

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

CHAPTER 501

An Act to amend and reenact §§ 6.2-100, 6.2-432, 6.2-436, 6.2-506, 6.2-507, 6.2-508, 6.2-1136, 6.2-1137, 6.2-1416, 6.2-1524, 6.2-1615, 6.2-1816, 6.2-2215, and 63.2-523 of the Code of Virginia, relating to financial institutions; references to federal laws.

[S 374]

Approved March 25, 2016

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.2-100, 6.2-432, 6.2-436, 6.2-506, 6.2-507, 6.2-508, 6.2-1136, 6.2-1137, 6.2-1416, 6.2-1524, 6.2-1615, 6.2-1816, 6.2-2215, and 63.2-523 of the Code of Virginia are amended and reenacted as follows:

§ 6.2-100. Definitions.

As used in this title, unless the context otherwise requires:

"Bureau" means the Bureau of Financial Institutions, a division of the Commission.

"Commission" means the State Corporation Commission.

"Commissioner" means the Commissioner of Financial Institutions.

"Commission's Rules" means the rules of practice and procedure prescribed by the Commission pursuant to § 12.1-25.

"Entity" means any corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or other legal or commercial entity.

"Finance charge" has the meaning assigned to it in ~~Federal Reserve Board Consumer Financial Protection Bureau~~ Regulation Z, 12 C.F.R. § ~~226.4~~ 1026.4, as amended.

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, or credit union.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or other legal or commercial entity.

§ 6.2-432. Credit card account disclosures.

Any application form or preapproved written solicitation for an open-end credit card account to be used for personal, family, or household purposes that is mailed to a consumer residing in the Commonwealth by or on behalf of a creditor, whether or not the creditor is located in the Commonwealth, other than an application form or solicitation included in a magazine, newspaper, or other publication distributed by someone other than the creditor, shall contain or be accompanied by a disclosure that satisfies the initial disclosure requirements of ~~Federal Reserve Board Consumer Financial Protection Bureau~~ Regulation Z (12 C.F.R. Part ~~226~~ 1026).

§ 6.2-436. Compliance with federal law.

Every person subject to the provisions of 15 U.S.C. § 1601 et seq. and ~~Federal Reserve Board Consumer Financial Protection Bureau~~ Regulation Z (12 C.F.R. Part ~~226~~ 1026) shall comply with such statutes and regulations when offering or extending consumer credit as defined therein. A lender who fails to comply with this section shall not be subject to any liability or penalty beyond those imposed by such federal statutes and regulations.

§ 6.2-506. Commission regulations.

The Commission shall adopt regulations to effectuate the purposes of this chapter provided that such regulations conform to and are no broader in scope than regulations, and amendments thereto, adopted by the ~~Board of Governors of the Federal Reserve System~~ ~~Consumer Financial Protection Bureau~~ under the federal Equal Credit Opportunity Act (15 U.S.C. § 1691 et seq.). Such conforming regulations shall exempt from the coverage of this chapter any class of transactions which may be exempted from time to time from the federal Equal Credit Opportunity Act (15 U.S.C. § 1691 et seq.), by regulations of the ~~Federal Reserve System~~ ~~Consumer Financial Protection Bureau~~.

§ 6.2-507. Limitation on liability.

No provision of this chapter imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Commission or by the ~~Federal Reserve Board~~ ~~Consumer Financial Protection Bureau~~ or officer or employee duly authorized by the ~~Board Bureau~~ to issue such interpretation or approvals under the comparable provisions of the federal Equal Credit Opportunity Act, (15 U.S.C. § 1691 et seq.), and regulations thereunder, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

§ 6.2-508. Compliance with Equal Credit Opportunity Act constitutes compliance with chapter.

Compliance with the federal Equal Credit Opportunity Act, (15 U.S.C. § 1691 et seq.), as amended, and regulations issued by the ~~Federal Reserve Board~~ ~~Consumer Financial Protection Bureau~~ thereunder,

constitutes compliance with this chapter.

§ 6.2-1136. Remote service units.

A. As used in this section:

"Personal security identifier" or "PSI" or "PIN" means any word, number, or other security identifier essential for an account holder to gain access to an account through a remote service unit.

"Remote service unit" or "RSU" means an information processing device, including associated equipment, structures and systems, by which information relating to financial services rendered to the public is stored and transmitted, instantaneously or otherwise, to a financial institution. Any such device not on the premises of a state savings institution that, for activation and account access, requires use of a machine-readable instrument and personal security identifier in the possession and control of an account holder, is an RSU. The term includes, without limitation, point-of-sale terminals, merchant-operated terminals, cash-dispensing machines, and automated teller machines. The term does not include automated teller machines on the premises of a state savings institution, unless shared with other financial institutions.

