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HOUSE BILL NO. 648

Offered January 10, 2024

Prefiled January 9, 2024

A BILL to amend and reenact § 6.2-303 of the Code of Virginia, relating to contracts assigning rights to inheritance funds; legal rate of interest.

Patrons—Coyner and Lovejoy

Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:**1. That § 6.2-303 of the Code of Virginia is amended and reenacted as follows:****§ 6.2-303. Contracts for more than legal rate of interest.**

A. Except as otherwise permitted by law, no contract shall be made for the payment of interest on a loan at a rate that exceeds 12 percent per year.

B. Laws that permit payment of interest at a rate that exceeds 12 percent per year are set out, without limitation, in:

1. Article 4 (§ 6.2-309 et seq.) of this chapter;

2. Chapter 15 (§ 6.2-1500 et seq.), relating to powers of consumer finance companies;

3. Chapter 18 (§ 6.2-1800 et seq.), relating to short-term loans;

4. Chapter 22 (§ 6.2-2200 et seq.), relating to interest chargeable by motor vehicle title lenders;

5. § 36-55.31, relating to loans by the Virginia Housing Development Authority;

6. § 38.2-1806, relating to interest chargeable by insurance agents;

7. Chapter 47 (§ 38.2-4700 et seq.) of Title 38.2, relating to interest chargeable by premium finance companies;

8. § 54.1-4008, relating to interest chargeable by pawnbrokers; and

9. § 58.1-3018, relating to interest and origination fees payable under third-party tax payment agreements.

C. 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.

D. Any provision of this chapter that provides 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. Such other loan fees and charges need not be included in the rate of interest stated in the contract of indebtedness.

E. The provisions of subsection A shall apply to any person who seeks to evade its application by any device, subterfuge, or pretense whatsoever, including:

1. The loan, forbearance, use, or sale of (i) credit, as guarantor, surety, endorser, comaker, or otherwise; (ii) money; (iii) goods; or (iv) things in action;

2. The use of collateral or related sales or purchases of goods or services, or agreements to sell or purchase, whether real or pretended; receiving or charging compensation for goods or services, whether or not sold, delivered, or provided; and

3. The real or pretended negotiation, arrangement, or procurement of a loan through any use or activity of a third person, whether real or fictitious.

F. Any contract made in violation of this section is void and no person shall have the right to collect, receive, or retain any principal, interest, fees, or other charges in connection with the contract.

Any contract pursuant to which a person receives a cash advance for assigning to a company or other entity a portion of such person's rights to receive inheritance funds from a will that has been, or is anticipated to be, offered for probate in a circuit court of the Commonwealth shall be considered a loan. Any funds such person is obligated to pay under the terms of such contract in addition to the total of the cash advance shall be considered interest. Such contract shall be subject to the provisions of subsection A.