

VIRGINIA ACTS OF ASSEMBLY -- 2010 SESSION

CHAPTER 477

An Act to amend and reenact §§ 6.1-249, 6.1-330.55, 6.1-330.78, and 59.1-200 of the Code of Virginia and to amend the Code of Virginia by adding in Title 6.1 a chapter numbered 21, consisting of sections numbered 6.1-480 through 6.1-507, relating to motor vehicle title loans; penalties.

[S 606]

Approved April 11, 2010

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.1-249, 6.1-330.55, 6.1-330.78, and 59.1-200 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 6.1 a chapter numbered 21, consisting of sections numbered 6.1-480 through 6.1-507, as follows:

§ 6.1-249. Compliance with chapter; license required.

A. No person shall engage in the business of lending any principal amounts to individuals for personal, family, household or other nonbusiness purposes, and charge, contract for, or receive, directly or indirectly, on or in connection with any loan, any interest, charges, compensation, consideration or expense which in the aggregate is greater than the interest permitted by § 6.1-330.55, except as provided in and authorized by this chapter ~~or, Chapter 18 (§ 6.1-444 et seq.) of this title, or Chapter 21 (§ 6.1-480 et seq.)~~ and without first having obtained a license from the Commission.

B. However, subject to §§ 6.1-251 and 6.1-281 of this chapter, the prohibition in subsection A of this section shall not be construed to prevent any person, other than a licensee, from making a mortgage loan pursuant to §§ 6.1-330.69 and 6.1-330.70 or §§ 6.1-330.71 and 6.1-330.72 in any principal amount or from extending credit as described in § 6.1-330.78 in any amount.

§ 6.1-330.55. Contracts for more than legal rate of interest.

Except as otherwise permitted by law, no contract shall be made for the payment of interest on a loan greater than ~~twelve~~ 12 percent per year.

For statutes which permit payment of interest greater than ~~twelve~~ 12 percent per year, reference is hereby made to Article 6 (§ 6.1-330.60 et seq.), Article 7 (§ 6.1-330.64), Article 8 (§ 6.1-330.65 et seq.), Article 9 (§ 6.1-330.69 et seq.), Article 10 (§ 6.1-330.75 et seq.) and Article 11 (§ 6.1-330.77 et seq.) of this chapter. Further reference is hereby made to Chapter 6 (§ 6.1-244 et seq.) of this title, relating to powers of consumer finance companies; to Chapter 18 (§ 6.1-444 et seq.) of this title, relating to payday lenders; to § 38.2-1806, relating to interest chargeable by insurance agents; to §§ 38.2-4700 through 38.2-4712, relating to interest chargeable by premium finance companies; ~~and to § 58.1-3018, relating to interest and origination fees payable under third-party taxpayer agreements; and to Chapter 21 (§ 6.1-480 et seq.), relating to interest chargeable by motor vehicle title lenders.~~

In the case of any loan upon which a person is not permitted to plead usury, interest and other charges may be imposed and collected as agreed by the parties.

Those provisions of this chapter providing that a loan or extension of credit may be enforced as agreed in the contract of indebtedness, shall not be construed to preclude the charging or collecting of other loan fees and charges permitted by law, in addition to the stated interest rate, and such other loan fees and charges need not be included in the rate of interest stated in the contract of indebtedness.

§ 6.1-330.78. Open-end sales and loan plans.

A. Notwithstanding any provision of this chapter other than § 6.1-330.71, and except as provided in subsection E, any seller or lender engaged in the extension of credit under an open-end credit or similar plan under which a finance charge is imposed upon the obligor, if payment in full of the unpaid balance is not received at the place designated by the creditor prior to the next billing date (which shall be at least ~~twenty-five~~ 25 days later than the prior billing date), may impose finance charges and other charges and fees at such rates and in such amounts and manner as may be agreed upon by the seller or lender and the obligor.

B. Notwithstanding the provisions of § 6.1-330.71 and subject to the provisions of § 8.9A-204.1, any loan made under this section may be secured in whole or in part by a subordinate mortgage or deed of trust on residential real estate improved by the construction thereon of housing consisting of one to four family dwelling units.

C. Any application form or preapproved written solicitation for an open-end credit card account to be used for personal, family, or household purposes which is mailed on or after January 1, 1988, to a consumer residing in this Commonwealth by or on behalf of a creditor, whether or not the creditor is located in this Commonwealth, other than an application form or solicitation included in a magazine, newspaper, or other publication distributed by someone other than the creditor, shall contain or be accompanied by any of the following disclosures:

1. A disclosure of each of the following if applicable:

a. Any periodic rate or rates that may be applied to the account, expressed as an annual percentage rate or rates. If the account is subject to a variable rate, the creditor may instead disclose the rate as of a specific date and indicate that the rate may vary, or identify the index and any amount or percentage added to, or subtracted from, that index and used to determine the rate.

b. Any membership or participation fee that may be imposed for availability of a credit card account.

c. Any transaction fee that may be imposed on purchases, or any other charge or fee that may be imposed, expressed as an amount or as a percentage of the transaction, as applicable.

d. Any grace period or free period during which the consumer may repay the full balance reflected on a billing statement which is attributable to purchases of goods or services from the creditor or from merchants participating in the credit card plan, without the imposition of additional finance charges. The creditor shall either disclose the number of days of that period, calculated from the closing date of the prior billing cycle to the date designated in the billing statement sent to the consumer as the date by which that payment must be received to avoid additional finance charges, or describe the manner in which the period is calculated. If the creditor does not provide such a period for purchases, the disclosure shall so indicate;

2. A disclosure that satisfies the initial disclosure requirements of Regulation Z; or

3. If a creditor is now or hereafter required under federal law to make disclosures of the terms applicable to a credit card account in connection with application forms or solicitations, the creditor shall be deemed to have complied with the requirements of this subsection if the creditor complies with the federal disclosure requirements. The disclosure of any transaction fee that may be imposed on purchases, or any other charge or fee, shall be written on any such application form or preapproved written solicitation.

