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HOUSE BILL NO. 404

Offered January 10, 2018

Prefiled January 5, 2018

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

Patrons—Levine, Helsel, Krizek, Murphy and Yancey

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~~ *finance*:

1. *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 *the credit is extended to the purchaser of goods to be used for personal, family, or household purposes by the seller of such goods for the sole purpose of financing the bona fide purchase price of such goods; or*

2. *Interest at an annual rate not to exceed 36 percent, if the credit is extended for any purpose not described in subdivision 1.*

With respect to any extension of credit under the a plan described in subdivision 1, a finance charge is shall not be 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.

With respect to any extension of credit under a plan described in subdivision 2, the creditor 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. No additional charges or fees shall be charged or collected with respect thereto.

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.

INTRODUCED

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