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SENATE BILL NO. 42

Offered January 10, 2018

Prefiled November 21, 2017

A BILL to amend the Code of Virginia by adding a section numbered 6.2-880.1, relating to the duty of a bank to verify the identity of an existing bank customer applying for a loan.

Patrons—Favola and Lucas; Delegate: Kory

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 6.2-880.1 as follows:

§ 6.2-880.1. Duty of bank to verify identity; loan application submitted by an existing bank customer.

A. As used in this section:

"Existing bank customer" means an individual who, at any time within the three years preceding the date of submission of an application for a loan with a bank, had a deposit account or trust account at the bank or who has been a borrower under a loan made by the bank.

"Existing bank customer's address of record" means the telephone number, mailing address, or email address of an existing bank customer on record at the bank, excluding any inconsistent information provided on the loan application form submitted in connection with an application for a loan for which a bank is required to comply with the provisions of subsection B.

"Loan application solicitation" means an advertisement or other marketing material that (i) is sent by or on behalf of a bank to an existing customer of the bank and (ii) includes a loan application form that may be completed by an individual and submitted to the bank to initiate a loan application process.

B. Upon receipt by a bank of a fully or partially completed loan application form that (i) was sent to the bank's existing bank customers as part of a loan application solicitation and (ii) names an existing bank customer as the applicant for a loan, the bank shall not approve the application or make the requested loan until the bank has contacted the existing bank customer named on the loan application form at the existing bank customer's address of record and verified that the existing bank customer is the individual who submitted the loan application form to the bank and is requesting the bank to make the loan to the existing bank customer.

C. The requirements of subsection B shall not apply where an existing bank customer submits in person a loan application form to an officer or employee of the bank at an office or branch of the bank.

D. If (i) a bank makes a loan based on the submittal of a loan application form that was sent to an existing bank customer as part of a loan application solicitation, (ii) the proceeds of the loan were delivered to or otherwise obtained by a person other than the existing bank customer, and (iii) the bank did not comply with the requirements of subsection B in connection with the loan, then:

1. The existing bank customer shall have no liability for any sums due in connection with the loan; and

2. The bank shall be liable to the existing bank customer, without regard to whether the person who submitted the loan application form or obtained the loan proceeds has been convicted of a violation of § 18.2-186.3, for the existing bank customer's actual expenses associated with the loan and with correcting inaccuracies or errors in his credit report or other identifying information.

INTRODUCED

SB42