



DOCKET ITEM #7
Text Amendment #2011-0003
NR and Mount Vernon Overlay Zones

Issue: Consideration of the initiation of a text amendment and amendments to Article II (definitions), Section 4-1400 (NR Zone) and Section 6-600 (Mount Vernon Avenue Urban Overlay Zone) with regard to check cashing, payday loan, pawnshop and title loan businesses.	Planning Commission Hearing:	February 1, 2011
	City Council Hearing:	February 12, 2011
Staff: Barbara Ross, Planning and Zoning		

This text amendment clarifies that check cashing, payday loan and pawnshop businesses are not permitted in the Neighborhood retail (Arlandria) (NR) and the Mount Vernon Avenue overlay zones and adds title loan companies to the list of prohibited uses.

I. Background

In planning and designing zoning for Mount Vernon Avenue in Arlandria and in Del Ray, one of the City's goals was to identify uses that are inconsistent with the character and vision for the neighborhoods and to prohibit them from the zoning uses permitted there. The preambles to both the NR (Arlandria) and Mount Vernon Avenue overlay (Del Ray) zones articulate the importance of neighborhood character, pedestrian orientation, and an active retail environment, all consistent with the adjacent residential areas. In each case, new zones were created for each area and standard commercial use lists were revised in keeping with the similar neighborhood goals.

A "personal service establishment" is a zoning use included in all the commercial zones in the zoning ordinance, and defined broadly to include a host of commercial uses which involve providing service to customers. Section 2-183. Typical personal service businesses are hair salons, shoe repair, dry cleaning, and printing services. The definition of personal service establishment also includes pawnshops, banks, savings and loans, credit unions, and other financial service businesses. By its terms it does not include any use expressly prohibited in a specific zone.

In 2003, when the NR zone was adopted, both check cashing and pawnshops were identified as uses inconsistent with the intent of the zone. Later, in 2005, when the Mount Vernon Avenue overlay zone was adopted, the following uses were prohibited: pawnshops, payday loan businesses and check cashing uses. Both check cashing and payday loan businesses are regulated in Virginia and the definitions included in the zoning ordinance are by reference to Virginia's statutory definitions. See sections 2-127.1, 2-182.1.

In 2010 the General Assembly passed legislation regulating a similar business type: title loan companies. Virginia Code, section 6.2-2200, attached. These are businesses that loan money based on a customer's automobile title document. The vehicle acts as collateral for the loan and if the loan is not repaid, the customer may lose ownership of the vehicle. The new regulations require licensing, prescribe essential provisions and warnings to be included in any motor vehicle title loan agreement, and limit the amount of interest that may be charged.

II. Proposed Text Changes

Although the chief purpose of this text amendment is to add title loan businesses to the uses prohibited in the NR and Mount Vernon Avenue overlay zones, it is an opportunity to also make text changes that clarify what was originally intended in the NR zone as well. Therefore the

proposed text amendment included the following components. See Attachment 1 for the specific language changes.

A. Definition of title loan business

Staff has included for approval a new definition for title loan business at section 2-197.3. The definition refers to those businesses regulated by the newly adopted Virginia Code provisions at section 6.2-2200 et seq.

B. Mount Vernon Avenue overlay zone

The Mount Vernon Avenue overlay zone is an additional zoning layer that supplements the underlying CL zone. By its terms, it varies the uses allowed in CL. Section 6-603 expressly lists those uses which are not permitted even though otherwise allowed as part of CL, and otherwise included under the definition of personal service establishments. Sections 6-603 (6) (7) and (8) prohibit check cashing, payday loan and pawnshop businesses now. The amendment proposed here would add an additional prohibition for title loan businesses at section 6-603(10).

C. Neighborhood retail zone (Arlandria)

The NR zone includes personal service establishment in its list of permitted uses. It specifically excludes banks from the list of permitted personal service uses (Section 4-1403(A)(2)), and lists banks at section 4-1403(A)(3) for special treatment by limiting its frontage. Check cashing and pawnshop businesses are identified as problematic at section 4-1406 (B) and (G). That section states that they are inconsistent with the urban, pedestrian-oriented environment desired for the area, and that any existing pawnshops or check cashing businesses are considered noncomplying. However, the uses are never clearly prohibited in the zone, although that appears to have been the intent. In addition, payday loan companies are neither prohibited nor included as noncomplying uses. Finally, title loan businesses should also be added to the list.

The amendment proposed here therefore identifies the following uses as not permitted within the personal service establishment use at section 4-1403 (A)(2): pawnshops, check cashing, payday loan and title loan business. In addition, title loan businesses are added to the list of noncomplying uses in section 4-1406.

D. Technical Change to update Code Citations

Staff has also updated the Virginia Code citations in the definitions of payday loan businesses and check cashing businesses, consistent with the state's rearrangement of the statutory sections.

III. Analysis

In order to ensure that neighborhood commercial areas retain the character and vitality envisioned for them, it is important that the city regulate those uses permitted as a zoning matter. Because the group of uses being prohibited here detracts from the goals of small scale, pedestrian-friendly character of the commercial area, and because they are typically and most easily located in strip centers style shopping buildings, which are inconsistent with the urban design goals for those areas, they are not compatible uses for either the Arlandria or Del Ray neighborhoods.