B. Subject to the requirements of the *federal Electronic Funds Transfer Fund Transfers Act* (15 U.S.C. § 1693 et seq.) and Regulation E of the *Federal Reserve Board Consumer Financial Protection Bureau*, a state savings institution may establish or use remote service units and participate with others in remote service unit operations on an unrestricted geographic basis. A state savings institution may establish a remote service unit without prior approval of the Commission, provided that notice is given to the Commissioner in accordance with the provisions of subsection A of § 6.2-1133. No remote service unit may be used to open a savings account or a demand account or to establish a loan account.

C. Before permitting an account holder to use a remote service unit, the savings institution shall provide a personal security identifier to the account holder and require its use when accessing a remote service unit. An institution may not employ RSU access techniques that require the account holder to disclose a PSI to another person.

D. A state savings institution shall not share an RSU with any financial institution or other entity the accounts of which are not insured by an agency of the federal government or by some other insuring agency approved by the Commissioner.

E. A state savings institution shall not share an RSU located in the Commonwealth with any foreign savings institution, or other financial institution that is not incorporated under the laws of the Commonwealth, unless the foreign savings institution or other financial institution has been authorized by the Commission to conduct its business in the Commonwealth. Nothing herein shall be deemed to prohibit a state savings institution from sharing an RSU with a federal savings institution or other federally chartered financial institution authorized to conduct its business in the Commonwealth.

F. An RSU shall not be considered to be a branch office of a state savings institution.

§ 6.2-1137. Off premises financial services.

A. As used in this section, "off premises financial services" means the transfer of funds or financial information or the performance of other transactions initiated by the customer by means of an electronic terminal, such as a telephone, a computer terminal, or a television set that is linked to a state savings institution's electronic network by telephone or cable television lines or other electronic means.

B. A state savings institution may utilize any electronic technology to provide its customers with off premises financial services. Any such services provided under this section are subject to the *federal Electronic Funds Transfer Fund Transfers Act* (15 U.S.C. § 1693 et seq.) and Regulation E of the *Federal Reserve Board Consumer Financial Protection Bureau*.

§ 6.2-1416. Prohibited practices.

A. No association shall:

1. Obtain any agreement or instrument in which blanks are left to be filled in after execution;
2. Take an interest in collateral other than the real estate or residential property, including fixtures and appliances thereon, securing a mortgage loan; however, an interest in collateral other than real estate may be taken if the real estate taken as collateral does not have sufficient equity to secure the mortgage loan;
3. Obtain any exclusive dealing or exclusive agency agreement from any borrower;
4. Delay closing of any mortgage loan for the purpose of increasing interest, costs, fees, or charges payable by the borrower;
5. Obtain any agreement or instrument executed by the borrower which contains an acceleration clause permitting the unpaid balance of a mortgage loan to be declared due for any reason other than failure to make timely payments of interest and principal or to perform other obligations undertaken in the agreement or instrument; or
6. If acting as a mortgage lender, fail to require the person closing the mortgage loan to provide the borrower, prior to closing of the mortgage loan, with a (i) settlement statement and (ii) disclosure which conforms to that required by the provisions of 15 U.S.C. § 1601 et seq. and *Federal Reserve Board Consumer Financial Protection Bureau Regulation Z* (12 C.F.R. Part 226 1026).

B. No association, when acting as a mortgage broker, shall:

1. Except for documented costs of a credit report and appraisals, receive compensation from a

borrower until a written commitment to make a mortgage loan is given to the borrower by a mortgage lender;

2. Receive compensation from a mortgage lender of which it is a principal, partner, trustee, director, officer, or employee;

3. Receive compensation from a borrower in connection with any mortgage loan transaction in which it is the lender or a principal, partner, trustee, director, or officer of the lender;

4. Receive compensation from a borrower other than that specified in a written agreement signed by the borrower; or

5. Receive compensation for negotiating, placing or finding a mortgage loan where such association, or any person affiliated with such association, has otherwise acted as a real estate broker, agent, or salesman in connection with the real estate which secures the mortgage loan, and such association or affiliated person has received or will receive any other compensation or thing of value from the lender, borrower, seller, or any other person, unless the borrower is given the following notice in writing at the time the mortgage broker services are first offered to the borrower:

NOTICE

WE HAVE OFFERED TO ASSIST YOU IN OBTAINING A MORTGAGE LOAN. IF WE ARE SUCCESSFUL IN OBTAINING A LOAN FOR YOU, WE WILL CHARGE AND COLLECT FROM YOU A FEE NOT TO EXCEED _____ % OF THE LOAN AMOUNT.

