

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, JULY 12, 2021

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. BFI-2020-00109

Ex Parte: In the matter of Adopting
Revisions to the Regulations Governing
Licensees under Chapter 18 of Title 6.2
of the Code of Virginia

ORDER ADOPTING REGULATIONS

On November 30, 2020, the State Corporation Commission ("Commission") entered an Order to Take Notice of a proposal by the Bureau of Financial Institutions ("Bureau") to amend the Commission's regulations governing licensees under Chapter 18 (§ 6.2-1800 *et seq.*) of Title 6.2 ("Chapter 18") of the Code of Virginia ("Code"), which are set forth in Chapter 200 of Title 10 of the Virginia Administrative Code ("Chapter 200"). The Bureau submitted the proposed amendments to the Commission because Chapters 1215 and 1258 of the 2020 Virginia Acts of Assembly ("Chapters 1215 and 1258") made extensive revisions to Chapter 18 that became effective on January 1, 2021. The proposed regulations sought to align Chapter 200 with the revisions effected by Chapters 1215 and 1258, eliminate obsolete provisions and references from Chapter 200, and clarify certain aspects of the legislation. The Bureau also proposed an assortment of other changes, which are summarized in the Commission's Order to Take Notice.

The Order to Take Notice and the proposed regulations were published in the *Virginia Register of Regulations* on December 21, 2020, posted on the Commission's website, and sent to all Chapter 18 licensees, Veritec Solutions, LLC ("Veritec"), and other interested persons. The Order to Take Notice invited all interested persons to participate and required that any comments

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or requests for a hearing on the proposed regulations be submitted in writing on or before January 5, 2021.

Comments on the proposed regulations were timely filed by Senator Mamie E. Locke and Delegate Lamont Bagby; Delegate C. Todd Gilbert; the Office of the Attorney General; The Pew Charitable Trusts; the Virginia Poverty Law Center ("VPLC"); Anykind Check Cashing, LC ("Anykind"); Check City; EZ Loans of Virginia, Inc. ("EZ Loans"); Populus Financial Group, Inc. d/b/a ACE Cash Express ("ACE"); Possible Financial Inc. d/b/a Possible ("Possible"); and the Online Lenders Alliance. The Commission did not receive any requests for a hearing.

The Bureau considered the comments filed and responded to them in its Response to Comments ("Response"), which the Bureau filed with the Clerk of the Commission on April 12, 2021. In its Response, the Bureau recommended that the Commission further amend various sections of the proposed regulations.

NOW THE COMMISSION, having considered this matter, finds that the proposed regulations should be modified to incorporate the specific changes the Bureau recommended in its Response, as specified herein, and that the modified proposed regulations should be adopted effective August 1, 2021. The Commission expresses appreciation to those who submitted written comments for our consideration.

The Bureau initially proposed, among other things, including the actual amount of the database inquiry fee in 10 VAC 5-200-115, which reflected an increase based on a request from Veritec. The Commission received numerous comments expressing concern or objecting to Veritec's proposed fee increase in this proceeding.¹ In its Response, the Bureau recommended

¹ Senator Mamie E. Locke and Delegate Lamont Bagby, Delegate C. Todd Gilbert, The Pew Charitable Trusts, VPLC, Anykind, Check City, EZ Loans, ACE, and Possible all expressed concern with, or objected to, the database inquiry fee increase.

that the Commission bifurcate this proceeding to afford Veritec the opportunity to furnish the Commission with information pertaining to the cost of operating the Chapter 18 database along with any additional information that Veritec would like to proffer in support of its request.²

We will not amend 10 VAC 5-200-115 to specify the actual amount of the database inquiry fee, nor will we change the database inquiry fee in this proceeding. Accordingly, the fee shall remain at \$1.98 per loan pursuant to the Commission's March 11, 2019 Order Modifying Database Inquiry Fee.³ We adopt the Bureau's other proposed changes to 10 VAC 5-200-115, which shall be modified to state that the database inquiry fee will be "set by the Commission."

Accordingly, IT IS ORDERED THAT:

(1) The proposed regulations, as modified herein and attached hereto, are adopted effective August 1, 2021.