Under the personal service establishment definition, payday loan, check cashing, title loan and pawnshop businesses are permitted in commercial zones throughout the City. Therefore, they need special textual treatment in the two zones where they are not desirable or compatible with the goals for the area. While much of this text amendment is technical, at base it does two things. First it clarifies and updates the NR zone to reflect what was clearly intended: that check cashing, payday loans and pawnshops are not permitted uses. Second, it adds title loan businesses to both the NR and Mount Vernon Avenue overlay zone as part of the list of prohibited uses.

IV. Staff Recommendation

Staff recommends that the Planning Commission initiate and recommend approval of these text changes.

Staff: Barbara Ross, Deputy Director

Attachments: 1. Proposed Zoning Text Changes
2. Section 6.1-2200 et seq., Virginia Code

PROPOSED TEXT CHANGES

DEFINITIONS

- 2-197.3** **Title loan business.** A business regulated by section 6.2-2200 et seq. of the Virginia Code.
- 2-127.1** **Check cashing business.** A business regulated by Section ~~6.1-432~~ 6.2-2100 et seq. of the Virginia Code.
- 2-182.1** **Payday loan business.** A business regulated by section ~~6.1-444~~ 6.2-1800 et seq. of the Virginia Code.

MOUNT VERNON OVERLAY ZONE

6-603 Uses.

- (A) *Permitted and special use restrictions.* The following uses, otherwise allowed either as permitted or special uses in the CL zone, are not permitted in the overlay zone area:
- (1) Seminary, convent or monastery;
 - (2) Medical laboratory;
 - (3) Public school;
 - (4) Funeral home;
 - (5) Rooming house;
 - (6) Check cashing business;
 - (7) Payday loan business;
 - (8) Pawnshop;
 - (9) Motor vehicle parking or storage, except that a public parking lot is allowed with a special use permit;
 - (10) Title loan business.

NEIGHBORHOOD RETAIL ZONE (ARLANDRIA)

4-1403 Permitted uses. In order to provide an active pedestrian-oriented retail environment along Mount Vernon Avenue, especially along the sidewalk and pedestrian way, permitted uses in the NR zone are limited as follows.

- (A) Permitted ground floor uses. The following uses are permitted on the ground floor of buildings facing the sidewalk:
- (1) Retail establishment;
 - (2) Personal service establishment, except banks, pawnshops, check cashing, payday loan and title loan businesses;

Text Amendment #2011-0003
Check cashing, pawnshops,
payday loan and title loan businesses

- (3) Banks, business and professional offices, medical laboratory or offices and laundromats, provided:
 - (a) The business facade shall be no wider than 30 feet along the street;
 - (b) No more than two such uses or entrances shall adjoin each other.
- (4) Restaurants, when located within a shopping center or hotel, or with administrative approval pursuant to section 4-1403.1;
- (5) Day care center.

4-1406

Certain structures and uses inconsistent with these provisions. In order to support and promote an urban, pedestrian-oriented retail environment, the following existing inconsistent commercial uses are hereby deemed to be noncomplying uses subject to the provisions of Section 12-302 of the zoning ordinance:

- (A) Automobile service station;
- (B) Check cashing uses;
- (C) Drive through facility;
- (D) Laundry, dry cleaning operation; except drop-off
- (E) Light automobile repair;
- (F) Motor vehicle parking or storage; except public parking facilities and private parking accessory, and clearly incidental to, a principal use;
- (G) Pawnshops;
- (H) Wholesale business;
- (I) Title loan business.

§ 6.2-2110. (Effective October 1, 2010) Revocation of registration.

A. The Commission may revoke a registration under this chapter upon any of the following grounds:

1. Any violation of the provisions of this chapter or regulations adopted thereunder or of any law or regulation applicable to the conduct of the registrant's business;
2. Charging fees for cashing items in excess of fees posted at any place of business or filed with the Commission pursuant to § 6.2-2105;
3. Conviction of a felony or misdemeanor involving fraud, misrepresentation, deceit, false swearing, or theft; or
4. Refusal to permit or respond to an investigation by the Commission.

B. For the purposes of this section, acts of any officer, director, member, partner, or principal shall be deemed acts of the registrant.

History.

1995, c. 221, § 6.1-442; 2010, c. 794.

§ 6.2-2111. (Effective October 1, 2010) Notice of proposed revocation.

The Commission may not revoke a registration under this chapter until it has given the registrant 21 days' notice in writing of the grounds for the proposed revocation and an opportunity to be heard. The notice shall be served in accordance with § 12.1-19.1. Within 14 days of mailing the notice, the registrant may file with the clerk of the Commission a written request for a hearing. If a written request for a hearing is filed, the Commission shall not revoke the registration except based upon findings made at such hearing.

History.

1995, c. 221, § 6.1-443; 2010, c. 794.