WE DO NOT REPRESENT ALL OF THE LENDERS IN THE MARKET AND THE LENDERS WE DO REPRESENT MAY NOT OFFER THE LOWEST INTEREST RATES OR BEST TERMS AVAILABLE TO YOU. YOU ARE FREE TO SEEK A LOAN WITHOUT OUR ASSISTANCE, IN WHICH EVENT YOU WILL NOT BE REQUIRED TO PAY US A FEE FOR THAT SERVICE.

IF YOU ARE A MEMBER OF A CREDIT UNION, YOU SHOULD COMPARE OUR INTEREST RATES AND TERMS WITH THE MORTGAGE LOANS AVAILABLE THROUGH YOUR CREDIT UNION.

BORROWER'S SIGNATURE

BORROWER'S SIGNATURE

The foregoing notice shall be in at least 10-point type, and the prospective borrower shall acknowledge receipt of the written notice.

§ 6.2-1524. Required and prohibited activities and conduct.

A. Each licensee shall maintain at all times the minimum assets prescribed by this chapter for each license, either (i) in liquid form available for the operation of the business at the location specified in each license or (ii) actually used, whether pledged or not, in the conduct of the business at the location specified in each license.

B. A licensee or other person subject to this chapter shall not advertise, display, distribute or broadcast, or cause or permit to be advertised, displayed, distributed or broadcast, in any manner whatsoever, any false, misleading, or deceptive statement or representation with regard to the rates, terms, or conditions for loans made under this chapter. The Commission may require that charges or rates of charge, if stated by a licensee, be stated fully and clearly in such manner as it deems necessary to prevent misunderstanding by prospective borrowers. The Commission may permit or require licensees to refer in their advertising to the fact that their business is under state supervision, subject to conditions imposed by it to prevent false, misleading, or deceptive impression as to the scope or degree of protection provided by this chapter.

C. A licensee shall not take a lien upon real estate as security for any loan made under the provisions of this chapter, except a lien arising upon rendition of a judgment. Any lien taken in violation of this subsection shall be void.

D. A licensee shall, at the time any loan is made, deliver to the borrower, or if there are two or more borrowers to one of them, a statement disclosing (i) the names and addresses of the licensee and of the principal debtor on the loan contract, and (ii) a statement in compliance with ~~Federal Reserve Board~~ *Consumer Financial Protection Bureau* Regulation Z (12 C.F.R. Part 226 1026).

E. A licensee shall give the borrower a receipt for all cash payments. The Commission may specify the form and content of such receipts in keeping with the intent and purpose of this chapter.

F. A licensee shall permit payment to be made in advance in whole, or in part equal to one or more full installments. The licensee may apply the payment first to any amounts that are due and unpaid at the time of such payment.

G. A licensee shall, upon repayment of the loan in full, (i) mark plainly every obligation and security other than a security agreement executed by the borrower with the word "Paid" or "Canceled," (ii) mark satisfied any judgment, (iii) restore any pledge, (iv) cancel and return any note and any assignment given by the borrower to the licensee, and (v) release any security agreement or other form of security instrument that no longer secures an outstanding loan between the borrower and the licensee.

H. In the event of collection by foreclosure sale or otherwise, a licensee shall pay and return to the borrower, or to another person entitled thereto, any surplus arising after the payment of the expenses of

collection, sale or foreclosure and satisfaction of the debt.

I. A licensee shall not take any confession of judgment or any power of attorney running to himself or to any third person to confess judgment or to appear for the borrower in a judicial proceeding. Any such confession of judgment or power of attorney to confess judgment shall be void.

J. A licensee shall not take any note, promise to pay, or instrument of security in which blanks are left to be filled in after execution, or that does not give the amount of the loan, a clear description of the installment payments required, and the rate of interest charged. A licensee may also include the disclosures required by ~~Federal Reserve Board~~ *Consumer Financial Protection Bureau* Regulation Z (12 C.F.R. Part 226 1026) in the note, promise to pay, or instrument of security.

K. Every loan contract shall be in writing, be signed by the borrower, and provide for repayment of the amount loaned in substantially equal monthly installments of principal and interest. Nothing contained in this chapter shall prevent (i) a loan being considered a new loan because the proceeds of the loan are used to pay an existing loan contract or (ii) a licensee from entering into a loan contract providing for an odd first payment period of up to 45 days and an odd first payment greater than other monthly payments because of such odd first payment period.

