MEMORANDUM

Agenda Item No. 7(A)

TO:	Honorable Chairman Jose "Pepe" Diaz and Members, Board of County Commissioners	DATE:	May 17, 2022
FROM:	Geri Bonzon-Keenan County Attorney	SUBJECT:	Ordinance related to retail transactions; creating section 21-60 of the Code; prohibiting retail businesses from refusing to accept cash payments for goods or services; amending section 8CC of the Code; providing for enforcement by civil penalty

A substitute was presented and forwarded to the BCC with a favorable recommendation at the 4-12-22 Airports and Economic Development Committee. This substitute no. 2 differs from substitute no. 1 in that the fiscal impact and social equity statements have been updated to reflect the impact of the changes made to the original item in substitute no. 1. There are no other changes in this substitute no. 2, as compared with substitute no. 1.

Substitute no. 1 differed from the original item in that it:

- Revises section 21-60(A)(2)(a) to clarify that the ordinance does not apply to sales that are not conducted in person, such as electronic transactions;
- Revises section 21-60(A)(2) to clarify that “at retail” shall also not include the following:
 - services provided by accountants, architects, attorneys, engineers, financial advisers, insurance agents, interior designers, software developers, and management;
 - sales in which the business suspects the use of counterfeit cash; and
 - the use of cash denominations larger than \$20.00 by a customer;
- Revises section 21-60(B) to clarify that the ordinance applies to persons and entities;
- Deletes section 21-60(C) and re-letters section 21-60(D) accordingly;
- Revises section 8CC-10 to revise the following civil penalties for failure to comply with section 21-60(B):
 - warning instead of \$100.00 penalty for first violation;
 - \$100.00 penalty instead of \$200.00 penalty for second violation;
 - \$200.00 penalty instead of \$1,000.00 penalty for third violation; and
 - \$1,000.00 penalty for each subsequent violation; and
- Makes additional technical changes.

Rule 5.06(i) of the Board’s Rules of Procedure provides that where double underlining and double strikethrough would not clearly show the differences between an original item and the substitute, comments may instead be provided. Pursuant to this rule, the preceding comprehensive description of the differences between the original item and substitute no. 1 and between substitute no. 1 and substitute no. 2 is provided in lieu of double underlining and double strike-through for this item.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Senator René García and Co-Sponsor Commissioner Sally A. Heyman.




Geri Bonzon-Keenan
County Attorney

Memorandum



Date: May 17, 2022

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

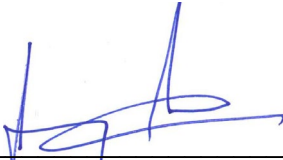
From: Daniella Levine Cava 
Mayor

Subject: Fiscal Impact 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. 220753

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 subject legislation will be enforced as complaints are submitted by residents to the Regulatory and Economic Resources Department’s Office of Consumer Protection. 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 Miami-Dade 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 Miami-Dade 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. There are over 200,000 businesses in Miami-Dade County that would potentially need to be advised and it is estimated that the cost of a direct mail campaign of this magnitude may be on the order of \$100,000.


Additionally, municipalities with cashless operations (parking garages, pay-by-phone parking, etc.) may be impacted. However, fiscal impacts to Miami-Dade County are not anticipated as all Departments queried indicated that services rendered currently have a pay-by-cash option.



Jimmy Morales
Chief Operations Officer

Date: May 17, 2022

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

From: Daniella Levine Cava
Mayor 

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. 220753

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.

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. The ordinance provides for a warning on first instance of non-compliance, followed by subsequent civil penalties.