D. An open-end credit or similar plan between a seller or lender and an obligor shall be governed solely by federal law, and by the laws of the Commonwealth of Virginia unless otherwise expressly agreed in writing by the parties.

E. ~~Except as provided in subsection F,~~ a A licensee, as defined in § 6.1-444, shall not engage in the extension of credit under an open-end credit or similar plan described in this section, and a third party shall not engage in the extension of credit under an open-end credit or similar plan described in this section at any office, suite, room, or place of business where a licensee conducts the business of making payday loans. In addition to any other remedies or penalties provided for a violation of this section, any such extension of credit made by a licensee or third party in violation of this subsection shall be unenforceable against the borrower.

F. ~~No prohibition in subsection E shall apply to an extension of person shall make a loan or otherwise extend credit under an open-end credit or similar plan or any other lending arrangement that is secured by a non-purchase money security interest in a motor vehicle, as such term is defined in § 46.2-100 6.1-480, unless such loan or extension of credit is made in accordance with, or is exempt from, the provisions of Chapter 21 (§ 6.1-480 et seq.).~~

G. If a licensee, as defined in § 6.1-444, surrenders its license under Chapter 18 (§ 6.1-444 et seq.) of this title or has its license revoked, and if following such surrender or revocation of its license the former licensee engages in the extension of credit under an open-end credit or similar plan as described in this section, then the Commission shall not issue to such former licensee, or to any affiliate of the former licensee, a license under Chapter 18 of this title for a period of 10 years from the date such license is surrendered or revoked. As used in this subsection, "affiliate of the former licensee" means a business entity that owns or controls, is owned or controlled by, or is under common ownership or control with, the former licensee.

CHAPTER 21. MOTOR VEHICLE TITLE LOANS.

§ 6.1-480. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Bond" includes any form of financial instrument that provides security equivalent to that provided by a bond, such as an irrevocable letter of credit, if its use in lieu of a bond is authorized pursuant to regulations adopted by the Commission.

"Licensee" means a person to whom a license has been issued under this chapter.

"Motor vehicle" means an automobile, motorcycle, mobile home, truck, van, or other vehicle operated on public highways and streets.

"Motor vehicle title loan" or "title loan" means a loan secured by a non-purchase money security interest in a motor vehicle.

"Motor vehicle title loan agreement" or "loan agreement" means a written document that sets out the terms and conditions under which a licensee agrees to make a motor vehicle title loan to a borrower, and the borrower agrees to give to the licensee a security interest in a motor vehicle owned by the borrower to secure repayment of the motor vehicle title loan and performance of the other obligations under the loan agreement.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, or other legal or commercial entity.

"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 any other type of entity.

§ 6.1-481. License required.

Unless exempted from the provisions of this chapter pursuant to § 6.1-482:

1. No person shall engage in the business of making motor vehicle title loans to any individual residing in the Commonwealth, whether or not the person has a location in the Commonwealth, except in accordance with the provisions of this chapter and without having first obtained a license under this chapter from the Commission; and

2. No person shall engage in the business of arranging or brokering motor vehicle title loans for any individual residing in the Commonwealth, whether or not the person has a location in the Commonwealth.

§ 6.1-482. Scope of chapter.

A. The provisions of this chapter shall not apply to any bank, savings institution, or credit union, or to a person licensed under Chapter 6 (§ 6.1-244 et seq.), that does not elect to become licensed under this chapter. Electing to become licensed under this chapter, however, shall constitute a waiver of the benefit of any and all laws of the Commonwealth and other states, territories, possessions, and districts of the United States and federal laws preemptive of, or inconsistent with, the provisions of this chapter.

B. The provisions of this chapter shall not apply to extensions of credit for the sole purpose of financing the purchase of a motor vehicle, or of refinancing a purchase money loan, secured by a lien on the motor vehicle.

§ 6.1-483. Application for license; form; content; fee.

A. An application for a license under this chapter shall be made in writing, under oath, and on a form provided by the Commissioner.

B. The application shall set forth:

1. The name and address of the applicant and (i) if the applicant is a partnership, firm, or association, the name and address of each partner or member; (ii) if the applicant is a corporation or limited liability company, the name and address of each 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 addresses of the locations of the business to be licensed; and

3. Such other information concerning the financial responsibility, background, experience, and activities of the applicant and its members, officers, directors, and principals as the Commissioner may require.

C. The application shall be accompanied by payment of an application fee of \$500.

D. The application fee shall not be refundable in any event. The fee shall not be abated by surrender, suspension, or revocation of the license.

§ 6.1-484. Bond required.

The application for a license shall also be accompanied by a bond filed with the Commissioner with corporate surety authorized to execute such bond in the Commonwealth, in the sum of \$50,000 per location, not to exceed a total of \$500,000. The form of such bond shall be approved by the Commission. Such bond shall be continuously maintained thereafter in full force. Such bond shall be conditioned upon the applicant or licensee performing all written agreements with borrowers or prospective borrowers, correctly and accurately accounting for all funds received by him in his licensed business, and conducting his licensed business in conformity with this chapter and all applicable laws. Any person who may be damaged by noncompliance of the licensee with any condition of such bond may proceed on such bond against the principal or surety thereon, or both, to recover damages. The aggregate liability under the bond shall not exceed the penal sum of the bond.

