

ORDINANCE NO. 2017-003

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING ARTICLE II. LOCAL BUSINESS TAX IN CHAPTER 86 "TAXATION AND FEES" OF THE CODE OF ORDINANCES TO REPEAL AND RESCIND HIALEAH CODE § 86-51 ENTITLED "TERMINATION OF BUSINESS TAX RECEIPT ON NOTICE OF BANKRUPTCY" AND RESERVING THE CODE SECTION NUMBER FOR CONVENIENCE; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, 11 U.S.C. § 525(a) of the US Bankruptcy Code prohibits a governmental unit from denying, revoking, suspending, or refusing to renew a license, permit, charter, franchise or other similar grant if a debtor has filed for bankruptcy; and

WHEREAS, Hialeah Code § 86-51 directly conflicts with federal bankruptcy law and as a matter of law cannot be enforced;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The City Council of the City of Hialeah hereby repeals and rescinds Hialeah Code § 86-51 entitled "Termination of business tax receipt on notice of bankruptcy" in its entirety.

Section 2: Chapter 86 entitled "Taxation and Fees", of the Code of Ordinances of the City of Hialeah, Florida, is hereby amended to read as follows:

Chapter 86

TAXATION AND FEES

* * *

ARTICLE II. LOCAL BUSINESS TAX

* * *

Sec. 86-51. – ~~Termination of business tax receipt on notice of bankruptcy.~~ [Reserved.]

~~When any person engaged in mercantile or other business in the city shall make an assignment for the benefit of creditors or when any such person shall be adjudicated a voluntary or an involuntary bankruptcy or declared insolvent, any business tax receipt~~

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Section 2: Chapter 86 entitled "Taxation and Fees", of the Code of Ordinances of the City of Hialeah, Florida, is hereby amended to read as follows:

Chapter 86

TAXATION AND FEES

* * *

ARTICLE II. LOCAL BUSINESS TAX

* * *

~~Sec. 86-51. – Termination of business tax receipt on notice of bankruptcy. [Reserved.]~~

~~When any person engaged in mercantile or other business in the city shall make an assignment for the benefit of creditors or when any such person shall be adjudicated a voluntary or an involuntary bankruptcy or declared insolvent, any business tax receipt~~

~~therefore issued, authorizing such person to do business in the city, shall immediately be terminated and shall, upon such assignment for the benefit of creditors or upon such adjudication in bankruptcy, immediately become null and void.~~

* * *

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty described above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

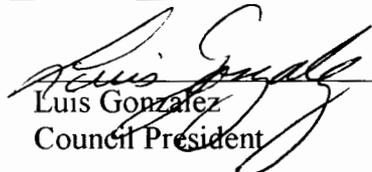
Section 4: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 5: Effective Date.

This ordinance shall become effective when passed by the City council and signed by the Mayor or after the next regularly scheduled City Council meeting if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

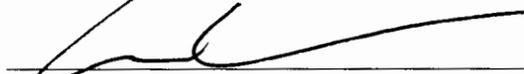
THE FOREGOING ORDINANCE OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READING. PASSED and ADOPTED this 14 day of February, 2017.


Luis Gonzalez
Council President

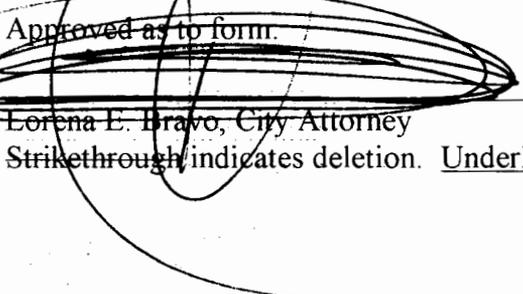
Attest:


Marbelys Fatio, City Clerk

Approved on this 22 day of February, 2017.


Mayor Carlos Hernandez

Approved as to form.


Lorena E. Bravo, City Attorney

Strikethrough indicates deletion. Underline indicates addition.

Ordinance was adopted by a (6-0-1) vote with Councilmembers, Caragol, Cue-Fuente, Hernandez, Lozano, Gonzalez and Casals-Muñoz voting "Yes". Councilmember Garcia-Martinez absent.