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## HOUSE BILL NO. 1324

Offered January 21, 2016

A BILL to amend and reenact §§ 6.2-312, 6.2-1520, 6.2-1817, and 6.2-2216 of the Code of Virginia, relating to the maximum amount of interest and fees permitted under certain loans.

Patrons—Bagby, Boysko, Hope, Kory, Lindsey, McQuinn and Simon

Referred to Committee on Commerce and Labor

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

**1. That §§ 6.2-312, 6.2-1520, 6.2-1817, and 6.2-2216 of the Code of Virginia are 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 at such rates and in such amounts and manner as may be agreed upon by the creditor and the obligor, 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. *However, in no event shall the amount of finance charges and other charges and fees collected by the seller or lender extending credit under the plan exceed 500 percent of the amount of principal extended under the plan, regardless of the period the principal extended under the plan is outstanding.*

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.

**§ 6.2-1520. Rate of interest; late charges; processing fees.**

A. A licensee may charge and receive interest on loans, *subject to the provisions of subsection D*, of:

1. Not more than \$2,500, at a single annual rate not to exceed 36 percent; and
2. More than \$2,500, at such single annual rate as shall be stated in the loan contract.

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. For the purpose of calculating interest under this section, a year may be any period of time consisting of 360 or 365 days.

B. A licensee may impose a late charge for failure to make timely payment of any installment due on a debt, which late charge shall not exceed five percent of the amount of such installment payment. The late charge shall be specified in the loan contract between the lender and the borrower. For purposes of this section, "timely payment" means a payment made by the date fixed for payment or within a period of seven calendar days after such fixed date.

C. A licensee may charge and receive a processing fee, charged on the principal amount of the loan,

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for processing the loan contract. The processing fee shall be stated in the loan contract. Such processing fee shall be deemed to constitute interest charged on the principal amount of the loan for purposes of determining whether the interest charged on a loan of not more than \$2,500 exceeds the 36 percent annual interest rate limitation imposed by subdivision A 1 and the limitation imposed by subsection D.

*D. Notwithstanding any provision of this chapter to the contrary, in no event shall the amount of interest and other charges and fees collected by a licensee under a loan under this chapter exceed 500 percent of the principal amount of any such loan, regardless of the period the principal amount of the loan is outstanding.*

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

A. A licensee may charge and receive on each loan interest at a simple annual rate not to exceed 36 percent. A licensee may also charge (i) a loan fee as provided in subsection B and (ii) a verification fee as provided in subsection C.

B. A licensee may charge and receive a loan fee in an amount not to exceed 20 percent of the amount of the loan proceeds advanced to the borrower.

C. A licensee may charge and receive a verification fee in an amount not to exceed \$5 for a loan made under this chapter. The verification fee shall be used in part to defray the costs of submitting a database inquiry as provided in subdivision B 4 of § 6.2-1810.

*D. Notwithstanding any provision of this chapter to the contrary, in no event shall the amount of interest and other charges and fees collected by a licensee under a loan under this chapter exceed 500 percent of the principal amount of any such loan, regardless of the period the principal amount of the loan is outstanding.*

**§ 6.2-2216. 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.

*Notwithstanding any provision of this chapter to the contrary, in no event shall the amount of interest and other charges and fees collected by a licensee under a title loan exceed 500 percent of the principal amount of the title loan, regardless of the period the principal amount of the title loan is outstanding.*

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 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 § 6.2-400.

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