§ 6.1-485. Investigation of applications.

The Commissioner may make such investigations as he deems necessary to determine if the applicant has complied with all applicable provisions of law and regulations adopted thereunder.

§ 6.1-486. Qualifications.

A. Upon the filing and investigation of an application for a license, and compliance by the applicant with the provisions of §§ 6.1-483 and 6.1-484, the Commission shall issue and deliver to the applicant the license applied for to engage in business under this chapter at the locations specified in the application if it finds:

1. That the financial responsibility, character, reputation, experience, and general fitness of the applicant and its members, senior officers, directors, trustees, and principals are such as to warrant belief that the business will be operated efficiently and fairly, in the public interest, and in accordance with law; and

2. That the applicant has unencumbered liquid assets per location available for the operation of the business of at least \$75,000.

B. If the Commission fails to make such findings, no license shall be issued and the Commissioner shall notify the applicant of the denial and the reasons for such denial.

§ 6.1-487. Licenses; places of business; changes.

A. Each license shall state the address or addresses at which the business is to be conducted and shall state fully the legal name of the licensee as well as any fictitious name by which the licensee is operating in the Commonwealth. Each license shall be posted prominently in each place of business of the licensee. Licenses shall not be transferable or assignable, by operation of law or otherwise. No licensee shall use any name in the Commonwealth other than the legal name or fictitious name set forth on the license issued by the Commission.

B. No licensee shall open an additional office or relocate any place of business without prior approval of the Commission. Applications for such approval shall be made in writing on a form provided by the Commissioner and shall be accompanied by payment of a \$150 nonrefundable application fee. The application shall be approved unless the Commission finds that the applicant does not have the required liquid assets or has not conducted business under this chapter efficiently, fairly, in the public interest, and in accordance with law. The application shall be deemed approved if notice to the contrary has not been mailed by the Commission to the applicant within 30 days of the date the application is received by the Commission. After approval, the applicant shall give written notice to the Commissioner within 10 days of the commencement of business at the additional location or relocated place of business.

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

D. Every license shall remain in force until it has been surrendered, revoked, or suspended. The surrender, revocation, or suspension of a license shall not affect any preexisting legal right or obligation of such licensee.

§ 6.1-488. Acquisition of control; application.

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

1. Files an application with the Commission in such form as the Commissioner may prescribe from time to time;
2. Delivers such other information to the Commissioner as the Commissioner may require concerning the financial responsibility, background, experience, and activities of the applicant, its directors, senior officers, principals, and members and of any proposed new directors, senior officers, principals, or members of the licensee; and
3. Pays such application fee as the Commission may prescribe.

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

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

§ 6.1-489. Retention of books, accounts, and records.

Every licensee shall maintain in its licensed offices such books, accounts, and records as the Commission may reasonably require in order to determine whether such licensee is complying with the provisions of this chapter and rules and regulations adopted in furtherance thereof. Such books, accounts, and records shall be maintained apart and separate from any other business in which the licensee is involved. Such records relating to title loans shall be retained for at least three years after final payment is made on any title loan.

§ 6.1-490. Annual report.

Each licensee under this chapter shall annually, on or before March 25, file a written report with the Commissioner containing such information as the Commissioner may require concerning his business and operations during the preceding calendar year as to each licensed place of business. Reports shall be made under oath and shall be in the form prescribed by the Commissioner.

§ 6.1-491. Other reporting requirements.

Within 15 days following the occurrence of any of the following events, a licensee shall file a written report with the Commission describing such event and its expected impact upon the business of the licensee:

- 1. The filing of bankruptcy, reorganization, or receivership proceedings by or against the licensee;*
- 2. The institution of administrative or regulatory proceedings against the licensee by any governmental authority;*
- 3. Any felony indictments of the licensee or any of its members, partners, directors, officers, or principals;*
- 4. Any felony conviction of the licensee or any of its members, partners, directors, officers, or principals; and*
- 5. Such other event as the Commission may prescribe by regulation.*

§ 6.1-492. Investigations; examinations.

The Commission may, by its designated officers and employees, as often as it deems necessary, investigate and examine the affairs, business, premises, and records of any person licensed or required to be licensed under this chapter insofar as they pertain to any business for which a license is required by this chapter. Examinations of licensees shall be conducted at least once in each three-year period. In the course of such investigations and examinations, the owners, members, officers, directors, partners, trustees, beneficiaries, and employees of such person being investigated or examined shall, upon demand of the person making such investigation or examination, afford full access to all premises, books, records, and information that the person making such investigation or examination deems necessary. For the foregoing purposes, the person making such investigation or examination shall have authority to administer oaths, examine under oath all the aforementioned persons, and compel the production of papers and objects of all kinds.

§ 6.1-493. Annual fees.

A. In order to defray the costs of their examination, supervision, and regulation, every licensee under this chapter shall pay an annual fee calculated in accordance with a schedule set by the Commission. The schedule shall bear a reasonable relationship to the business volume of such licensees, the actual costs of their examinations, and other factors relating to their supervision and regulation. All such fees shall be assessed on or before September 15 for every calendar year. All such fees shall be paid by the licensee to the State Treasurer on or before October 15 following each assessment.

