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SENATE BILL NO. 98

Offered January 11, 2012

Prefiled January 9, 2012

A BILL to amend and reenact § 6.2-312 of the Code of Virginia, relating to open-end credit plans.

Patron—Edwards

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That § 6.2-312 of the Code of Virginia is amended and reenacted as follows:**

§ 6.2-312. Open-end credit plans.

A. Notwithstanding any provision of this chapter other than § 6.2-327, and except as provided in subsection C, a seller or lender engaged in extending credit under an open-end credit plan may impose, on credit extended under the plan, finance charges and other charges and fees *(i) that do not exceed an annual rate of 36 percent if the maximum amount that may be advanced under the plan does not exceed \$2,500 and (ii) at such rates and in such amounts and manner as may be agreed upon by the creditor and the obligor; if the maximum amount that may be advanced under the plan exceeds \$2,500, in either case if under the plan 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 25 days later than the prior billing date.*

B. Notwithstanding the provisions of § 6.2-327 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. (i) A licensee, as defined in § 6.2-1800, shall not engage in the extension of credit under an open-end credit plan described in this section and, (ii) a third party shall not engage in the extension of credit under an open-end credit 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.

D. No person shall make a loan or otherwise extend credit under an open-end credit 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 § 6.2-2200, unless such loan or extension of credit is made in accordance with, or is exempt from, the provisions of Chapter 22 (§ 6.2-2200 et seq.).

E. If a licensee, as defined in § 6.2-1800, surrenders its license under Chapter 18 (§ 6.2-1800 et seq.) 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 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 (§ 6.2-1800 et seq.) 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.

2. That nothing contained in this act shall prohibit the collection of any outstanding loan or extension of credit made under § 6.1-330.78 or 6.2-312 of the Code of Virginia 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 on or after the effective date of this act under such a loan agreement that violates the provisions of this act.

INTRODUCED

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