CHAPTER 22.**MOTOR VEHICLE TITLE LOANS.**

(Effective October 1, 2010)

Section

- 6.2-2200. (Effective October 1, 2010) Definitions.
 6.2-2201. (Effective October 1, 2010) License required.
 6.2-2202. (Effective October 1, 2010) Scope of chapter.
 6.2-2203. (Effective October 1, 2010) Application for license; form; content; fee.
 6.2-2204. (Effective October 1, 2010) Bond required.
 6.2-2205. (Effective October 1, 2010) Investigation of applications.
 6.2-2206. (Effective October 1, 2010) Qualifications.
 6.2-2207. (Effective October 1, 2010) Licenses; places of business; changes.
 6.2-2208. (Effective October 1, 2010) Acquisition of control; application.
 6.2-2209. (Effective October 1, 2010) Retention of books, accounts, and records.
 6.2-2210. (Effective October 1, 2010) Annual report.
 6.2-2211. (Effective October 1, 2010) Other reporting requirements.
 6.2-2212. (Effective October 1, 2010) Investigations; examinations.
 6.2-2213. (Effective October 1, 2010) Annual fees.
 6.2-2214. (Effective October 1, 2010) Regulations.
 6.2-2215. (Effective October 1, 2010) Required and prohibited business methods.
 6.2-2216. (Effective October 1, 2010) Interest and other charges; term; monthly payments.
 6.2-2217. (Effective October 1, 2010) Limited recourse; repossession and sale of motor vehicle.
 6.2-2218. (Effective October 1, 2010) Advertising.
 6.2-2219. (Effective October 1, 2010) Suspension or revocation of license.

Section

- 6.2-2220. (Effective October 1, 2010) Cease and desist orders.
 6.2-2221. (Effective October 1, 2010) Notice of proposed suspension or revocation.
 6.2-2222. (Effective October 1, 2010) Fines for violations.
 6.2-2223. (Effective October 1, 2010) Criminal penalty.
 6.2-2224. (Effective October 1, 2010) Validity of noncompliant loan agreement.
 6.2-2225. (Effective October 1, 2010) Application of chapter to Internet loans.
 6.2-2226. (Effective October 1, 2010) Authority of Attorney General; referral by Commission to Attorney General.
 6.2-2227. (Effective October 1, 2010) Violation of the Virginia Consumer Protection Act.

§ 6.2-2200. (Effective October 1, 2010) Definitions.

As used in this chapter, unless the context requires a different meaning:

"*Bond*" includes any form of financial instrument that provides security equivalent to that provided by a bond, such as an irrevocable letter of credit, if its use in lieu of a bond is authorized pursuant to regulations adopted by the Commission.

"*Licensee*" means a person to whom a license has been issued under this chapter.

"*Motor vehicle*" means an automobile, motorcycle, mobile home, truck, van, or other vehicle operated on public highways and streets.

"*Motor vehicle title loan*" or "*title loan*" means a loan secured by a non-purchase money security interest in a motor vehicle.

"*Motor vehicle title loan agreement*" or "*loan agreement*" means a written document that sets out the terms and conditions under which a licensee agrees to make a motor vehicle title loan to a borrower, and the borrower agrees to give to the licensee a security interest in a motor vehicle owned by the borrower to secure repayment of the motor vehicle title loan and performance of the other obligations under the loan agreement.

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

"*Principal*" means any person who, directly or indirectly, owns or controls (i) 10 percent or more of the outstanding stock of a stock corporation or (ii) a 10 percent or greater interest in any other type of entity.

History.

2010, c. 477.

Editor's note.

Acts 2010, c. 477, cl. 3, provides: "That nothing in this act shall prohibit the collection of any outstanding loan or extension of credit made under § 6.1-330.78 [now § 6.2-312] of the Code of Virginia that is secured by a lien on a motor vehicle, in accordance with the terms of a loan agreement made prior to the effective date of this act; however, no additional extensions of credit or advances shall be made under such motor vehicle secured loan agreement, and such a motor vehicle secured loan agreement shall not be extended or renewed, on or after the effective date of this act."

Acts 2010, c. 477, cl. 4, provides: "That an applicant for a license pursuant to Chapter 21 (§ 6.1-480 et seq.) of Title 6.1 [now Chapter 22 (§ 6.2-2200 et seq.)] of Title 6.2] of the Code of

Virginia shall not be required to provide to the State Corporation Commission, in connection with the State Corporation Commission's determination of whether the applicant satisfies the qualifications for licensure set forth in § 6.1-486 [now § 6.2-2206], any business records or documents that relate to loans made by the applicant prior to October 1, 2007, pursuant to § 6.1-330.78 [now § 6.2-312] of the Code of Virginia. In addition, matters involving extensions of credit secured by a motor vehicle that have been reviewed and resolved between a person and the Commonwealth prior to the enactment of this act shall not be a bar to licensure under Chapter 21 (§ 6.1-480 et seq.) of Title 6.1 [now Chapter 22 (§ 6.2-2200 et seq.)] of Title 6.2] of the Code of Virginia."

Acts 2010, c. 477, cl. 5, provides: "That the provisions of the first enactment of this act shall become effective on October 1, 2010."

§ 6.2-2201. (Effective October 1, 2010) License required.