B. In addition to the annual fee prescribed in subsection A, when it becomes necessary to examine or investigate the books and records of a licensee under this chapter at a location outside the Commonwealth, the licensee shall be liable for and shall pay to the Commission within 30 days of the presentation of an itemized statement, the actual travel and reasonable living expenses incurred on account of its examination, supervision, and regulation, or shall pay at a reasonable per diem rate approved by the Commission.

§ 6.1-494. Regulations.

The Commission shall adopt such regulations as it deems appropriate to effect the purposes of this chapter. Before adopting any such regulation, the Commission shall give reasonable notice of its content and shall afford interested parties an opportunity to be heard, in accordance with the Commission's Rules of Practice and Procedure.

§ 6.1-495. Required and prohibited business methods.

Each licensee shall comply with the following requirements and prohibitions:

1. Each motor vehicle title loan shall be evidenced by a written motor vehicle title loan agreement. Each motor vehicle title loan agreement shall:

- a. Be signed by the borrower and by a person authorized by the licensee to sign such agreements;*
- b. Be dated the day it is executed by the borrower;*
- c. Set forth or contain, at a minimum: (i) the loan amount; (ii) the interest rate and any fees charged pursuant to the loan, which shall not exceed the maximum rate permitted pursuant to § 6.1-496; (iii) the annual percentage rate, which shall be stated using that term, calculated in accordance with the Federal Reserve Board's Regulation Z; (iv) the amounts and scheduled due dates of the monthly installment payments of principal and interest; (v) the borrower's mailing address; (vi) the make, model, year, and vehicle identification number of the motor vehicle in which a security interest is being given to as security for the loan; (vii) that the borrower shall have the right to cancel the loan agreement at any time before the close of business on the next business day following the day the loan agreement is executed by returning the original loan proceeds check to or paying to the licensee, in the form of cash or other good funds instrument, the loan proceeds; (viii) the loan's maturity date, which shall not be earlier than 120 days from the date the loan agreement is executed nor later than 12 months from the date the loan agreement is executed; and (ix) such other information relating to the title loan as the Commission shall determine, by regulation, is necessary in order to ensure that the borrower is provided adequate notice of the relevant provisions of the title loan;*

d. Not cause any person to be obligated to the licensee for a principal amount that exceeds 50 percent of the fair market value of the motor vehicle in which the licensee is taking an interest, which

value shall be determined by reference to the loan value for the motor vehicle specified in a recognized pricing guide if the motor vehicle is included in a recognized pricing guide; and

e. Contain the following notice in at least 14-point bold type immediately above the borrower's signature:

THE INTEREST RATE ON THIS LOAN IS HIGH. YOU SHOULD CONSIDER WHETHER THERE ARE OTHER LOWER COST LOANS AVAILABLE TO YOU.

THIS IS A MOTOR VEHICLE TITLE LOAN AGREEMENT. IT ALLOWS YOU TO RECEIVE LOAN PROCEEDS TO MEET YOUR IMMEDIATE CASH NEEDS. IT IS NOT INTENDED TO MEET YOUR LONG-TERM FINANCIAL NEEDS.

WHEN USING THIS LOAN, YOU SHOULD REQUEST THE MINIMUM AMOUNT REQUIRED TO MEET YOUR IMMEDIATE NEEDS AND YOU SHOULD REPAY THE LOAN AS QUICKLY AS POSSIBLE TO REDUCE THE AMOUNT OF INTEREST YOU ARE CHARGED.

YOU SHOULD TRY TO REPAY THIS LOAN AS QUICKLY AS POSSIBLE. YOU WILL BE REQUIRED TO PAY THE PRINCIPAL AND INTEREST ON THE LOAN IN MONTHLY SUBSTANTIALLY EQUAL INSTALLMENTS. YOU SHOULD TRY TO PAY EVEN MORE TOWARDS YOUR PRINCIPAL BALANCE EACH MONTH. DOING SO WILL SAVE YOU MONEY.

YOU MAY RESCIND THIS LOAN WITHOUT COST OR FURTHER OBLIGATION IF YOU RETURN THE LOAN PROCEEDS, IN CASH OR THE ORIGINAL LOAN CHECK, PRIOR TO THE CLOSE OF BUSINESS ON THE BUSINESS DAY IMMEDIATELY FOLLOWING THE EXECUTION OF THIS AGREEMENT.

YOU ARE PLEDGING YOUR MOTOR VEHICLE AS COLLATERAL FOR THIS LOAN. IF YOU FAIL TO REPAY THE LOAN PURSUANT TO THIS AGREEMENT, WE MAY REPOSSESS YOUR MOTOR VEHICLE.

UNLESS YOU CONCEAL OR INTENTIONALLY DAMAGE THE MOTOR VEHICLE, OR OTHERWISE IMPAIR OUR SECURITY INTEREST BY PLEDGING THE MOTOR VEHICLE TO A THIRD PARTY OR PLEDGING A MOTOR VEHICLE TO US THAT IS ALREADY SUBJECT TO AN UNDISCLOSED EXISTING LIEN, YOUR LIABILITY FOR DEFAULTING UNDER THIS LOAN IS LIMITED TO THE LOSS OF THE MOTOR VEHICLE.

