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**HOUSE BILL NO. 2191**

Offered January 14, 2015

A *BILL to amend and reenact §§ 6.2-1803, 6.2-1817, 6.2-2203, and 6.2-2216 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 6.2-1807.1 and 6.2-2207.1, relating to licensure of payday lending and motor vehicle title lending offices; distance from casino facilities and military installations; maximum annual percentage rate of interest and fees on loans made at certain offices.*

Patrons—Hope and Surovell

Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 6.2-1803, 6.2-1817, 6.2-2203, and 6.2-2216 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 6.2-1807.1 and 6.2-2207.1 as follows:**

**§ 6.2-1803. 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;

2. If the applicant is a firm or partnership, the name and address of each member of the firm or partnership;

3. If the applicant is a corporation or a limited liability company, the name and address of each officer, director, registered agent, and each principal;

4. The addresses of the locations of the offices to be approved; and

5. 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 evidence that the proposed location of the office for which approval is sought is not located within 10 miles of a casino facility or military installation, as defined in subsection A of § 6.2-1807.1.*

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

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

**§ 6.2-1807.1. Condition for licensure of certain offices; distance from casino facility or military installation.**

A. As used in this section, unless the context requires a different meaning:

"Casino facility" means an establishment that (i) is licensed under the laws of any state or any political subdivision of any state to conduct, operate, or engage in casino gaming or (ii) is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq.

"Casino gaming" means any type of slot machine or table game wagering, using money, casino credit, or any representative of value.

"Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under jurisdiction of the U.S. Department of Defense, including any leased facility. "Military installation" does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

"Slot machine" means any mechanical, electrical, or other device or machine that, upon insertion of a coin, token, ticket, or similar object, or upon payment of any consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, makes individual prize determinations for individual participants in cash, premiums, merchandise, tokens, or any thing of value, whether the payoff is made automatically from the machine or in any other manner.

"Table game" means any game played with cards, dice, or any mechanical, electromechanical, or electronic device or machine for money, casino credit, or any representative of value. "Table game" does not include slot machines.

B. The Commission shall not issue to an applicant a license under this chapter if the location of the office for which the license is sought is within 10 miles of any casino facility or military installation.

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59 C. The distance requirement set forth in this section shall be measured in a straight line, without  
60 regard to roadways or intervening structures, from the main entrance of each such facility.

61 D. A license issued prior to July 1, 2015, by the Commission under this chapter with respect to an  
62 office that on such date is within 10 miles of a casino facility or military installation shall not be  
63 subject to revocation or suspension on account of such fact. A licensee that falls within the exception  
64 established by this subsection shall, however, (i) be required to comply with the provisions of this  
65 section for purposes of relocating an existing office or obtaining a license for a new office and (ii) not  
66 charge interest, including any fee charged, on any loan made from such a licensed location at a rate  
67 that exceeds an annual percentage rate of 36 percent, which rate shall be stated in accordance with  
68 clause (iii) of subdivision 1 of § 6.2-1816.

69 E. The opening after July 1, 2015, of a casino facility or military installation within 10 miles of a  
70 previously approved office at which a licensee is licensed to conduct business under this chapter shall  
71 not constitute grounds for revocation or suspension of the license. A licensee that falls within the  
72 exception established by this subsection shall, however, (i) be required to comply with the provisions of  
73 this section for purposes of relocating an existing office or obtaining a license for a new office and (ii)  
74 not charge interest, including any fee charged, on any loan made from such a licensed location at a  
75 rate that exceeds an annual percentage rate of 36 percent, which rate shall be stated in accordance  
76 with clause (iii) of subdivision 1 of § 6.2-1816.

77 **§ 6.2-1817. Rate of interest, loan fee, and verification fee.**

78 A. A licensee may charge and receive on each loan interest at a simple annual rate not to exceed 36  
79 percent. ~~A~~ Unless subsection D or E of § 6.2-1807.1 is applicable, a licensee may also charge (i) a loan  
80 fee as provided in subsection B and (ii) a verification fee as provided in subsection C.

81 B. ~~A~~ Subject to the limits imposed by subsection D or E of § 6.2-1807.1, a licensee may charge and  
82 receive a loan fee in an amount not to exceed 20 percent of the amount of the loan proceeds advanced  
83 to the borrower.