Unless exempted from the provisions of this chapter pursuant to § 6.2-2202:

1. No person shall engage in the business of making motor vehicle title loans to any individual residing in the Commonwealth, whether or not the person has a location in the Commonwealth, except in accordance with the provisions of this chapter and without having first obtained a license under this chapter from the Commission; and

2. No person shall engage in the business of arranging or brokering motor vehicle title loans for any individual residing in the Commonwealth, whether or not the person has a location in the Commonwealth.

History.

2010, c. 477.

Editor's note.

Acts 2010, c. 477, cl. 2, provides: "That the State Corporation Commission shall establish a procedure, to be in effect by August 1, 2010, for any person to apply, prior to October 1, 2010, for a license to be issued pursuant to Chapter 21 (§ 6.1-480 et seq.) of Title 6.1 [now Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2] of the Code of Virginia, when such chapter becomes effective."

Acts 2010, c. 477, cl. 4, provides: "That an applicant for a license pursuant to Chapter 21 (§ 6.1-480 et seq.) of Title 6.1 [now Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2] of the Code of

Virginia shall not be required to provide to the State Corporation Commission, in connection with the State Corporation Commission's determination of whether the applicant satisfies the qualifications for licensure set forth in § 6.1-486 [now § 6.2-2206], any business records or documents that relate to loans made by the applicant prior to October 1, 2007, pursuant to § 6.1-330.78 [now § 6.2-312] of the Code of Virginia. In addition, matters involving extensions of credit secured by a motor vehicle that have been reviewed and resolved between a person and the Commonwealth prior to the enactment of this act shall not be a bar to licensure under Chapter 21 (§ 6.1-480 et seq.) of Title 6.1 [now Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2] of the Code of Virginia."

§ 6.2-2202. (Effective October 1, 2010) Scope of chapter.

A. The provisions of this chapter shall not apply to any bank, savings institution, or credit union, or to a person licensed under Chapter 15 (§ 6.2-1500 et seq.), that does not elect to become licensed under this chapter. Electing to become licensed under this chapter, however, shall constitute a waiver of the benefit of any and all laws of the Commonwealth and other states, territories, possessions, and districts of the United States and federal laws preemptive of, or inconsistent with, the provisions of this chapter.

B. The provisions of this chapter shall not apply to extensions of credit for the sole purpose of financing the purchase of a motor vehicle, or of refinancing a purchase money loan, secured by a lien on the motor vehicle.

History.

2010, c. 477.

§ 6.2-2203. (Effective October 1, 2010) Application for license; form; content; fee.

A. An application for a license under this chapter shall be made in writing, under oath, and on a form provided by the Commissioner.

B. The application shall set forth:

1. The name and address of the applicant and (i) if the applicant is a partnership, firm, or association, the name and address of each partner or member; (ii) if the applicant is a corporation or limited liability company, the name and address of each director, member, registered agent, and principal; or (iii) if the applicant is a business trust, the name and address of each trustee and beneficiary;

2. The addresses of the locations of the business to be licensed; and
3. Such other information concerning the financial responsibility, background, experience, and activities of the applicant and its members, officers, directors, and principals as the Commissioner may require.

C. The application shall be accompanied by payment of an application fee of \$500.

D. The application fee shall not be refundable in any event. The fee shall not be abated by surrender, suspension, or revocation of the license.

History.

2010, c. 477.

§ 6.2-2204. (Effective October 1, 2010) Bond required.

The application for a license shall also be accompanied by a bond filed with the Commissioner with corporate surety authorized to execute such bond in the Commonwealth, in the sum of \$50,000 per location, not to exceed a total of \$500,000. The form of such bond shall be approved by the Commission. Such bond shall be continuously maintained thereafter in full force. Such bond shall be conditioned upon the applicant or licensee performing all written agreements with borrowers or prospective borrowers, correctly and accurately accounting for all funds received by him in his licensed business, and conducting his licensed business in conformity with this chapter and all applicable laws. Any person who may be damaged by noncompliance of the licensee with any condition of such bond may proceed on such bond against the principal or surety thereon, or both, to recover damages. The aggregate liability under the bond shall not exceed the penal sum of the bond.

History.

2010, c. 477.

§ 6.2-2205. (Effective October 1, 2010) Investigation of applications.

The Commissioner may make such investigations as he deems necessary to determine if the applicant has complied with all applicable provisions of law and regulations adopted thereunder.

History.

2010, c. 477.

§ 6.2-2206. (Effective October 1, 2010) Qualifications.

A. Upon the filing and investigation of an application for a license, and compliance by the applicant with the provisions of §§ 6.2-2203 and 6.2-2204, the Commission shall issue and deliver to the applicant the license applied for to engage in business under this chapter at the locations specified in the application if it finds:

1. That the financial responsibility, character, reputation, experience, and general fitness of the applicant and its members, senior officers, directors, trustees, and principals are such as to warrant belief that the business will be operated efficiently and fairly, in the public interest, and in accordance with law; and

2. That the applicant has unencumbered liquid assets per location available for the operation of the business of at least \$75,000.

B. If the Commission fails to make such findings, no license shall be issued

and the Commissioner shall notify the applicant of the denial and the reasons for such denial.

History.

2010, c. 477.