IF YOUR MOTOR VEHICLE IS SOLD DUE TO YOUR DEFAULT, YOU ARE ENTITLED TO ANY SURPLUS OBTAINED AT SUCH SALE BEYOND WHAT IS OWED PURSUANT TO THIS AGREEMENT ALONG WITH ANY REASONABLE COSTS OF RECOVERY AND SALE;

2. Before entering into a motor vehicle title loan, a licensee shall provide each borrower with a pamphlet, in a form consistent with regulations adopted by the Commission, explaining in plain language the rights and responsibilities of the borrower and providing a toll-free number at the Commission for assistance with complaints;

3. The borrower shall have the right to prepay the title loan prior to maturity by paying the outstanding balance at any time without penalty. A borrower shall also be permitted to make partial payments on a motor vehicle equity loan without charge at any time prior to the date such amounts would otherwise be due to the licensee. The licensee shall give the borrower signed, dated receipts for any cash payment made in person;

4. A licensee shall give a duplicate original of the loan agreement to the borrower at the time it is executed;

5. A licensee shall not obtain any agreement from the borrower (i) giving the licensee or any third person power of attorney or authority to confess judgment for the borrower; (ii) authorizing the licensee or any third party to bring suit against the borrower in a court outside the Commonwealth; (iii) waiving or modifying any right the borrower has under this chapter or Title 8.9A; or (iv) requiring the borrower to use arbitration or other alternative dispute resolution mechanisms that do not conform to Chapter 21 (§ 8.01-577 et seq.) of Title 8.01;

6. A motor vehicle title loan agreement shall not (i) contain a provision by which a person acting on behalf of the licensee is treated as an agent of the borrower in connection with its formation or execution other than for purposes of filing or releasing a lien with the Department of Motor Vehicles, (ii) contain an acceleration clause under which a licensee may demand immediate payment of any amount owed to it unless the borrower is in default under the terms of the loan agreement, or (iii) be sold or otherwise assigned to any other person who is not also a licensee, and if a loan agreement is sold or assigned to another licensee, the buyer or assignee of the loan agreement shall be subject to the same obligations under this chapter that apply to the selling or assigning licensee;

7. Loan proceeds shall be disbursed (i) in cash, (ii) by the licensee's business check, or (iii) by debit card provided that the borrower will not be directly charged a fee by the licensee in connection with the withdrawal of the funds. No fee shall be charged by the licensee or check casher for cashing a title loan proceeds check;

8. A licensee shall not obtain or accept from a borrower an authorization to electronically debit the borrower's deposit account;

9. A licensee shall not take an interest in any real or personal property other than one motor vehicle owned by the borrower as security for a title loan. For purposes of this subdivision, "motor vehicle"

includes any accessories or accessions to a motor vehicle that are affixed thereto;

10. A licensee shall not (i) make a motor vehicle title loan if, on the date the loan agreement is signed by the borrower, the motor vehicle's certificate of title evidences that the motor vehicle is security for another loan or otherwise is encumbered by a lien; (ii) make a loan to an individual who the licensee knows is a borrower under another motor vehicle title loan, whether made by the same or another licensee, or (iii) knowingly cause a borrower to be obligated upon more than one motor vehicle title loan at any time. Prior to making a motor vehicle title loan, every licensee shall inquire of every prospective borrower if the individual is obligated on a motor vehicle title loan with any licensee. Each loan agreement shall include the borrower's certification that the borrower is not obligated on another motor vehicle title loan;

11. A licensee shall (i) hold the certificate of title to the motor vehicle throughout the period that the loan agreement is in effect and (ii) within seven days following the date of the motor vehicle title loan agreement, file to have its security interest in the motor vehicle added to its certificate of title by complying with the requirements of § 46.2-637;

12. A licensee shall not make a title loan to a borrower to enable the borrower to (i) pay for any other product or service sold at the licensee's business location or (ii) repay any amount owed to the licensee or an affiliate of the licensee in connection with another credit transaction;

13. A licensee's security interest in a motor vehicle shall be promptly released when the borrower's obligations under the loan agreement are satisfied in full. When releasing the security interest in a motor vehicle, a licensee shall (i) mark the original loan agreement with the word "paid" or "canceled," return it to the borrower, and retain a copy in its records; (ii) take any action necessary to reflect the termination of its lien on the motor vehicle's certificate of title; and (iii) return the certificate of title to the borrower;

14. A licensee shall conspicuously post in each licensed location (i) a schedule of finance charges on a title loan, using as an example a \$1,000 loan that is repaid over a 12-month period and (ii) a notice containing the following statement: "Should you wish to file a complaint against us, you may contact the Bureau of Financial Institutions at [insert contact information]." The Commission shall furnish licensees with the appropriate contact information;

15. A licensee or affiliate shall not knowingly make a motor vehicle title loan to a covered member of the armed forces or a dependent of such member. Prior to making a motor vehicle title loan, every licensee or affiliate shall inquire of every prospective borrower if the individual is a covered member of the armed forces or a dependent of a covered member. The prospective borrower shall affirm in writing to the licensee or affiliate if he is not a covered member of the armed forces or a dependent of a covered member. For purposes of this section, "covered member of the armed forces" means a person on active duty under a call or order that does not specify a period of 30 days or less or on active guard and reserve duty. For purposes of this section, "dependent of a covered member of the armed forces" means the member's spouse, the member's child as defined by 38 U.S.C. § 101(4), or an individual for whom the member provided more than one-half of the individual's support for 180 days immediately preceding the date the motor vehicle title loan is sought;

16. In collecting or attempting to collect a motor vehicle title loan, a licensee shall comply with the restrictions and prohibitions applicable to debt collectors contained in the Fair Debt Collection Practices Act (15 U.S.C. § 1692 et seq.) regarding harassment or abuse, false, misleading or deceptive statements or representations, and unfair practices in collections;

17. A licensee shall not (i) engage in any unfair, misleading, deceptive, or fraudulent acts or practices in the conduct of its business, (ii) engage in any business or activity that directly or indirectly results in an evasion of the provisions of this chapter, or (iii) threaten, or cause to be instigated, criminal proceedings against a borrower arising from the borrower's failure to pay any sum due under a loan agreement;