Jimmy Morales
Chief Operations Officer



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: May 17, 2022

FROM: 
Gen. Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(A)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(A)
5-17-22

ORDINANCE NO. _____

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; AMENDING SECTION 8CC OF THE
CODE; PROVIDING FOR ENFORCEMENT BY CIVIL
PENALTY; AND PROVIDING FOR SEVERABILITY,
INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, a growing number of retail establishments across the United States have adopted “cashless policies,” declaring that they refuse to accept cash payment from their customers, and, instead, require that payment for the goods and services offered by such retailers be made only with credit cards, debit cards, or digital payment methods that result in electronic transfers of funds to the retailer; and

WHEREAS, such policies threaten to send a message that certain customers are not welcome in certain stores; and

WHEREAS, cashless policies discriminate against millions of customers who do not have the resources or ability to participate in cashless transactions; and

WHEREAS, according to the Federal Reserve, there are an estimated 55 million unbanked or underbanked adult Americans; and

WHEREAS, these Americans would be disenfranchised from cashless retail establishments; and

WHEREAS, currently, while some states have passed laws that require businesses to accept cash, there is no federal law prohibiting stores from declining cash payments; and

WHEREAS, this Board wishes to allow all customers the freedom to choose a payment option that works for them,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 21-60 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:¹

>>**Sec. 21-60. - Cashless Retail Prohibition.**

(A) Definitions. For purposes of this section, the following terms shall be defined as follows:

- (1) “Cash” means United States coins and currency, including federal reserve notes. Cash does not include foreign currency.
- (2) “At retail” means any retail transaction conducted in person and shall exclude:
 - (a) sales that are not conducted in person, including any telephone, mail, or internet transactions, or other electronic transactions;
 - (b) transactions at wholesale clubs that sell consumer goods and services through a membership model;
 - (c) transactions at retail stores selling consumer goods exclusively through a membership model that requires payment by means of an affiliated mobile device application;
 - (d) transactions for the rental of consumer goods, services, or accommodations for which posting of collateral or security is typically required;
 - (e) consumer goods or services provided exclusively to employees and others authorized to be on the employer’s premises;
 - (f) services provided by accountants, architects,

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

attorneys, engineers, financial advisers, insurance agents, interior designers, software developers, and management;

- (g) sales in which the business suspects the use of counterfeit cash;
- (h) the use of cash denominations larger than \$20.00 by a customer; and
- (i) any transactions which the County is preempted from regulating pursuant to Florida statute.

(B) *Prohibitions.* It shall be unlawful for a person or entity selling or offering for sale consumer goods or services at retail to refuse to accept cash as a form of payment to purchase goods or services. A person or entity selling or offering for sale goods or services at retail shall not:

- (1) Refuse to accept cash as a form of payment;
- (2) Post signs on the premises that cash payment is not accepted; or
- (3) Charge a higher price to customers who pay cash than they would pay using any other form of payment.

(C) *Applicability.*

(1) This chapter shall be a minimum standard and shall apply to both the incorporated and unincorporated areas.

(a) The Director of the Miami-Dade County Department of Regulatory and Economic Resources or successor department (“Department”), and his or her designees, are hereby charged with the enforcement responsibilities of this chapter throughout the County.

(b) Any municipality may establish and enforce more stringent regulations as such municipality may deem necessary.

(c) The penalties in chapter 8CC for violations of this chapter shall also be a minimum standard and shall apply to both the incorporated and unincorporated areas.<<

Section 2. Section 8CC-10 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 8CC-10. Schedule of civil penalties.

The following table shows the sections of this Code, as they may be amended from time to time, which may be enforced pursuant to the provisions of this chapter; and the dollar amount of civil penalty for the violation of these sections as they may be amended.

* * *

Code Section	Description of Violation	Civil Penalty
* * *		
>> <u>21-60(B)</u>	<u>Refusing to accept cash payments for goods or services:</u>	
	<u>First violation</u>	<u>Warning</u>
	<u>Second violation</u>	<u>\$100.00</u>
	<u>Third violation</u>	<u>\$200.00</u>
	<u>Each subsequent violation</u>	<u>\$1,000.00</u> <<
* * *		

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

GBK

Prepared by:

RC

Ryan Carlin

Prime Sponsor: Senator René García
Co-Sponsor: Commissioner Sally A. Heyman