Editor's note.

Acts 2010, c. 477, cl. 4, provides: "That an applicant for a license pursuant to Chapter 21 (§ 6.1-480 et seq.) of Title 6.1 [now Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2] of the Code of Virginia shall not be required to provide to the State Corporation Commission, in connection with the State Corporation Commission's determination of whether the applicant satisfies the qualifications for licensure set forth in § 6.1-

486 [now § 6.2-2206], any business records or documents that relate to loans made by the applicant prior to October 1, 2007, pursuant to § 6.1-330.78 [now § 6.2-312] of the Code of Virginia. In addition, matters involving extensions of credit secured by a motor vehicle that have been reviewed and resolved between a person and the Commonwealth prior to the enactment of this act shall not be a bar to licensure under Chapter 21 (§ 6.1-480 et seq.) of Title 6.1 [now Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2] of the Code of Virginia."

§ 6.2-2207. (Effective October 1, 2010) Licenses; places of business; changes.

A. Each license shall state the address or addresses at which the business is to be conducted and shall state fully the legal name of the licensee as well as any fictitious name by which the licensee is operating in the Commonwealth. Each license shall be posted prominently in each place of business of the licensee. Licenses shall not be transferable or assignable, by operation of law or otherwise. No licensee shall use any name in the Commonwealth other than the legal name or fictitious name set forth on the license issued by the Commission.

B. No licensee shall open an additional office or relocate any place of business without prior approval of the Commission. Applications for such approval shall be made in writing on a form provided by the Commissioner and shall be accompanied by payment of a \$150 nonrefundable application fee. The application shall be approved unless the Commission finds that the applicant does not have the required liquid assets or has not conducted business under this chapter efficiently, fairly, in the public interest, and in accordance with law. The application shall be deemed approved if notice to the contrary has not been mailed by the Commission to the applicant within 30 days of the date the application is received by the Commission. After approval, the applicant shall give written notice to the Commissioner within 10 days of the commencement of business at the additional location or relocated place of business.

C. Every licensee shall within 10 days notify the Commissioner, in writing, of the closing of any business location and of the name, address, and position of each new senior officer, member, partner, or director and provide such other information with respect to any such change as the Commissioner may reasonably require.

D. Every license shall remain in force until it has been surrendered, revoked, or suspended. The surrender, revocation, or suspension of a license shall not affect any preexisting legal right or obligation of such licensee.

History.

2010, c. 477.

§ 6.2-2208. (Effective October 1, 2010) Acquisition of control; application.

A. Except as provided in this section, no person shall acquire, directly or indirectly, 25 percent or more of the voting shares of a corporation or 25 percent

or more of the ownership of any other person licensed to conduct business under this chapter unless such person first:

1. Files an application with the Commissioner in such form as the Commissioner may prescribe from time to time;
2. Delivers such other information to the Commissioner as the Commissioner may require concerning the financial responsibility, background, experience, and activities of the applicant, its directors, senior officers, principals, and members and of any proposed new directors, senior officers, principals, or members of the licensee; and
3. Pays such application fee as the Commission may prescribe.

B. Upon the filing and investigation of an application, the Commission shall permit the applicant to acquire the interest in the licensee if it finds that the applicant, its members if applicable, its directors, senior officers, trustees, and principals and any proposed new directors, members, senior officers, trustees, and principals have the financial responsibility, character, reputation, experience, and general fitness to warrant belief that the business will be operated efficiently and fairly, in the public interest, and in accordance with law. The Commission shall grant or deny the application within 60 days from the date a completed application accompanied by the required fee is filed unless the period is extended by order of the Commissioner reciting the reasons for the extension. If the application is denied, the Commission shall notify the applicant of the denial and the reasons for the denial.

C. The provisions of this section shall not apply to (i) the acquisition of an interest in a licensee, directly or indirectly, including an acquisition by merger or consolidation by or with a person licensed under this chapter; (ii) the acquisition of an interest in a licensee, directly or indirectly, by merger or consolidation by or with a person affiliated through common ownership with the licensee; or (iii) the acquisition of an interest in a licensee by bequest, descent, survivorship, or operation of law. The person acquiring an interest in a licensee in a transaction that is exempt from filing an application by this subsection shall send written notice to the Commissioner of such acquisition within 30 days of its closing.

History.

2010, c. 477.

§ 6.2-2209. (Effective October 1, 2010) Retention of books, accounts, and records.

Every licensee shall maintain in its licensed offices such books, accounts, and records as the Commission may reasonably require in order to determine whether such licensee is complying with the provisions of this chapter and rules and regulations adopted in furtherance thereof. Such books, accounts, and records shall be maintained apart and separate from any other business in which the licensee is involved. Such records relating to title loans shall be retained for at least three years after final payment is made on any title loan.

History.

2010, c. 477.

§ 6.2-2210. (Effective October 1, 2010) Annual report.

Each licensee under this chapter shall annually, on or before March 25, file a written report with the Commissioner containing such information as the Commissioner may require concerning his business and operations during the

preceding calendar year as to each licensed place of business. Reports shall be made under oath and shall be in the form prescribed by the Commissioner.

History.