18. A licensee shall not conduct the business of making motor vehicle title loans under this chapter at any office, suite, room, or place of business where any other business is solicited or conducted except a registered check cashing business or such other business as the Commission determines should be permitted, and subject to such conditions as the Commission deems necessary and in the public interest. No other such business shall be allowed except as permitted by Commission regulation or upon the filing of a written application with the Commission, payment of a \$300 fee, and provision of such information as the Commission may deem pertinent. The Commission shall not, however, permit the sale of insurance or the enrolling of borrowers under group insurance policies;

19. A licensee shall provide a safe place for the keeping of all certificates of title while they are in its possession;

20. A licensee may require a borrower to purchase or maintain property insurance upon a motor vehicle securing a title loan made pursuant to this chapter. A licensee may not require the borrower to obtain such insurance from a particular provider; and

21. If the licensee takes possession of a motor vehicle securing a title loan, the vehicle shall be stored in a secure location.

§ 6.1-496. Interest and other charges; term; monthly payments.

A. A licensee may charge and collect interest on a motor vehicle title loan at rates not to exceed the following:

1. Twenty-two percent per month on the portion of the principal that does not exceed \$700;
2. Eighteen percent per month on the portion of the principal that exceeds \$700 but does not exceed \$1,400; and
3. Fifteen percent per month on the portion of the principal that exceeds \$1,400.

B. The annual rate of interest shall be charged only upon principal balances outstanding from time to time. Interest shall not be charged on an add-on basis and shall not be compounded or paid, deducted or received in advance. On motor vehicle title loans in excess of \$700, a licensee may accrue interest utilizing a single blended interest rate provided the maximum charge allowed pursuant to subsection A is not exceeded.

C. Notwithstanding anything set forth in subsection A, other provisions of this chapter, or in a motor vehicle title loan agreement, interest shall not accrue on the principal balance of a motor vehicle title loan from and after:

1. The date that the motor vehicle securing the title loan is repossessed by the licensee making the loan; or
2. Sixty days after the borrower has failed to make a monthly payment on a motor vehicle title loan as required by the loan agreement unless the borrower has not surrendered the motor vehicle and the borrower is concealing the motor vehicle.

D. In addition to the loan principal and interest permitted under subsection A, a licensee shall not directly or indirectly charge, contract for, collect, receive, recover, or require a borrower to pay any further or other fee, charge, or amount whatsoever except for (i) a licensee's actual cost of perfecting its security interest in a motor vehicle securing the borrower's obligations under a loan agreement and (ii) reasonable costs of repossession and sale of the motor vehicle in accordance with § 6.1-497. A licensee shall not be entitled to collect or recover from a borrower any sum otherwise permitted pursuant to § 6.1-330.54, 8.01-27.2, or 8.01-382. In no event shall the borrower be liable for fees incurred in connection with the storage of a motor vehicle securing a title loan following the motor vehicle's repossession by the licensee or its agent, or the voluntary surrender of possession of the motor vehicle by the borrower to the licensee.

E. Every title loan shall be a term loan providing for repayment of the principal and interest in substantially equal monthly installments of principal and interest; however, nothing in this chapter shall prohibit a loan agreement from providing for an odd first payment period and an odd first payment greater than other monthly payments because of such odd first payment period.

F. A title loan agreement may not be extended, renewed, or refinanced.

G. A licensee may impose a late charge for failure to make timely payment of any amount due under the loan agreement provided that such late charge does not exceed the amount permitted by § 6.1-330.80.

H. Payments shall be credited by the licensee on the date received.

§ 6.1-497. Limited recourse; repossession and sale of motor vehicle.

A. Except as otherwise provided in subsection E, a licensee taking a security interest in a motor vehicle pursuant to this chapter shall be limited, upon default by the borrower, to seeking repossession of, preparing for sale, and selling the motor vehicle in accordance with Title 8.9A. Unless (i) the licensee, at least 10 days prior to repossessing the motor vehicle securing a title loan, has sent to the borrower, by first class mail, written notice advising the borrower that his title loan is in default and stating that the motor vehicle may be repossessed unless the principal and interest owed under the loan agreement are paid and (ii) the borrower does not pay such principal and interest prior to the date the motor vehicle is repossessed by or at the direction of the licensee, then the licensee shall not collect or charge the costs of repossessing and selling the motor vehicle described in clause (ii) of subsection D of § 6.1-496. A licensee shall not repossess a motor vehicle securing a title loan prior to the date specified in the notice. Except as otherwise provided in subsection E, a licensee shall not seek or obtain a personal money judgment against a borrower for any amount owed under a loan agreement or any deficiency resulting after the sale of a motor vehicle.

B. At least 15 days prior to the sale of a motor vehicle, a licensee shall (i) notify the borrower of the date and time after which the motor vehicle is subject to sale and (ii) provide the borrower with a written accounting of the principal amount due to the licensee, interest accrued through the date the licensee took possession of the motor vehicle, and any reasonable expenses incurred to date by the licensee in taking possession of, preparing for sale, and selling the motor vehicle. At any time prior to such sale, the licensee shall permit the borrower to redeem the motor vehicle by tendering cash or other good funds instrument for the principal amount due to the licensee, interest accrued through the date the licensee took possession, and any reasonable expenses incurred by the licensee in taking possession of, preparing for sale, and selling the motor vehicle.