84 C. ~~A~~ Subject to the limits imposed by subsection D or E of § 6.2-1807.1, a licensee may charge and  
85 receive a verification fee in an amount not to exceed \$5 for a loan made under this chapter. The  
86 verification fee shall be used in part to defray the costs of submitting a database inquiry as provided in  
87 subdivision B 4 of § 6.2-1810.

88 **§ 6.2-2203. Application for license; form; content; fee.**

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

91 B. The application shall set forth:

92 1. The name and address of the applicant and (i) if the applicant is a partnership, firm, or  
93 association, the name and address of each partner or member; (ii) if the applicant is a corporation or  
94 limited liability company, the name and address of each director, member, registered agent, and  
95 principal; or (iii) if the applicant is a business trust, the name and address of each trustee and  
96 beneficiary;

97 2. The addresses of the locations of the business to be licensed; and

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

101 C. The application shall be accompanied by evidence that the proposed location of the office for  
102 which approval is sought is not located within 10 miles of a casino facility or military installation, as  
103 defined in subsection A of § 6.2-2207.1.

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

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

107 **§ 6.2-2207.1. Condition for licensure of certain offices; distance from casino facility or military**  
108 **installation.**

109 A. As used in this section, unless the context requires a different meaning:

110 "Casino facility" means an establishment that (i) is licensed under the laws of any state or any  
111 political subdivision of any state to conduct, operate, or engage in casino gaming or (ii) is an Indian  
112 gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. § 2701  
113 et seq.

114 "Casino gaming" means any type of slot machine or table game wagering, using money, casino  
115 credit, or any representative of value.

116 "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship,  
117 or other activity under jurisdiction of the U.S. Department of Defense, including any leased facility.

118 "Military installation" does not include any facility used primarily for civil works, rivers and harbors  
119 projects, or flood control projects.

120 "Slot machine" means any mechanical, electrical, or other device or machine that, upon insertion of

a coin, token, ticket, or similar object, or upon payment of any consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, makes individual prize determinations for individual participants in cash, premiums, merchandise, tokens, or any thing of value, whether the payoff is made automatically from the machine or in any other manner.

"Table game" means any game played with cards, dice, or any mechanical, electromechanical, or electronic device or machine for money, casino credit, or any representative of value. "Table game" does not include slot machines.

B. The Commission shall not issue to an applicant a license under this chapter if the location of the office for which the license is sought is within 10 miles of any casino facility or military installation.

C. The distance requirement set forth in this section shall be measured in a straight line, without regard to roadways or intervening structures, from the main entrance of each such facility.

D. A license issued prior to July 1, 2015, by the Commission under this chapter with respect to an office that on such date is within 10 miles of a casino facility or military installation shall not be subject to revocation or suspension on account of such fact. A licensee that falls within the exception established by this subsection shall, however, (i) be required to comply with the provisions of this section for purposes of relocating an existing office or obtaining a license for a new office and (ii) not charge interest, including any fee charged, on any loan made from such a licensed location at a rate that exceeds an annual percentage rate of 36 percent, which rate shall be stated in accordance with clause (iii) of subdivision 1 c of § 6.2-2215.

E. The opening after July 1, 2015, of a casino facility or military installation within 10 miles of a previously approved office at which a licensee is licensed to conduct business under this chapter shall not constitute grounds for revocation or suspension of the license. A licensee that falls within the exception established by this subsection shall, however, (i) be required to comply with the provisions of this section for purposes of relocating an existing office or obtaining a license for a new office and (ii) not charge interest, including any fee charged, on any loan made from such a licensed location at a rate that exceeds an annual percentage rate of 36 percent, which rate shall be stated in accordance with clause (iii) of subdivision 1 c of § 6.2-2215.

**§ 6.2-2216. Interest and other charges; term; monthly payments.**

A. Unless subsection D or E of § 6.2-2207.1 caps the annual percentage rate that may be charged by a licensee on a motor vehicle title loan at a lower amount, 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 § 6.2-2217. A licensee shall not be entitled to collect or recover from a borrower any sum otherwise permitted pursuant to § 6.2-302, 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

**182** prohibit a loan agreement from providing for an odd first payment period and an odd first payment  
**183** greater than other monthly payments because of such odd first payment period.

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

**185** G. A licensee may impose a late charge for failure to make timely payment of any amount due under  
**186** the loan agreement provided that such late charge does not exceed the amount permitted by § 6.2-400.

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