2010, c. 477.

§ 6.2-2211. (Effective October 1, 2010) Other reporting requirements.

Within 15 days following the occurrence of any of the following events, a licensee shall file a written report with the Commission describing such event and its expected impact upon the business of the licensee:

1. The filing of bankruptcy, reorganization, or receivership proceedings by or against the licensee;
2. The institution of administrative or regulatory proceedings against the licensee by any governmental authority;
3. Any felony indictments of the licensee or any of its members, partners, directors, officers, or principals;
4. Any felony conviction of the licensee or any of its members, partners, directors, officers, or principals; and
5. Such other event as the Commission may prescribe by regulation.

History.

2010, c. 477.

§ 6.2-2212. (Effective October 1, 2010) Investigations; examinations.

The Commission may, by its designated officers and employees, as often as it deems necessary, investigate and examine the affairs, business, premises, and records of any person licensed or required to be licensed under this chapter insofar as they pertain to any business for which a license is required by this chapter. Examinations of licensees shall be conducted at least once in each three-year period. In the course of such investigations and examinations, the owners, members, officers, directors, partners, trustees, beneficiaries, and employees of such person being investigated or examined shall, upon demand of the person making such investigation or examination, afford full access to all premises, books, records, and information that the person making such investigation or examination deems necessary. For the foregoing purposes, the person making such investigation or examination shall have authority to administer oaths, examine under oath all the aforementioned persons, and compel the production of papers and objects of all kinds.

History.

2010, c. 477.

§ 6.2-2213. (Effective October 1, 2010) Annual fees.

A. In order to defray the costs of their examination, supervision, and regulation, every licensee under this chapter shall pay an annual fee calculated in accordance with a schedule set by the Commission. The schedule shall bear a reasonable relationship to the business volume of such licensees, the actual costs of their examinations, and other factors relating to their supervision and regulation. All such fees shall be assessed on or before September 15 for every calendar year. All such fees shall be paid by the licensee to the State Treasurer on or before October 15 following each assessment.

B. In addition to the annual fee prescribed in subsection A, when it becomes necessary to examine or investigate the books and records of a licensee under

his chapter at a location outside the Commonwealth, the licensee shall be liable for and shall pay to the Commission within 30 days of the presentation of an itemized statement, the actual travel and reasonable living expenses incurred on account of its examination, supervision, and regulation, or shall pay at a reasonable per diem rate approved by the Commission.

History.

2010, c. 477.

§ 6.2-2214. (Effective October 1, 2010) Regulations.

The Commission shall adopt such regulations as it deems appropriate to effect the purposes of this chapter. Before adopting any such regulation, the Commission shall give reasonable notice of its content and shall afford interested parties an opportunity to be heard, in accordance with the Commission's Rules of Practice and Procedure.

History.

2010, c. 477.

§ 6.2-2215. (Effective October 1, 2010) 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 Regulation Z; (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 to 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 Department of Motor Vehicles, (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 accessories 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;

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.

History.

2010, c. 477.

§ 6.2-2216. (Effective October 1, 2010) Interest and other charges; term; monthly payments.

A. A licensee may charge and collect interest on a motor vehicle title loan at rates not to exceed the following:

1. Twenty-two percent per month on the portion of the principal that does not exceed \$700;

2. Eighteen percent per month on the portion of the principal that exceeds \$700 but does not exceed \$1,400; and

3. Fifteen percent per month on the portion of the principal that exceeds \$1,400.

B. The annual rate of interest shall be charged only upon principal balances outstanding from time to time. Interest shall not be charged on an add-on basis and shall not be compounded or paid, deducted or received in advance. On motor vehicle title loans in excess of \$700, a licensee may accrue interest utilizing a single blended interest rate provided the maximum charge allowed pursuant to subsection A is not exceeded.

C. Notwithstanding anything set forth in subsection A, other provisions of this chapter, or in a motor vehicle title loan agreement, interest shall not accrue on the principal balance of a motor vehicle title loan from and after:

1. The date that the motor vehicle securing the title loan is repossessed by the licensee making the loan; or

2. Sixty days after the borrower has failed to make a monthly payment on a motor vehicle title loan as required by the loan agreement unless the borrower has not surrendered the motor vehicle and the borrower is concealing the motor vehicle.

D. In addition to the loan principal and interest permitted under subsection A, a licensee shall not directly or indirectly charge, contract for, collect, receive, recover, or require a borrower to pay any further or other fee, charge, or amount whatsoever except for (i) a licensee's actual cost of perfecting its security interest in a motor vehicle securing the borrower's obligations under a loan agreement and (ii) reasonable costs of repossession and sale of the motor vehicle in accordance with § 6.2-2217. A licensee shall not be entitled to collect or recover from a borrower any sum otherwise permitted pursuant to § 6.2-302, 8.01-27.2, or 8.01-382. In no event shall the borrower be liable for fees incurred in connection with the storage of a motor vehicle securing a title loan following the motor vehicle's repossession by the licensee or its agent, or the voluntary surrender of possession of the motor vehicle by the borrower to the licensee.

