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HOUSE BILL NO. 1777

Offered January 12, 2005

Prefiled January 4, 2005

A BILL to amend and reenact §§ 6.1-245, 6.1-254, and 6.1-256.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 6.1-258.1, relating to the Consumer Finance Act; licensure of lenders.

Patron—Purkey

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.1-245, 6.1-254, and 6.1-256.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 6.1-258.1, as follows:

§ 6.1-245. Definitions.

As used in this chapter, unless a different meaning or construction is clearly required by the context:

"Commissioner" means the Commissioner of the Bureau of Financial Institutions of the State Corporation Commission.

(1) "Person" includes individuals, copartnerships, associations, trusts, corporations, and all other legal and commercial entities;

(2) "License" means a single license issued hereunder with respect to a single place of business;

(3) "Licensee" means a person to whom one or more licenses have been issued; and

(4) "Commissioner" means the Commissioner of Financial Institutions as defined by the law as of the particular time.

"Person" means any individual, firm, corporation, limited liability company, partnership, association, trust, or legal or commercial entity, or group of individuals however organized.

"Principal" means any person who, directly or indirectly, owns or controls (i) 10 percent or more of the outstanding stock of a stock corporation or (ii) a 10 percent or greater interest in a person.

§ 6.1-254. Application for license; fee.

Application for a license to make loans under this chapter shall be in writing, under oath, and in the form prescribed by the Commission, and shall contain: (1) the name, residence and business addresses address of the applicant; and (i) if the applicant is a copartnership or association partnership, firm, or association, the name and address of every each partner or member, and; (ii) if the applicant is a corporation or limited liability company, the name and address of each senior officer and, director, member, registered agent, and principal; or (iii) if the applicant is a business trust, the name and address of each trustee and beneficiary; (2) the county or municipality, with street and number, if any, where the business is to be conducted; (3) all other information as may be required by the Commission.

And the application shall be accompanied by payment of the sum of \$500 as a fee for investigating the application.

§ 6.1-256.1. Issuance of consumer finance license.

A. The Commission shall issue and deliver to the applicant a license to make loans in accordance with the provisions of this chapter at the location in this Commonwealth specified in the application if it finds:

1. That the financial responsibility, experience, character and general fitness of the applicant, or of the members if the applicant be a copartnership or association, or of the officers and directors if the applicant be a corporation, and its members, senior officers, directors, and principals are such as calculated to command the confidence of the public and to warrant belief that this business will be operated lawfully, honestly, fairly and efficiently within the purpose of this chapter;

2. That the applicant has available, for the operation of the business at the specified location, liquid assets of at least \$50,000 if the specified location is in a city or county with a population of more than 20,000, or of at least \$25,000 if the location is not in a city or county with a population of more than 20,000; and

3. That all of the prerequisites to obtaining the license prescribed by § 6.1-254 have been complied with, the foregoing facts being conditions precedent to the issuance of a license under this chapter.

B. Notwithstanding the provisions of subsection A of this section, if the applicant has an existing license at another location in the Commonwealth, the Commission shall issue and deliver to the applicant a license to make loans in accordance with the provisions of this chapter at the location specified in the application if it finds:

1. That the general fitness of the licensee is such as calculated to command the confidence of the

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59 public and to warrant belief that this business will be operated lawfully, honestly, fairly and efficiently
60 within the purpose of this chapter; and

61 2. That all of the prerequisites to obtaining the license prescribed by § 6.1-254 have been complied
62 with, the foregoing facts being conditions precedent to the issuance of a license under this chapter.

63 C. After receiving approval under subsection B or providing notice of relocation under § 6.1-269.1,
64 the licensee shall give written notice to the Commissioner within 10 days of the commencement of
65 business at the additional location or relocated place of business.

66 D. Every licensee shall within 10 days notify the Commissioner, in writing, of (i) the closing of any
67 business location, and (ii) the name, address and position of each new senior officer, member, partner,
68 or director, and provide such other information with respect to any such change as the Commissioner
69 may reasonably require.

70 § 6.1-258.1. Acquisition of control; application.

71 A. Except as provided in this section, no person shall acquire, directly or indirectly, 25 percent or
72 more of the voting shares of a corporation or 25 percent or more of the ownership of any other person
73 licensed to conduct business under this chapter unless such person first:

74 1. Files an application with the Commission in such form as the Commissioner may prescribe from
75 time to time;

76 2. Delivers such other information to the Commissioner as the Commissioner may require concerning
77 the financial responsibility, background, experience, and activities of the applicant, its directors, senior
78 officers, principals and members, and of any proposed new directors, senior officers, principals or
79 members of the licensee; and

80 3. Pays such application fee as the Commission may prescribe.

81 B. Upon the filing and investigation of an application, the Commission shall permit the applicant to
82 acquire the interest in the licensee if it finds that the applicant, its members if applicable, its directors,
83 senior officers and principals, and any proposed new directors, members, senior officers and principals
84 have the financial responsibility, character, reputation, experience and general fitness to warrant belief
85 that the business will be operated efficiently and fairly, in the public interest, and in accordance with
86 law. The Commission shall grant or deny the application within 60 days from the date a completed
87 application accompanied by the required fee is filed unless the period is extended by order of the
88 Commissioner reciting the reasons for the extension. If the application is denied, the Commission shall
89 notify the applicant of the denial and the reasons for the denial.

90 C. The provisions of this section shall not apply to (i) the acquisition of an interest in a licensee,
91 directly or indirectly, including an acquisition by merger or consolidation, by or with a person licensed
92 by this chapter, (ii) the acquisition of an interest in a licensee, directly or indirectly, including an
93 acquisition by merger or consolidation, by or with a person affiliated through common ownership with
94 the licensee, or (iii) the acquisition of an interest in a licensee by a person by bequest, descent,
95 survivorship or operation of law. The person acquiring an interest in a licensee in a transaction that is
96 exempt from filing an application by this subsection shall send written notice to the Commissioner of
97 such acquisition within 30 days of its closing.