C. Within 30 days of the licensee's receipt of funds from the sale of a motor vehicle, the borrower is entitled to receive all proceeds from such sale of the motor vehicle in excess of the principal amount due to the licensee, interest accrued through the date the licensee took possession, and the reasonable

expenses incurred by the licensee in taking possession of, preparing for sale, and selling the motor vehicle.

D. Except in the case of fraud or a voluntary surrender of the motor vehicle, a licensee shall not take possession of a motor vehicle until such time as a borrower is in default under the loan agreement. Except as otherwise provided in this chapter, the repossession and sale of a motor vehicle shall be subject to the provisions of Title 8.9A.

E. Notwithstanding any provision to the contrary, upon default by a borrower, a licensee may seek a personal money judgment against the borrower for any amounts owed under a loan agreement if the borrower impairs the licensee's security interest by (i) intentionally damaging or destroying the motor vehicle, (ii) intentionally concealing the motor vehicle, (iii) giving the licensee a lien in a motor vehicle that is already encumbered by an undisclosed prior lien, or (iv) subsequently giving a security interest in, or selling, a motor vehicle that secures a title loan to a third party, without the licensee's written consent.

§ 6.1-498. Advertising.

A. No person licensed or required to be licensed under this chapter shall use or cause to be published any advertisement that (i) contains any false, misleading, or deceptive statement or representation or (ii) identifies the person by any name other than the name set forth on the license issued by the Commission.

B. Any advertising materials used to promote the price, cost, or interest rate of motor vehicle title loans shall disclose the amount of any minimum monthly payments and a statement of finance charges, expressed as an annual percentage rate, payable using as an example a \$1,000 loan that is repaid over a 12-month period. In any print media advertisement, including any web page, used to promote motor vehicle title loans, the disclosure shall be conspicuous. "Conspicuous" shall have the meaning set forth in subdivision (a) (14) of § 59.1-501.2. If a single advertisement consists of multiple pages, folds, or faces, the disclosure requirement applies only to one page, fold, or face. In a television advertisement used to promote motor vehicle title loans, the visual disclosure legend shall include 20 scan lines in size. In a radio advertisement or advertisement communicated by telephone used to promote motor vehicle title loans, the disclosure statement shall last at least two seconds and the statement shall be spoken so that its contents may be easily understood.

§ 6.1-499. Suspension or revocation of license.

A. The Commission may suspend or revoke any license issued under this chapter upon any of the following grounds:

1. Any ground for denial of a license under this chapter;
2. Any violation of the provisions of this chapter or regulations adopted by the Commission pursuant thereto, or a violation of any other law or regulation applicable to the conduct of the licensee's business;
3. A course of conduct consisting of the failure to perform written agreements with borrowers;
4. Conviction of a felony or misdemeanor involving fraud, misrepresentation, or deceit;
5. Entry of a judgment against the licensee involving fraud, misrepresentation, or deceit;
6. Entry of a federal or state administrative order against the licensee for violation of any law or any regulation applicable to the conduct of his business;
7. Refusal to permit an investigation or examination by the Commission;
8. Failure to pay any fee or assessment imposed by this chapter; or
9. Failure to comply with any order of the Commission.

B. For the purposes of this section, acts of any officer, director, member, partner, trustee, beneficiary, or principal shall be deemed acts of the licensee.

§ 6.1-500. Cease and desist orders.

If the Commission determines that any person has violated any provision of this chapter or any regulation adopted by the Commission pursuant thereto, or violated any other law or regulation applicable to the conduct of a licensee's business, the Commission may, upon 21 days' notice in writing, order such person to cease and desist from such practices and to comply with the provisions of this chapter. The notice shall be sent by certified mail to the principal place of business of such person or other address authorized under § 12.1-19.1 and shall state the grounds for the contemplated action. Within 14 days of mailing the notice, the person or persons named therein may file with the Clerk of the Commission a written request for a hearing. If a hearing is requested, the Commission shall not issue a cease and desist order except based upon findings made at such hearing. Such hearing shall be conducted in accordance with the Commission's Rules of Practice and Procedure. The Commission may enforce compliance with any order issued under this section by imposition and collection of such fines and penalties as may be prescribed by law.

§ 6.1-501. Notice of proposed suspension or revocation.

The Commission shall not revoke or suspend the license of any person licensed under this chapter upon any of the grounds set forth in § 6.1-499 until it has given the licensee 21 days' notice in writing of the reasons for the proposed revocation or suspension and an opportunity to introduce evidence and be heard. The notice shall be sent by certified mail to the principal place of business of the licensee or

other address authorized under § 12.1-19.1 and shall state with particularity the grounds for the contemplated action. Within 14 days of mailing the notice, the person or persons named therein may file with the Clerk of the Commission a written request for a hearing. If a hearing is requested, the Commission shall not suspend or revoke the license except based upon findings made at such hearing. The hearing shall be conducted in accordance with the Commission's Rules of Practice and Procedure.

§ 6.1-502. Fines for violations.

In addition to the authority conferred under §§ 6.1-499 and 6.1-500, the Commission may impose a fine or penalty not exceeding \$1,000 upon any person who it determines, in proceedings commenced in accordance with the Commission's Rules of Practice and Procedure, has violated any of the provisions of this chapter or regulations promulgated by the Commission pursuant thereto, or violated any other law or regulation applicable to the conduct of a licensee's business. For the purposes of this section, each separate violation shall be subject to the fine or penalty herein prescribed and, in the case of a violation of § 6.1-481, each loan made or arranged shall constitute a separate violation.

§ 6.1-503. Criminal penalty.