E. Every title loan shall be a term loan providing for repayment of the principal and interest in substantially equal monthly installments of principal and interest; however, nothing in this chapter shall prohibit a loan agreement from providing for an odd first payment period and an odd first payment greater than other monthly payments because of such odd first payment period.

F. A title loan agreement may not be extended, renewed, or refinanced.

G. A licensee may impose a late charge for failure to make timely payment of any amount due under the loan agreement provided that such late charge does not exceed the amount permitted by § 6.2-400.

H. Payments shall be credited by the licensee on the date received.

History.

2010, c. 477.

§ 6.2-2217. (Effective October 1, 2010) Limited recourse; repossession and sale of motor vehicle.

A. Except as otherwise provided in subsection E, a licensee taking a security interest in a motor vehicle pursuant to this chapter shall be limited, upon default by the borrower, to seeking repossession of, preparing for sale, and selling the motor vehicle in accordance with Title 8.9A. Unless (i) the licensee, at least 10 days prior to repossessing the motor vehicle securing a title loan, has sent to the borrower, by first class mail, written notice advising the

~~427~~

borrower that his title loan is in default and stating that the motor vehicle may be repossessed unless the principal and interest owed under the loan agreement are paid and (ii) the borrower does not pay such principal and interest prior to the date the motor vehicle is repossessed by or at the direction of the licensee, then the licensee shall not collect or charge the costs of repossessing and selling the motor vehicle described in clause (ii) of subsection D of § 6.2-2216. A licensee shall not repossess a motor vehicle securing a title loan prior to the date specified in the notice. Except as otherwise provided in subsection E, a licensee shall not seek or obtain a personal money judgment against a borrower for any amount owed under a loan agreement or any deficiency resulting after the sale of a motor vehicle.

B. At least 15 days prior to the sale of a motor vehicle, a licensee shall (i) notify the borrower of the date and time after which the motor vehicle is subject to sale and (ii) provide the borrower with a written accounting of the principal amount due to the licensee, interest accrued through the date the licensee took possession of the motor vehicle, and any reasonable expenses incurred to date by the licensee in taking possession of, preparing for sale, and selling the motor vehicle. At any time prior to such sale, the licensee shall permit the borrower to redeem the motor vehicle by tendering cash or other good funds instrument for the principal amount due to the licensee, interest accrued through the date the licensee took possession, and any reasonable expenses incurred by the licensee in taking possession of, preparing for sale, and selling the motor vehicle.

C. Within 30 days of the licensee's receipt of funds from the sale of a motor vehicle, the borrower is entitled to receive all proceeds from such sale of the motor vehicle in excess of the principal amount due to the licensee, interest accrued through the date the licensee took possession, and the reasonable expenses incurred by the licensee in taking possession of, preparing for sale, and selling the motor vehicle.

D. Except in the case of fraud or a voluntary surrender of the motor vehicle, a licensee shall not take possession of a motor vehicle until such time as a borrower is in default under the loan agreement. Except as otherwise provided in this chapter, the repossession and sale of a motor vehicle shall be subject to the provisions of Title 8.9A.

E. Notwithstanding any provision to the contrary, upon default by a borrower, a licensee may seek a personal money judgment against the borrower for any amounts owed under a loan agreement if the borrower impairs the licensee's security interest by (i) intentionally damaging or destroying the motor vehicle, (ii) intentionally concealing the motor vehicle, (iii) giving the licensee a lien in a motor vehicle that is already encumbered by an undisclosed prior lien, or (iv) subsequently giving a security interest in, or selling, a motor vehicle that secures a title loan to a third party, without the licensee's written consent.

History.

2010, c. 477.

§ 6.2-2218. (Effective October 1, 2010) Advertising.

A. No person licensed or required to be licensed under this chapter shall use or cause to be published any advertisement that (i) contains any false, misleading, or deceptive statement or representation or (ii) identifies the person by any name other than the name set forth on the license issued by the Commission.

B. Any advertising materials used to promote the price, cost, or interest rate of motor vehicle title loans shall disclose the amount of any minimum monthly

payments and a statement of finance charges, expressed as an annual percentage rate, payable using as an example a \$1,000 loan that is repaid over 12-month period. In any print media advertisement, including any web page, used to promote motor vehicle title loans, the disclosure 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 pages, the disclosure requirement applies only to one page, fold, or face. In a television advertisement used to promote motor vehicle title loans, the visual disclosure legend shall include 20 scan lines in size. In a radio advertisement or advertisement communicated by telephone used to promote motor vehicle title loans, the disclosure statement shall last at least two seconds and the statement shall be spoken so that its contents may be easily understood.

History.

2010, c. 477.

§ 6.2-2219. (Effective October 1, 2010) Suspension or revocation of license.

A. The Commission may suspend or revoke any license issued under this chapter upon any of the following grounds:

1. Any ground for denial of a license under this chapter;
2. Any violation of the provisions of this chapter or regulations adopted by the Commission pursuant thereto, or a violation of any other law or regulation applicable to the conduct of the licensee's business;
3. A course of conduct consisting of the failure to perform written agreements with borrowers;
4. Conviction of a felony or misdemeanor involving fraud, misrepresentation, or deceit;
5. Entry of a judgment against the licensee involving fraud, misrepresentation, or deceit;
6. Entry of a federal or state administrative order against the licensee for violation of any law or any regulation applicable to the conduct of his business;
7. Refusal to permit an investigation or examination by the Commission;
8. Failure to pay any fee or assessment imposed by this chapter; or
9. Failure to comply with any order of the Commission.

