

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 180

An Act to amend and reenact §§ 6.1-330.55 and 58.1-3018 of the Code of Virginia, relating to third party taxpayer agreements.

[H 2049]

Approved March 8, 1997

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.1-330.55 and 58.1-3018 of the Code of Virginia are amended and reenacted as follows:

§ 6.1-330.55. Contracts for more than legal rate of interest.

Except as otherwise permitted by law, no contract shall be made for the payment of interest on a loan greater than twelve percent per year.

For statutes which permit payment of interest greater than twelve percent per year, reference is hereby made to Article 6 (§ 6.1-330.60 et seq.), Article 7 (§ 6.1-330.64), Article 8 (§ 6.1-330.65 et seq.), Article 9 (§ 6.1-330.69 et seq.), Article 10 (§ 6.1-330.75 et seq.) and Article 11 (§ 6.1-330.77 et seq.) of this chapter. Further reference is hereby made to Chapter 6 (§ 6.1-244 et seq.), relating to powers of consumer finance companies; to § 38.2-1806, relating to interest chargeable by insurance agents; ~~and~~ to §§ 38.2-4700 through 38.2-4712, relating to interest chargeable by premium finance companies; *and to § 58.1-3018 relating to interest and origination fees payable under third-party taxpayer agreements.*

In the case of any loan upon which a person is not permitted to plead usury, interest and other charges may be imposed and collected as agreed by the parties.

Those provisions of this chapter providing that a loan or extension of credit may be enforced as agreed in the contract of indebtedness, shall not be construed to preclude the charging or collecting of other loan fees and charges permitted by law, in addition to the stated interest rate, and such other loan fees and charges need not be included in the rate of interest stated in the contract of indebtedness.

§ 58.1-3018. Payment of local taxes on behalf of taxpayer by third party; tax payment agreements.

A. For the purposes of this section, "third-party tax payment agreement" means any agreement whereby a third party contracts with a taxpayer to pay to a county, city or town on behalf of that taxpayer the local taxes, charges, fees or other obligations due and owing to the county, city or town. Such agreement may have as its subject current taxes, charges, fees and obligations, delinquent taxes, penalties and interest, or any combination of the foregoing.

B. The treasurer of any county, city or town may enter into agreements authorizing third parties to offer to taxpayers within such locality third-party tax payment agreements, provided that such agreements meet the following requirements:

1. Every third-party tax payment agreement shall be in writing, in a form approved by the treasurer of the locality, and shall provide for the payment of the taxes which are the subject of such agreement by the third party directly to the treasurer of the county, city or town within ten days of the acceptance of a duly executed agreement by the third party.

2. Third-party tax payment agreements shall provide for the reimbursement of the third party by the taxpayer on whose behalf taxes were paid in installments over a period not to exceed twenty-four months, and may provide for interest, exclusive of any origination fee, at a *an annual* rate approved by the treasurer which shall not exceed sixteen percent ~~per annum~~. Such agreements may provide for the payment by the taxpayer of an origination fee at a rate approved by the treasurer which shall not exceed ten percent of the amount paid by the third party. No interest, excluding any origination fee paid by the taxpayer, shall accrue during the six-month period commencing on the date of the payment. *This subdivision shall not be construed to permit the treasurer to authorize a third party to make a "mortgage loan" as that term is defined in § 6.1-409.*

3. No fee may be charged to or collected from the treasurer or the locality with respect to any third-party tax payment agreement.

4. The third party shall provide to the treasurer monthly status reports regarding third-party tax payment agreements entered into by taxpayers of the locality. Such reports shall include, at a minimum, a listing of all active accounts, and with respect to each account, total charges, total taxpayer payments, total amounts paid to the treasurer, and total amounts subject to recourse. A summary of the monthly report, deleting any information that would identify any taxpayer and any other confidential taxpayer information, shall be retained as a public record in the treasurer's office.

C. In the event that a taxpayer who is a party to a third-party tax payment agreement fails in his obligations arising under such agreement to reimburse the third party:

1. The third party shall be entitled to receive from the treasurer a reimbursement payment equal to all taxes paid on behalf of such taxpayer pursuant to the tax payment agreement, less all payments received by the third party from the taxpayer, exclusive of interest and fees charged by the third party to

the taxpayer pursuant to the agreement. No payment may be requested pursuant to this subsection unless the third party has demonstrated to the satisfaction of the treasurer that good-faith efforts to collect the obligations arising under the tax payment agreement have been made and that, notwithstanding these efforts, the taxpayer is more than ~~30~~ *thirty* days delinquent in his obligations arising under the agreement.

2. Any treasurer who reimburses a third party pursuant to this subsection shall reinstate the amount of such reimbursement upon the appropriate tax rolls of the locality as delinquent taxes or current taxes, as the case may be, and shall send the taxpayer written notice of such action by first-class mail to the taxpayer's last known address within five business days of such reinstatement.

3. If the taxpayer fails to pay in full any sum reinstated pursuant to this section by the ordinary due date of the tax, the treasurer may apply penalties and interest in accordance with general law from the due date of the tax.

4. Any right of the third party to payment arising under a third-party tax payment agreement shall terminate upon the receipt by the third party of a reimbursement payment from the treasurer in accordance with the terms of this subsection.

D. With respect to each third-party tax payment agreement which has as its subject, in whole or in part, real property taxes, the third party shall cause to be recorded among the land records of the circuit court in each locality within which the real property is situated a copy of the applicable tax payment agreement. Such agreement shall be indexed by the clerk under the name of the taxpayer or taxpayers as grantor and the name of the third party as grantee. Upon the satisfaction of all obligations arising under a tax payment agreement so recorded, the third party, within ninety days of satisfaction, shall cause a marginal release to be placed upon the recorded copy of the agreement, or cause to be recorded a certificate of release, setting forth the names of the taxpayer and the third party, the date of the third-party tax payment agreement, and the book and page at which the agreement is recorded. Any such certificate of release shall be indexed by the clerk under the name of the third party as grantor and the taxpayer as grantee. The clerk may charge a fee not to exceed thirteen dollars for the recordation of any tax payment agreement, marginal release or certificate of release.

E. Upon the payment of any tax by a third party pursuant to a tax payment agreement, the applicable period of limitation for the enforcement of each tax which is the subject of the agreement shall be tolled during any period in which outstanding obligations remain unsatisfied pursuant to the agreement.