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HOUSE BILL NO. 1265

Offered January 8, 2020
Prefiled January 8, 2020

A BILL to amend and reenact §§ 6.2-1507, 6.2-1520, and 6.2-1523 of the Code of Virginia, relating to consumer finance companies; loans; licensing.

Patron—Carroll Foy

Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.2-1507, 6.2-1520, and 6.2-1523 of the Code of Virginia are amended and reenacted as follows:

§ 6.2-1507. Issuance of license.

A. The Commission shall issue and deliver to the applicant a license to make loans in accordance with the provisions of this chapter at the location in the Commonwealth specified in the application if it finds:

1. That the financial responsibility, experience, character and general fitness of the applicant and its members, senior officers, directors, and principals are such as to command the confidence of the public and to warrant belief that this business will be operated lawfully, honestly, fairly and efficiently within the purpose of this chapter;

2. That the applicant has available, for the operation of the business at the specified location, liquid assets of at least $50,000 if the specified location is in a locality with a population of more than 20,000, or of at least $25,000 if the location is not in a locality with a population of more than 20,000; ~~and~~

3. That the applicant has complied with all of the prerequisites to obtaining the license prescribed by § 6.2-1505*; and*

4. That the applicant will not make loans in accordance with the provisions of this chapter at the same location at which the applicant conducts business under either Chapter 18 (§ 6.2-1800 et seq.) or Chapter 22 (§ 6.2-2200 et seq.).

If the Commission fails to make the findings required by subdivisions 1, 2, ~~and~~ 3, *and 4*, it shall deny the application for a license.

B. Notwithstanding the provisions of subsection A, if the applicant has an existing license at another location in the Commonwealth, the Commission shall issue and deliver to the applicant a license to make loans in accordance with the provisions of this chapter at the location specified in the application if it finds:

1. That the general fitness of the licensee is such as to command the confidence of the public and to warrant belief that this business will be operated lawfully, honestly, fairly and efficiently within the purpose of this chapter; ~~and~~

2. That the applicant has complied with all of the prerequisites to obtaining the license prescribed by § 6.2-1505*; and*

3. That the applicant will not make loans in accordance with the provisions of this chapter at the same location at which the applicant conducts business under either Chapter 18 (§ 6.2-1800 et seq.) or Chapter 22 (§ 6.2-2200 et seq.).

If the Commission fails to make the findings required by subdivisions 1 ~~and~~, 2, *and 3*, it shall deny the application for a license.

C. If the Commission denies an application for a license, it shall notify the applicant of the denial. The Commission shall retain the application fee.

§ 6.2-1520. Rate of interest; late payment fees; other permitted fees.

A. A licensee may ~~charge and receive interest on~~ *make installment* loans of~~:~~

~~1. Not more than $2,500~~ *between $500 and $35,000, which shall have a term of no fewer than six months and no more than 120 months and which shall be repayable in substantially equal consecutive monthly payments. A licensee may charge and collect interest on a loan made under this chapter* at a single annual *contract* 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~~ *but shall be computed and paid only as a percentage of the unpaid principal balance*. ~~For the purpose of calculating interest under this section, a year may be any period of time consisting of 360 or 365 days.~~ *Interest shall be computed on the basis of the number of days elapsed;*

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however, if part or all of the consideration for a loan contract is the unpaid principal balance of a prior loan, then the principal amount payable under the loan contract may include any unpaid interest on the prior loan that has accrued within 90 days before the making of the new loan contract. For the purpose of computing interest, a day may equal 1/360th or 1/365th of a year.

B. A licensee may ~~impose~~ *charge* a late ~~charge for failure to make timely~~ payment *fee* of *$20 for* any ~~installment due on a debt, which late charge shall not exceed five percent of the amount of such installment~~ payment *or portion of a payment not received and applied within 10 days of the contractual due date*. ~~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~~ *a late payment fee for any individual scheduled contractual payment due may be assessed only once. The late payment fee shall be specified in the contract between the lender and the borrower.*

C. A licensee may charge ~~and receive~~ a *loan* processing fee~~, charged on~~ *not to exceed the greater of $75 or five percent of* the principal amount of the loan, ~~for processing the loan contract~~ *provided that the loan processing fee shall in no event exceed $150*. The *loan* processing fee shall be stated in the loan contract. ~~Such~~ *The loan* processing fee shall *not* 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 *contract* interest rate limitation imposed by ~~subdivision~~ *subsection* A ~~1~~. *Upon payment of the full amount of principal due plus accrued interest and any other applicable fees within the first 30 days, whether through outside funds or a refinancing under a new loan advance, the borrower shall be entitled to a full rebate of the loan processing fee less $50. If a loan is refinanced or renewed, a licensee may assess an additional loan processing fee on the loan no more than once during any 12-month period.*

D. A licensee may collect from the borrower the amount of any actual fees necessary to file, record, or release its security interest with any public official or agency of a locality or the Commonwealth as may be required by statute.

§ 6.2-1523. Additional charges prohibited; exceptions.

In addition to the interest, late ~~charges~~ *payment fee*, and *loan* processing fee permitted under § 6.2-1520, no further or other amount whatsoever for any examination service, brokerage, commission, fine, notarial fee, or other thing or otherwise shall be directly or indirectly charged, contracted for, collected, or received, except:

1. Insurance premiums actually paid out by the licensee to any insurance company or agent duly authorized to do business in the Commonwealth for insurance for the protection and benefit of the borrower written in connection with any loan;

2. The actual cost of recordation fees or, on loans over $100, the amount of the lawful premiums, no greater than such fees, actually paid for insurance against the risk of not recording any instrument securing the loan; and

3. A handling fee not to exceed ~~$15~~ *$25* for each check returned to the licensee because the drawer had no account or insufficient funds in the payor bank.

2. That nothing contained in this act shall prohibit the collection of any outstanding loan or extension of credit made under Chapter 15 (§ 6.2-1500 et seq.) of Title 6.2 of the Code of Virginia, as in effect prior to the effective date of this act, 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 that violate the provisions of this act shall be made under such a loan agreement on or after the effective date of this act.