B. For the purposes of this section, acts of any officer, director, member, partner, trustee, beneficiary, or principal shall be deemed acts of the licensee.

History.

2010, c. 477.

§ 6.2-2220. (Effective October 1, 2010) Cease and desist orders.

If the Commission determines that any person has violated any provision of this chapter or any regulation adopted by the Commission pursuant thereto, or violated any other law or regulation applicable to the conduct of a licensee's business, the Commission may, upon 21 days' notice in writing, order such person to cease and desist from such practices and to comply with the provisions of this chapter. The notice shall be sent by certified mail to the principal place of business of such person or other address authorized under § 12.1-19.1 and shall state the grounds for the contemplated action. Within 14 days of mailing the notice, the person or persons named therein may file with the Clerk of the Commission a written request for a hearing. If a hearing is requested, the Commission shall not issue a cease and desist order except based upon findings made at such hearing. Such hearing shall be conducted in

accordance with the Commission's Rules of Practice and Procedure. The Commission may enforce compliance with any order issued under this section by imposition and collection of such fines and penalties as may be prescribed by law.

History.

2010, c. 477.

§ 6.2-2221. (Effective October 1, 2010) Notice of proposed suspension or revocation.

The Commission shall not revoke or suspend the license of any person licensed under this chapter upon any of the grounds set forth in § 6.2-2219 until it has given the licensee 21 days' notice in writing of the reasons for the proposed revocation or suspension and an opportunity to introduce evidence and be heard. The notice shall be sent by certified mail to the principal place of business of the licensee or other address authorized under § 12.1-19.1 and shall state with particularity the grounds for the contemplated action. Within 14 days of mailing the notice, the person or persons named therein may file with the Clerk of the Commission a written request for a hearing. If a hearing is requested, the Commission shall not suspend or revoke the license except based upon findings made at such hearing. The hearing shall be conducted in accordance with the Commission's Rules of Practice and Procedure.

History.

2010, c. 477.

§ 6.2-2222. (Effective October 1, 2010) Fines for violations.

In addition to the authority conferred under §§ 6.2-2219 and 6.2-2220, the Commission may impose a fine or penalty not exceeding \$1,000 upon any person who it determines, in proceedings commenced in accordance with the Commission's Rules of Practice and Procedure, has violated any of the provisions of this chapter or regulations promulgated by the Commission pursuant thereto, or violated any other law or regulation applicable to the conduct of a licensee's business. For the purposes of this section, each separate violation shall be subject to the fine or penalty herein prescribed and, in the case of a violation of § 6.2-2201, each loan made or arranged shall constitute a separate violation.

History.

2010, c. 477.

§ 6.2-2223. (Effective October 1, 2010) Criminal penalty.

Any person violating § 6.2-2201 shall, upon conviction, be guilty of a Class 1 misdemeanor. For the purposes of this section, each violation shall constitute a separate offense.

History.

2010, c. 477.

Cross references.

As to punishment for Class 1 misdemeanors, see § 18.2-11.

§ 6.2-2224. (Effective October 1, 2010) Validity of noncompliant loan agreement.

If any provision of a motor vehicle title loan agreement violates a requirement of this chapter, such provision shall be unenforceable against the borrower.

History.

2010, c. 477.

§ 6.2-2225. (Effective October 1, 2010) Application of chapter to Internet loans.

The provisions of this chapter, including specifically the licensure requirements of § 6.2-2201, shall apply to persons making motor vehicle title loans over the Internet to Virginia residents, whether or not the person making the loan maintains a physical presence in the Commonwealth.

History.

2010, c. 477.

§ 6.2-2226. (Effective October 1, 2010) Authority of Attorney General; referral by Commission to Attorney General.

A. If the Commission determines that a person is in violation of, or has violated, any provision of this chapter, the Commission may refer the information to the Attorney General and may request that the Attorney General investigate such violations. In the case of such referral, the Attorney General is hereby authorized to seek to enjoin violations of this chapter. The circuit court having jurisdiction may enjoin such violations notwithstanding the existence of an adequate remedy at law.

B. Upon such referral of the Commission, the Attorney General may also seek, and the circuit court may order or decree, damages and such other relief allowed by law, including restitution to the extent available to borrowers under applicable law. Persons entitled to any relief as authorized by this section shall be identified by order of the court within 180 days from the date of the order permanently enjoining the unlawful act or practice.

C. In any action brought by the Attorney General by virtue of the authority granted in this section, the Attorney General shall be entitled to seek reasonable attorney fees and costs.

History.

2010, c. 477.

§ 6.2-2227. (Effective October 1, 2010) Violation of the Virginia Consumer Protection Act.

Any violation of the provisions of this chapter shall constitute a prohibited practice in accordance with § 59.1-200 and shall be subject to any and all of the enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

History.

2010, c. 477.