§ 6.2-1615. Other prohibitions applicable to mortgage lenders.

No mortgage lender required to be licensed under this chapter shall fail to require the person closing the mortgage loan to provide to the borrower prior to closing of the mortgage loan, a (i) settlement statement and (ii) disclosure which conforms to that required by the provisions of 15 U.S.C. § 1601 et seq. and ~~Federal Reserve Board~~ *Consumer Financial Protection Bureau* Regulation Z (12 C.F.R. Part 226 1026).

§ 6.2-1816. Required and prohibited business methods.

Each licensee shall comply with the following requirements:

1. Each payday loan shall be evidenced by a written loan agreement, which shall be signed by the borrower and a person authorized by the licensee to sign such agreements and dated the same day the loan is made and disbursed. The loan agreement shall set forth, at a minimum: (i) the principal amount of the loan; (ii) the interest and any fee charged; (iii) the annual percentage rate, which shall be stated using that term, applicable to the transaction calculated in accordance with ~~Federal Reserve Board~~ *Consumer Financial Protection Bureau* Regulation Z (12 C.F.R. Part 226 1026); (iv) evidence of receipt from the borrower of a check, dated as of the date that the loan is due, as security for the loan, stating the amount of the check; (v) an agreement by the licensee not to present the check for payment or deposit until the date the loan is due, which date shall produce a loan term of at least two times the borrower's pay cycle and after which date interest shall not accrue on the amount advanced at a greater rate than six percent per year; (vi) an agreement by the licensee that the borrower shall have the right to cancel the loan transaction at any time before the close of business on the next business day following the date of the transaction by paying to the licensee, in the form of cash or other good funds instrument, the amount advanced to the borrower; and (vii) an agreement that the borrower shall have the right to prepay the loan prior to maturity by paying the licensee the principal amount advanced and any accrued and unpaid interest, fees, and charges.

2. The licensee shall give a duplicate original of the loan agreement to the borrower at the time of the transaction.

3. A licensee shall not obtain any agreement from the borrower (i) giving the licensee or any third person power of attorney or authority to confess judgment for the borrower; (ii) authorizing the licensee or any third party to bring suit against the borrower in a court outside the Commonwealth; or (iii) waiving any right the borrower has under this chapter.

4. A licensee shall not require or accept more than one check from a borrower as security for any loan.

5. A licensee shall not cause any person to be obligated to the licensee in any capacity at any time in the principal amount of more than \$500.

6. A licensee shall not (i) refinance, renew or extend any payday loan; (ii) make a loan to a person if the loan would cause the person to have more than one payday loan from any licensee outstanding at the same time; (iii) make a loan to a borrower on the same day that a borrower paid or otherwise satisfied in full a previous payday loan; (iv) make a payday loan to a person within 90 days following the date that the person has paid or otherwise satisfied in full a payday loan through an extended payment plan as provided in subdivision 26; (v) make a payday loan to a person within 45 days following the date that the person has paid or otherwise satisfied in full a fifth payday loan made within a period of 180 days as provided in subdivision 27 a; or (vi) make a payday loan to a person within the longer of (a) 90 days following the date that the person has paid or otherwise satisfied in full an extended term loan or (b) 150 days following the date that the person enters into an extended term loan, as provided in subdivision 27 b.

7. A licensee shall not cause a borrower to be obligated upon more than one loan at any time.

8. A check accepted by a licensee as security for any loan shall be dated as of the date the loan is due.

9. Notwithstanding any provision of § 8.01-226.10 to the contrary, a licensee shall not threaten, or

cause to be instigated, criminal proceedings against a borrower if a check given as security for a loan is dishonored. In addition to any other remedies available at law, a licensee that knowingly violates this prohibition shall pay the affected borrower a civil monetary penalty equal to three times the amount of the dishonored check.

10. A licensee shall not take an interest in any property other than a check payable to the licensee as security for a loan.

11. A licensee shall not make a loan to a borrower to enable the borrower to pay for any other product or service sold at the licensee's office location.

12. Loan proceeds shall be disbursed in cash or by the licensee's business check. No fee shall be charged by the licensee or an affiliated check casher for cashing a loan proceeds check.

13. A check given as security for a loan shall not be negotiated to a third party.

14. Upon receipt of a check given as security for a loan, the licensee shall stamp the check with an endorsement stating: "This check is being negotiated as part of a payday loan pursuant to Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2 of the Code of Virginia, and any holder of this check takes it subject to all claims and defenses of the maker."

15. Before entering into a payday loan, the licensee shall provide each borrower with a pamphlet, in form consistent with regulations adopted by the Commission, explaining in plain language the rights and responsibilities of the borrower and providing a toll-free number at the Commission for assistance with complaints.

16. Before disbursing funds pursuant to a payday loan, a licensee shall provide a clear and conspicuous printed notice to the borrower indicating that a payday loan is not intended to meet long-term financial needs and that the borrower should use a payday loan only to meet short-term cash needs.

17. A borrower shall be permitted to make partial payments, in increments of not less than \$5, on the loan at any time prior to maturity, without charge. The licensee shall give the borrower signed, dated receipts for each payment made, which shall state the balance due on the loan. Upon repayment of the loan in full, the licensee shall mark the original loan agreement with the word "paid" or "canceled," return it to the borrower, and retain a copy in its records.

18. Each licensee shall conspicuously post in each approved office a schedule of fees and interest charges, with examples using a \$300 loan payable in 14 days and 30 days.

19. Any advertising materials used to promote payday loans that includes the amount of any payment, expressed either as a percentage or dollar amount, or the amount of any finance charge, shall also include a statement of the interest, fees and charges, expressed as an annual percentage rate, payable using as an example a \$300 loan payable in 14 and 30 days.

20. In any print media advertisement, including any web page, used to promote payday loans, the disclosure statements shall be conspicuous. "Conspicuous" shall have the meaning set forth in subdivision (a) (14) of § 59.1-501.2. If a single advertisement consists of multiple pages, folds, or faces, the disclosure requirement applies only to one page, fold, or face. In a television advertisement used to promote payday loans, the visual disclosure legend shall include 20 scan lines in size. In a radio advertisement or advertisement communicated by telephone used to promote payday loans, the disclosure statement shall last at least two seconds and the statement shall be spoken so that its contents may be easily understood.

21. A licensee or affiliate shall not knowingly make a payday loan to a person who is a member of the military services of the United States or the spouse or other dependent of a member of the military services of the United States. Prior to making a payday loan, every licensee or affiliate shall inquire of every prospective borrower if he is a member of the military services of the United States or the spouse or other dependent of a member of the military services of the United States. The loan documents shall include verification that the borrower is not a member of the military services of the United States or the spouse or other dependent of a member of the military services of the United States.

22. In collecting or attempting to collect a payday loan, a licensee shall comply with the restrictions and prohibitions applicable to debt collectors contained in the Fair Debt Collection Practices Act (15 U.S.C. § 1692 et seq.) regarding harassment or abuse, false or misleading misrepresentations, and unfair practices in collections.

23. A licensee may not file or initiate a legal proceeding of any kind against a borrower until 60 days after the date of default on a payday loan, during which period the licensee and borrower may voluntarily enter into a repayment arrangement.

24. A licensee shall not obtain authorization to electronically debit a borrower's deposit account in connection with any payday loan.

25. A licensee may not engage in any unfair, misleading, deceptive, or fraudulent acts or practices in the conduct of its business.

26. A borrower may pay any outstanding payday loan from any licensee by means of an extended payment plan as follows:

a. A borrower shall not be eligible to enter into more than one extended payment plan in any 12-month period.

b. To enter into an extended payment plan with respect to a payday loan, the borrower shall agree in a written and signed document to repay the amount owed in at least four equal installments over an aggregate term of at least 60 days. Interest shall not accrue on the indebtedness during the term of the extended payment plan. The borrower may prepay an extended payment plan in full at any time without penalty. If the borrower fails to pay the amount owed under the extended payment plan when due, then the licensee may immediately accelerate the unpaid loan balance.

c. If the borrower enters into an extended payment plan, then no licensee may make a payday loan to the borrower until a waiting period of 90 days shall have elapsed from the date that the borrower pays or satisfies in full the balance of the loan under the terms of the extended payment plan.

d. At each approved office, the licensee shall post a notice in at least 24-point bold type, in a form established or approved by the Commission, informing persons that they may be eligible to enter into an extended payment plan.

e. The licensee shall provide oral notice to any borrower who is eligible to enter into an extended payment plan, at the time a payday loan is made, which notice shall inform the borrower of his ability to pay the payday loan by means of an extended payment plan. The information contained in the notice shall be in a form provided by the Bureau.

27. In addition to the other conditions set forth in this chapter, the fifth payday loan that is made to any person within a period of 180 days shall be made only in compliance with, at the option of the borrower, either of the following:

a. The fifth payday loan is made upon the same terms and conditions otherwise applicable to payday loans under the terms of this chapter, except that (i) no licensee may make a payday loan to such borrower during a period of 45 days following the date such fifth payday loan is paid or otherwise satisfied in full and (ii) the borrower may elect, at any time on or before its due date, to repay such fifth payday loan by means of an extended payment plan as provided in subdivision 26 b; or

b. The fifth payday loan is made in the form of an extended term loan. An extended term loan is a loan that complies with the terms and conditions otherwise applicable to payday loans under the terms of this chapter except that (i) the principal amount of the loan, and any interest and fees permitted by § 6.2-1817, shall be payable in four equal installments over a payment period of 60 days following the date the loan is made and (ii) no licensee may make a payday loan to such borrower during the longer of (a) 90 days following the date the extended term loan is paid or otherwise satisfied in full or (b) 150 days following the date the extended term loan is made.

§ 6.2-2215. Required and prohibited business methods.

Each licensee shall comply with the following requirements and prohibitions:

1. Each motor vehicle title loan shall be evidenced by a written motor vehicle title loan agreement. Each motor vehicle title loan agreement shall:

a. Be signed by the borrower and by a person authorized by the licensee to sign such agreements;

b. Be dated the day it is executed by the borrower;

c. Set forth or contain, at a minimum: (i) the loan amount; (ii) the interest rate and any fees charged pursuant to the loan, which shall not exceed the maximum rate permitted pursuant to § 6.2-2216; (iii) the annual percentage rate, which shall be stated using that term, calculated in accordance with ~~the~~ *Federal Reserve Board's Consumer Financial Protection Bureau Regulation Z (12 C.F.R. Part 1026)*; (iv) the amounts and scheduled due dates of the monthly installment payments of principal and interest; (v) the borrower's mailing address; (vi) the make, model, year, and vehicle identification number of the motor vehicle in which a security interest is being given as security for the loan; (vii) that the borrower shall have the right to cancel the loan agreement at any time before the close of business on the next business day following the day the loan agreement is executed by returning the original loan proceeds check to or paying to the licensee, in the form of cash or other good funds instrument, the loan proceeds; (viii) the loan's maturity date, which shall not be earlier than 120 days from the date the loan agreement is executed nor later than 12 months from the date the loan agreement is executed; and (ix) such other information relating to the title loan as the Commission shall determine, by regulation, is necessary in order to ensure that the borrower is provided adequate notice of the relevant provisions of the title loan;

d. Not cause any person to be obligated to the licensee for a principal amount that exceeds 50 percent of the fair market value of the motor vehicle in which the licensee is taking an interest, which value shall be determined by reference to the loan value for the motor vehicle specified in a recognized pricing guide if the motor vehicle is included in a recognized pricing guide; and

e. Contain the following notice in at least 14-point bold type immediately above the borrower's signature:

THE INTEREST RATE ON THIS LOAN IS HIGH. YOU SHOULD CONSIDER WHETHER THERE ARE OTHER LOWER COST LOANS AVAILABLE TO YOU.

THIS IS A MOTOR VEHICLE TITLE LOAN AGREEMENT. IT ALLOWS YOU TO RECEIVE LOAN PROCEEDS TO MEET YOUR IMMEDIATE CASH NEEDS. IT IS NOT INTENDED TO MEET YOUR LONG-TERM FINANCIAL NEEDS.

WHEN USING THIS LOAN, YOU SHOULD REQUEST THE MINIMUM AMOUNT REQUIRED

TO MEET YOUR IMMEDIATE NEEDS AND YOU SHOULD REPAY THE LOAN AS QUICKLY AS POSSIBLE TO REDUCE THE AMOUNT OF INTEREST YOU ARE CHARGED.

YOU SHOULD TRY TO REPAY THIS LOAN AS QUICKLY AS POSSIBLE. YOU WILL BE REQUIRED TO PAY THE PRINCIPAL AND INTEREST ON THE LOAN IN MONTHLY SUBSTANTIALLY EQUAL INSTALLMENTS. YOU SHOULD TRY TO PAY EVEN MORE TOWARDS YOUR PRINCIPAL BALANCE EACH MONTH. DOING SO WILL SAVE YOU MONEY.

YOU MAY RESCIND THIS LOAN WITHOUT COST OR FURTHER OBLIGATION IF YOU RETURN THE LOAN PROCEEDS, IN CASH OR THE ORIGINAL LOAN CHECK, PRIOR TO THE CLOSE OF BUSINESS ON THE BUSINESS DAY IMMEDIATELY FOLLOWING THE EXECUTION OF THIS AGREEMENT.

YOU ARE PLEDGING YOUR MOTOR VEHICLE AS COLLATERAL FOR THIS LOAN. IF YOU FAIL TO REPAY THE LOAN PURSUANT TO THIS AGREEMENT, WE MAY REPOSSESS YOUR MOTOR VEHICLE.

UNLESS YOU CONCEAL OR INTENTIONALLY DAMAGE THE MOTOR VEHICLE, OR OTHERWISE IMPAIR OUR SECURITY INTEREST BY PLEDGING THE MOTOR VEHICLE TO A THIRD PARTY OR PLEDGING A MOTOR VEHICLE TO US THAT IS ALREADY SUBJECT TO AN UNDISCLOSED EXISTING LIEN, YOUR LIABILITY FOR DEFAULTING UNDER THIS LOAN IS LIMITED TO THE LOSS OF THE MOTOR VEHICLE.

IF YOUR MOTOR VEHICLE IS SOLD DUE TO YOUR DEFAULT, YOU ARE ENTITLED TO ANY SURPLUS OBTAINED AT SUCH SALE BEYOND WHAT IS OWED PURSUANT TO THIS AGREEMENT ALONG WITH ANY REASONABLE COSTS OF RECOVERY AND SALE;

2. Before entering into a motor vehicle title loan, a licensee shall provide each borrower with a pamphlet, in a form consistent with regulations adopted by the Commission, explaining in plain language the rights and responsibilities of the borrower and providing a toll-free number at the Commission for assistance with complaints;

3. The borrower shall have the right to prepay the title loan prior to maturity by paying the outstanding balance at any time without penalty. A borrower shall also be permitted to make partial payments on a motor vehicle equity loan without charge at any time prior to the date such amounts would otherwise be due to the licensee. The licensee shall give the borrower signed, dated receipts for any cash payment made in person;

4. A licensee shall give a duplicate original of the loan agreement to the borrower at the time it is executed;

5. A licensee shall not obtain any agreement from the borrower (i) giving the licensee or any third person power of attorney or authority to confess judgment for the borrower; (ii) authorizing the licensee or any third party to bring suit against the borrower in a court outside the Commonwealth; (iii) waiving or modifying any right the borrower has under this chapter or Title 8.9A; or (iv) requiring the borrower to use arbitration or other alternative dispute resolution mechanisms that do not conform to Chapter 21 (§ 8.01-577 et seq.) of Title 8.01;

6. A motor vehicle title loan agreement shall not (i) contain a provision by which a person acting on behalf of the licensee is treated as an agent of the borrower in connection with its formation or execution other than for purposes of filing or releasing a lien with the state where the motor vehicle is registered, (ii) contain an acceleration clause under which a licensee may demand immediate payment of any amount owed to it unless the borrower is in default under the terms of the loan agreement, or (iii) be sold or otherwise assigned to any other person who is not also a licensee, and if a loan agreement is sold or assigned to another licensee, the buyer or assignee of the loan agreement shall be subject to the same obligations under this chapter that apply to the selling or assigning licensee;

7. Loan proceeds shall be disbursed (i) in cash, (ii) by the licensee's business check, or (iii) by debit card provided that the borrower will not be directly charged a fee by the licensee in connection with the withdrawal of the funds. No fee shall be charged by the licensee or check casher for cashing a title loan proceeds check;

8. A licensee shall not obtain or accept from a borrower an authorization to electronically debit the borrower's deposit account;

9. A licensee shall not take an interest in any real or personal property other than one motor vehicle owned by the borrower as security for a title loan. For purposes of this subdivision, "motor vehicle" includes any accessories or accessions to a motor vehicle that are affixed thereto;

10. A licensee shall not (i) make a motor vehicle title loan if, on the date the loan agreement is signed by the borrower, the motor vehicle's certificate of title evidences that the motor vehicle is security for another loan or otherwise is encumbered by a lien; (ii) make a loan to an individual who the licensee knows is a borrower under another motor vehicle title loan, whether made by the same or another licensee, or (iii) knowingly cause a borrower to be obligated upon more than one motor vehicle title loan at any time. Prior to making a motor vehicle title loan, every licensee shall inquire of every prospective borrower if the individual is obligated on a motor vehicle title loan with any licensee. Each loan agreement shall include the borrower's certification that the borrower is not obligated on another

motor vehicle title loan;

11. A licensee shall (i) hold the certificate of title to the motor vehicle throughout the period that the loan agreement is in effect and (ii) within seven days following the date of the motor vehicle title loan agreement, file to have its security interest in the motor vehicle added to its certificate of title by complying with the requirements of § 46.2-637, or in the case of a motor vehicle registered in a state other than the Commonwealth by complying with that state's requirements for perfecting a security interest in a motor vehicle;

12. A licensee shall not make a title loan to a borrower to enable the borrower to (i) pay for any other product or service sold at the licensee's business location or (ii) repay any amount owed to the licensee or an affiliate of the licensee in connection with another credit transaction;

13. A licensee's security interest in a motor vehicle shall be promptly released when the borrower's obligations under the loan agreement are satisfied in full. When releasing the security interest in a motor vehicle, a licensee shall (i) mark the original loan agreement with the word "paid" or "canceled," return it to the borrower, and retain a copy in its records; (ii) take any action necessary to reflect the termination of its lien on the motor vehicle's certificate of title; and (iii) return the certificate of title to the borrower;

14. A licensee shall conspicuously post in each licensed location (i) a schedule of finance charges on a title loan, using as an example a \$1,000 loan that is repaid over a 12-month period and (ii) a notice containing the following statement: "Should you wish to file a complaint against us, you may contact the Bureau of Financial Institutions at [insert contact information]." The Commission shall furnish licensees with the appropriate contact information;

15. A licensee or affiliate shall not knowingly make a motor vehicle title loan to a covered member of the armed forces or a dependent of such member. Prior to making a motor vehicle title loan, every licensee or affiliate shall inquire of every prospective borrower if the individual is a covered member of the armed forces or a dependent of a covered member. The prospective borrower shall affirm in writing to the licensee or affiliate if he is not a covered member of the armed forces or a dependent of a covered member. For purposes of this section, "covered member of the armed forces" means a person on active duty under a call or order that does not specify a period of 30 days or less or on active guard and reserve duty. For purposes of this section, "dependent of a covered member of the armed forces" means the member's spouse, the member's child as defined by 38 U.S.C. § 101 (4), or an individual for whom the member provided more than one-half of the individual's support for 180 days immediately preceding the date the motor vehicle title loan is sought;

16. In collecting or attempting to collect a motor vehicle title loan, a licensee shall comply with the restrictions and prohibitions applicable to debt collectors contained in the Fair Debt Collection Practices Act (15 U.S.C. § 1692 et seq.) regarding harassment or abuse, false, misleading or deceptive statements or representations, and unfair practices in collections;

17. A licensee shall not (i) engage in any unfair, misleading, deceptive, or fraudulent acts or practices in the conduct of its business, (ii) engage in any business or activity that directly or indirectly results in an evasion of the provisions of this chapter, or (iii) threaten, or cause to be instigated, criminal proceedings against a borrower arising from the borrower's failure to pay any sum due under a loan agreement;

18. A licensee shall not conduct the business of making motor vehicle title loans under this chapter at any office, suite, room, or place of business where any other business is solicited or conducted except a registered check cashing business or such other business as the Commission determines should be permitted, and subject to such conditions as the Commission deems necessary and in the public interest. No other such business shall be allowed except as permitted by Commission regulation or upon the filing of a written application with the Commission, payment of a \$300 fee, and provision of such information as the Commission may deem pertinent. The Commission shall not, however, permit the sale of insurance or the enrolling of borrowers under group insurance policies;

19. A licensee shall provide a safe place for the keeping of all certificates of title while they are in its possession;

20. A licensee may require a borrower to purchase or maintain property insurance upon a motor vehicle securing a title loan made pursuant to this chapter. A licensee may not require the borrower to obtain such insurance from a particular provider; and

21. If the licensee takes possession of a motor vehicle securing a title loan, the vehicle shall be stored in a secure location.

§ 63.2-523. Unauthorized use of food stamps, electronic benefit transfer cards, and energy assistance prohibited; penalties.

Whoever knowingly and with intent to defraud transfers, acquires, alters, traffics in or uses, or aids or abets another person in transferring, acquiring, altering, trafficking in, using, or possessing food stamps, electronic benefit transfer cards or other devices subject to ~~federal reserve system~~ *Consumer Financial Protection Bureau* regulations regarding Electronic Fund Transfers, 12 ~~C.F.R.~~ *C.F.R.* § 205.1 ~~1005.1~~ et seq., or benefits from energy assistance programs, or possesses food coupons, authorization to purchase cards, electronic benefit transfer cards or other devices subject to ~~federal reserve system~~

Consumer Financial Protection Bureau regulations regarding Electronic Fund Transfers, 12 ~~CFR~~ *C.F.R.* § ~~205.1~~ *1005.1* et seq., or benefits from energy assistance programs in any manner not authorized by law is guilty of larceny.

A violation of this section may be prosecuted either in the county or city where the public assistance was granted or in the county or city where the violation occurred.