Any person violating § 6.1-481 shall, upon conviction, be guilty of a Class 1 misdemeanor. For the purposes of this section, each violation shall constitute a separate offense.

§ 6.1-504. Validity of noncompliant loan agreement.

If any provision of a motor vehicle title loan agreement violates a requirement of this chapter, such provision shall be unenforceable against the borrower.

§ 6.1-505. Application of chapter to Internet loans.

The provisions of this chapter, including specifically the licensure requirements of § 6.1-481, shall apply to persons making motor vehicle title loans over the Internet to Virginia residents, whether or not the person making the loan maintains a physical presence in the Commonwealth.

§ 6.1-506. Authority of Attorney General; referral by Commission to Attorney General.

A. If the Commission determines that a person is in violation of, or has violated, any provision of this chapter, the Commission may refer the information to the Attorney General and may request that the Attorney General investigate such violations. In the case of such referral, the Attorney General is hereby authorized to seek to enjoin violations of this chapter. The circuit court having jurisdiction may enjoin such violations notwithstanding the existence of an adequate remedy at law.

B. Upon such referral of the Commission, the Attorney General may also seek, and the circuit court may order or decree, damages and such other relief allowed by law, including restitution to the extent available to borrowers under applicable law. Persons entitled to any relief as authorized by this section shall be identified by order of the court within 180 days from the date of the order permanently enjoining the unlawful act or practice.

C. In any action brought by the Attorney General by virtue of the authority granted in this section, the Attorney General shall be entitled to seek reasonable attorney fees and costs.

§ 6.1-507. Violation of the Virginia Consumer Protection Act.

Any violation of the provisions of this chapter shall constitute a prohibited practice in accordance with § 59.1-200 and shall be subject to any and all of the enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

§ 59.1-200. Prohibited practices.

A. The following fraudulent acts or practices committed by a supplier in connection with a consumer transaction are hereby declared unlawful:

- 1. Misrepresenting goods or services as those of another;*
- 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;*
- 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;*
- 4. Misrepresenting geographic origin in connection with goods or services;*
- 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;*
- 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;*
- 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects or "not first class";*
- 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.*

In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement

or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;

11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;

12. Notwithstanding any other provision of law, using in any manner the words "wholesale," "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;

13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;

14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction;

15. Violating any provision of § 3.2-6512, 3.2-6513, or 3.2-6516, relating to the sale of certain animals by pet dealers which is described in such sections, is a violation of this chapter;

16. Failing to disclose all conditions, charges, or fees relating to:

a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving overpayments. If the credit balance information is incorporated into statements of account furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;

17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

18. Violating any provision of the Virginia Health Spa Act, Chapter 24 (§ 59.1-294 et seq.) of this title;

19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.) of this title;

20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.) of this title;

21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17 et seq.) of this title;

22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.) of this title;

23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et seq.) of this title;

24. Violating any provision of § 54.1-1505;

25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6 (§ 59.1-207.34 et seq.) of this title;

26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.) of this

title;

28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.) of this title;

29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.) of this title;

30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et seq.) of this title;

31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.) of this title;

32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

35. Using the consumer's social security number as the consumer's account number with the supplier, if the consumer has requested in writing that the supplier use an alternate number not associated with the consumer's social security number;

36. Violating any provision of Chapter 18 (§ 6.1-444 et seq.) of Title 6.1;

37. Violating any provision of § 8.01-40.2;

38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;

39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.) of this title;

40. Violating any provision of Chapter 10.2 (§ 6.1-363.2 et seq.) of Title 6.1;

41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525 et seq.) of this title;

42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.) of this title;

43. Violating any provision of § 59.1-443.2;

44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.) of this title;

45. Violating any provision of Chapter 20 (§ 6.1-474 et seq.) of Title 6.1;

46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;

47. Violating any provision of § 18.2-239;

48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);

49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable presumption that a supplier has reason to know a children's product was recalled if notice of the recall has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's products that are used, secondhand or "seconds"; ~~and~~

50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.) of this title; *and*

51. *Violating any provision of Chapter 21 (§ 6.1-480 et seq.) of Title 6.1.*

B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

2. That the State Corporation Commission shall establish a procedure, to be in effect by August 1, 2010, for any person to apply, prior to October 1, 2010, for a license to be issued pursuant to Chapter 21 (§ 6.1-480 et seq.) of Title 6.1 of the Code of Virginia, when such chapter becomes effective.

3. That nothing in this act shall prohibit the collection of any outstanding loan or extension of credit made under § 6.1-330.78 of the Code of Virginia that is secured by a lien on a motor vehicle, in accordance with the terms of a loan agreement made prior to the effective date of this act; however, no additional extensions of credit or advances shall be made under such motor vehicle secured loan agreement, and such a motor vehicle secured loan agreement shall not be extended or renewed, on or after the effective date of this act.

4. That an applicant for a license pursuant to Chapter 21 (§ 6.1-480 et seq.) of Title 6.1 of the Code of Virginia shall not be required to provide to the State Corporation Commission, in connection with the State Corporation Commission's determination of whether the applicant satisfies the qualifications for licensure set forth in § 6.1-486, any business records or documents that relate to loans made by the applicant prior to October 1, 2007, pursuant to § 6.1-330.78 of the Code of Virginia. In addition, matters involving extensions of credit secured by a motor vehicle that have been reviewed and resolved between a person and the Commonwealth prior to the enactment of this act shall not be a bar to licensure under Chapter 21 (§ 6.1-480 et seq.) of Title 6.1 of the Code of Virginia.

5. That the provisions of the first enactment of this act shall become effective on October 1, 2010.