

Prince George's County Council Agenda Item Summary

Meeting Date: 11/17/2009
Reference No.: CB-023-2009
Draft No.: 2
Proposer(s): Campos, Dernoga, Olson, Turner
Sponsor(s): Campos, Dernoga, Olson, Turner
Item Title: An Ordinance defining check cashing business, requiring a special exception for this use under certain circumstances, and grandfathering those with valid state licenses for check cashing issued prior to September 1, 2009.

Drafter: Jackie Brown, PZED Committee Director
Resource Personnel: Brad Frome, Legislative Aide

LEGISLATIVE HISTORY:

Date Presented:	6/2/2009	Executive Action:	
Committee Referral:	6/2/2009 - PZED	Effective Date:	1/4/2010
Committee Action:	6/17/2009 - HELD 10/7/2009 - FAV(A)		
Date Introduced:	10/20/2009		
Public Hearing:	11/17/2009 - 10:00 AM		
Council Action (1)	11/17/2009 - ENACTED		
Council Votes:	MB:-, WC:A, SHD:-, TD:A, CE:-, AH:A, TK:-, EO:A, IT:A		
Pass/Fail:	P		
Remarks:			

AFFECTED CODE SECTIONS:

27-107.01, 27-341.01, 27-341.02, 27-461, 27-473, 27-515, 27-547

COMMITTEE REPORTS:

Planning Zoning & Economic Development

Date 10/7/2009

Committee Vote: Favorable with amendments, 5-0 (In favor: Council Members Dean, Olson, Bland, Dernoga and Exum)

Staff presented a Proposed Draft-2A (DR-2A) of the legislation and explained the changes/additions that were made since the time of the first committee discussion of this matter on June 17, 2009. Proposed DR-2A eliminated the language which had been added to Proposed Draft-2, page 3, lines 2-4, concerning businesses that cash checks as an incidental use. The legislation was also amended on page 1, lines 4 and 5, and in footnotes 55, 53, 11, and 4 to change April 1, 2009 to September 1, 2009. Language in the footnotes regarding certification as a nonconforming use by March 1, 2011 was also removed in Proposed DR-2A and the requirement for a valid "use and occupancy permit" was changed to a valid "state license." Additionally, the definition of check cashing business was amended in Proposed DR-2A to include language clarifying the types of businesses that are not included and to which the legislation would not apply. The additional language inserted at the end of the definition beginning with "generally those exempt under Section 12-103..." to the end of the definition is consistent with language in Section 12-103 of

the Maryland Financial Institutions Code Annotated which describes check cashing services for which a state license is not required.

Council Member Campos, the bill's sponsor, informed the committee that since the time of the June 17th committee meeting, he had been in conversation with representatives of check cashing businesses and was agreeable to additional amendments concerning hours of operation, allowing automatic teller machines (ATMs) on the premises, removing the requirement for a security employee, and the special exception requirement only for change in location of an existing business but not for a change in ownership at an existing location.

Mr. Campos also provided copies of a letter dated September 10, 2009 from Roberto L. Hylton, County Chief of Police, which recommends approval of CB-23-2009. In his letter to Council Member Campos, Chief Hylton states: "There are a number of Check Cashing Businesses in Prince George's County. Frequent cash transactions occur at these establishments, creating a greater risk of criminal victimization to these businesses and their customers. Such risks are of particular concern to the Prince George's County Police Department. Demanding certain requirements of these businesses is necessary for the safety and security of the customers, the business employees, and the surrounding community. CB-23-2009, Check Cashing Businesses, will ensure that these business operators provide appropriate safety measures, including: security lighting, cameras, security personnel, and bullet resistant glass. The bill also requires that all fees will be posted, so customers will know what they will be charged."

Neil Goldstein, of the Maryland Association of Financial Service Centers, and Steve Goldberg, of Eastover Liquors, addressed the committee expressing their opposition to the legislation and their concerns that statistics have not been provided regarding crime associated with check cashing businesses and the perceived purpose of this legislation.

The Department of Environmental Resources (DER) submitted a statement in support of CB-23-2009 with clarification of Section 27-341.01 (4) concerning security lighting and cameras. The language in DR-2A reads as follows: "Security lighting and cameras shall be provided on all sides of the Check Cashing Business visible 100 feet from the building exterior." DER inquired regarding the intent to have cameras observing and recording the area within 100 feet surrounding the business and noted that some businesses may be located in a strip shopping center where a front and rear camera might be appropriate. To clarify, DER recommends the following sentence: "Security lighting and cameras shall be provided on all open sides of the Check Cashing facility providing surveillance of the area within 100 feet of the exterior of the facility."

Council Members were in agreement with Council Member Campos' suggested amendments regarding hours of operation and ATMs; however, they were not supportive of removing the requirement for a security guard or for a special exception only for change in location of the check cashing business.

The committee voted favorably on Proposed DR-2A with amendments to Section 27-341.01 to change the hours of operation from 9:00 a.m. to 7:00 p.m., Monday through Friday and 9:00 a.m. to 6:00 p.m. on Saturday to 9:00 a.m. to 8:00 p.m. daily and to remove the prohibition of ATMs on the premises.

PLANNING, ZONING, & ECON. DEV. COMMITTEE REPORT

6/17/09

Held in committee.

Staff gave an overview of the legislation and informed the committee of written referral comments that were received. CB-23-2009 amends the Zoning Ordinance to define a check cashing business and to permit this use in most commercial zones, industrial zones and mixed use zones subject to special exception approval with specific additional requirements. The legislation contains a grandfathering provision for all businesses with valid use and occupancy permits issued before April 1, 2009. These businesses may continue to operate without a special exception and are not considered non-conforming. Any change in tenant or ownership requires an approved special exception and a new use and occupancy permit.

Staff provided a Proposed Draft-2 (DR-2) of the legislation prepared at the sponsor's request to address concerns that CB-23-2009 could be applicable to other businesses such as liquor stores and grocery stores. The following sentence

was added on page 3, lines 2-4 to clarify that the legislation is not intended to apply to these businesses which cash checks as an incidental use: "Any other business that has a valid use and occupancy permit for a use other than check cashing for the sale of goods shall not be deemed to be a check cashing establishment."

Council Member Campos informed the committee that there are currently 100 check cashing businesses in the County, which represents 25% of the total number of check cashing businesses in the State. Mr. Campos explained that CB-23-2009 is intended to limit the number of future check cashing businesses in an effort to enhance the County and improve the communities.

The Planning Board supports CB-23-2009 and suggested technical amendments. The Office of Law reviewed CB-23-2009 also noting technical changes and commented that there are no legal impediments to enactment of the legislation.

The committee discussed other uses such as pawnshops which have been capped at a certain number through prior Council legislation and whether this is something that should be considered for check cashing businesses.

The bill was held in committee with Council Members instructing staff to review the language added in Proposed DR-2 to ensure that it does not provide a loophole for check cashing businesses to classify their business as another use to circumvent the special exception requirements proposed in this legislation.

BACKGROUND INFORMATION/FISCAL IMPACT:

(Includes reason for proposal, as well as any unique statutory requirements)

This legislation amends the Zoning Ordinance to define and list a new use, check cashing business, and requires a special exception for the use under certain circumstances. A grandfather provision is included to exempt an existing business from the special exception requirement if it is operating subject to a valid use and occupancy permit issued prior to April 1, 2009.

CODE INDEX TOPICS:

INCLUSION FILES:
