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HOUSE BILL NO. 1124

Offered January 13, 2016

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A BILL to amend and reenact §§ 6.2-1502, 6.2-1507, 6.2-1517, 6.2-1519, 6.2-1526 through 6.2-1529, and 6.2-1531 of the Code of Virginia, relating to the regulation of consumer finance companies.

Patron—Kilgore

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.2-1502, 6.2-1507, 6.2-1517, 6.2-1519, 6.2-1526 through 6.2-1529, and 6.2-1531 of the Code of Virginia are amended and reenacted as follows:

§ 6.2-1502. Certain persons ineligible as licensees; exception for subsidiaries; applicability to certain persons.

A. No person doing business under the authority of any law of the Commonwealth or of the United States relating to banks, savings institutions, trust companies, building and loan associations, industrial loan associations, or credit unions shall be eligible for licensure under this chapter.

B. Nothing contained in subsection A or any other section of this title shall be construed to prevent a subsidiary of a bank or savings institution from becoming a licensee under this chapter. A licensee that is a subsidiary or affiliate of a bank or savings institution shall be governed by the provisions of this chapter, and all regulations adopted hereunder, as fully as if such licensee were not such a subsidiary or affiliate.

C. *The provisions of § 6.2-1501 shall not apply to any person who (i) does not maintain a physical presence in the Commonwealth and (ii) does not elect to become licensed under this chapter. Electing to become licensed under this chapter shall constitute a waiver of the benefit of any and all laws of the Commonwealth and other states that are inconsistent with the provisions of this chapter.*

§ 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.

If the Commission fails to make the findings required by subdivisions 1, 2, and 3, 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.

If the Commission fails to make the findings required by subdivisions 1 and 2, 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.

§ 6.2-1517. Place of business generally.

A. Not more than one place of business shall be maintained under the same license.

B. The Commission may issue more than one license to the same licensee upon compliance, as to each additional license, with all applicable provisions of this chapter governing issuance of a single

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59 license.

60 C. No licensee shall conduct the business of making loans provided for by this chapter under any
61 other name or at any place of business within *or outside* the Commonwealth other than as designated in
62 the license.

63 **§ 6.2-1519. Changing place of business.**

64 A. A licensee may change its place of business to a different location ~~in the Commonwealth~~ if the
65 new location is:

- 66 1. Within the original locality; ~~or~~
67 2. From the original locality to a location in a contiguous locality; *or*
68 3. *Approved by the Commission.*

69 B. A licensee shall notify the Commission of a change in the place of business *that meets the*
70 *criterion set forth in subdivision A 1 or 2* within 10 days of such relocation. Upon receipt of the
71 notification, the Commission shall issue and deliver to the licensee an amended license covering the new
72 location if it finds that the change in the place of business meets ~~one of the criteria~~ *criterion* listed in
73 ~~subsection subdivision A 1 or 2~~. Each notice of change of location under this section shall be
74 accompanied by a fee of \$250.

75 C. *Applications for approval under subdivision A 3 shall be made in writing on a form provided by*
76 *the Commissioner and shall be accompanied by payment of a \$250 nonrefundable application fee. The*
77 *application shall be approved unless the Commission finds that the applicant does not have the required*
78 *liquid assets or has not conducted business under this chapter efficiently, fairly, in the public interest,*
79 *and in accordance with law. The application shall be deemed approved if notice to the contrary has not*
80 *been mailed by the Commission to the applicant within 30 days of the date the application is received*
81 *by the Commission. After approval, the applicant shall give written notice to the Commissioner within*
82 *10 days of the commencement of business at the relocated place of business.*

83 **§ 6.2-1526. Wage assignments.**

84 A. A valid assignment or order for the payment of future salary, wages, commissions, or other
85 compensation for services may be given as security for a loan made by any licensee, notwithstanding the
86 provisions of any other law to the contrary.

87 B. No assignment of, or order for payment of, any salary, wages, commissions, or other
88 compensation for services, earned or to be earned, given to secure any loan made by any licensee shall
89 be valid unless:

- 90 1. ~~The amount of the loan is paid to the borrower simultaneously with its execution; and~~
91 2. ~~The~~ the assignment or order is in writing, signed in person by the borrower, and not by an
92 attorney, or if the borrower is married unless it is signed in person by both husband and wife, and not
93 by an attorney. Written assent of a spouse shall not be required when husband and wife have been
94 living separate and apart for a period of at least five months prior to the giving of the assignment or
95 order. The provisions of this section are in addition to, and not in derogation of, the general statutes
96 pertaining to the subject.

97 C. Under the assignment or order, an amount equal to not more than 10 percent of the borrower's
98 salary, wages, commissions, or other compensation for services shall be collectible from the employer of
99 the borrower by the licensee at the time of each payment to the borrower of the salary, wages,
100 commission, or other compensation for services, from the time that a copy of the assignment, verified
101 by the oath of the licensee or his agent, together with a similarly verified statement of the amount
102 unpaid upon the loan and a printed copy of this section, is served upon the employer.

103 **§ 6.2-1527. Liens on household furniture.**

104 No chattel mortgage or other lien on household furniture then in the possession and use of the
105 borrower given to secure any loan made by a licensee shall be valid unless it is in writing, signed ~~in~~
106 ~~person~~ by the borrower, and not by an attorney, or if the borrower is married unless it is signed ~~in~~
107 ~~person~~ by both husband and wife, and not by an attorney. Written assent of a spouse shall not be
108 required when a husband and wife have been living separate and apart for a period of at least five
109 months prior to the giving of the mortgage or lien.

110 **§ 6.2-1528. Exemptions unimpaired.**

111 A. Nothing in this chapter shall have the effect of impairing any rights on the part of anyone as to
112 exemptions under the poor debtors law or under any other applicable exemption law now in effect or
113 hereafter enacted.

114 B. The provisions of ~~subdivision~~ *subsection B 2* of § 6.2-1526 and § 6.2-1527 are in addition to, and
115 not in derogation of, the general statutes pertaining to the subject.

116 **§ 6.2-1529. Collection of loans made outside Commonwealth.**

117 A. No loan made outside the Commonwealth for which greater rates of interest, consideration or
118 charges than are permitted by the law applicable to such loan in the state in which the loan was made,
119 have been charged, contracted for, or received shall be collected in the Commonwealth. Every person in
120 any way participating in an effort to enforce the collection of such loan in the Commonwealth shall be

subject to the provisions of this chapter.

B. This section shall not apply to loans that are made by licensees in accordance with the provisions of this chapter.

§ 6.2-1531. Examination.

The Commission shall, as often as it deems to be in the public interest, examine the affairs, business, office, and records of each licensee that pertain to any business licensed under this chapter. Such examination shall be conducted at least once in every three-year period. The licensee shall furnish promptly by mail or otherwise such facts and statements in connection with its business ~~transacted in the Commonwealth~~ that the Commission may request from time to time.

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