(2) This Order and the attached regulations shall be made available on the Commission's website: scc.virginia.gov/pages/Case-Information.

(3) The Commission's Division of Information Resources shall provide a copy of this Order and the regulations to the Virginia Registrar of Regulations for appropriate publication in the *Virginia Register of Regulations*.

(4) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

A COPY of this Order and the attached regulations shall be sent by the Clerk of the Commission to the Commission's Office of General Counsel and to the Commissioner of

² Bureau's Response at 12-16.

³ *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In re: database inquiry fee*. Case No. BFI-2019-00007, 2019 S.C.C. Ann. Rept. 27, Order Modifying Database Inquiry Fee (March 11, 2019).

Financial Institutions, who shall send by e-mail or U.S. mail a copy of this Order and the attached regulations to all Chapter 18 licensees, those persons who submitted comments in this proceeding, and such other interested persons as he may designate. The Clerk of the Commission shall also send a copy of this Order and the attached regulations by electronic mail to: Thomas Reinheimer, Chief Executive Officer, Veritec Solutions, LLC, at thomas.reinheimer@veritecs.com.

STATE CORPORATION COMMISSION

Payday Short-Term Lending**10VAC5-200-10. Definitions.**

A. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Act" means Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2 of the Code of Virginia.

"Advertisement" means a commercial message in any medium that promotes, directly or indirectly, a short-term loan. This includes a communication sent to a consumer as part of a solicitation of business, but excludes messages on promotional items such as pens, pencils, notepads, hats, and calendars.

~~"Bureau" means the Bureau of Financial Institutions.~~

~~"Business day" for purposes of clause 1 (vi) of § 6.2-1816 of the Code of Virginia the Act and this chapter means a day on which the licensee's office is open for business as posted as required by subsection A of 10VAC5-200-70 licensee is able to make loans pursuant to the Act.~~

~~"Commission" means the State Corporation Commission.~~

~~"Duplicate original" for purposes of subdivision 2 of § 6.2-1816 of the Code of Virginia and this chapter means an exact copy of a signed original, an exact copy with signatures created by the same impression as the original, or an exact copy bearing an original signature.~~

~~"Good funds instrument" for purposes of clause 1 (vi) of § 6.2-1816 of the Code of Virginia the Act and this chapter means a certified check, cashier's check, money order or, if the licensee is equipped to handle such payments, payment effected by use of a credit card, prepaid card, or debit card, or the Automated Clearing House system.~~

"Liquid assets" for purposes of the Act and this chapter means ~~cash on hand and in funds~~ held in a checking account or savings account at a depository institutions institution, money market funds, commercial paper, and treasury bills.

"Member of the military services of the United States" for purposes of the Act and this chapter means a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or National Guard serving on active duty under a call or order that does not specify a period of 30 days or fewer.

"Other dependent of a member of the military services of the United States" for purposes of the Act and this chapter means (i) an individual under the age of 18 whose mother or father is a member of the military services of the United States or (ii) an individual for whom a member of the military services of the United States provided more than one-half of the individual's financial support for 180 days immediately preceding the date the individual applied for a ~~payday~~ short-term loan.

"Payday loan" means a loan made pursuant to the Act and this chapter prior to January 1, 2021.

~~"Prepaid card" for purposes of the Act and this chapter~~ means a card with a network logo (e.g., Visa, MasterCard, American Express, or Discover) that is used by a cardholder to access money that has been loaded onto the card in advance.

~~"Short maturity loan," as used in the definition of "payday loan" in § 6.2-1800 of the Code of Virginia, means a loan with a term not exceeding 120 days.~~

~~"Small," as used in the definition of "payday loan" in § 6.2-1800 of the Code of Virginia, means \$2,500 or less.~~

B. Other terms used in this chapter shall have the meaning meanings set forth in § 6.2-100 or 6.2-1800 of the Code of Virginia.

10VAC5-200-20. Requirements for licensees; operating rules; acquisitions.

A. A licensee shall maintain unencumbered liquid assets per place of business [~~in Virginia~~] of at least \$25,000 at all times. The minimum liquid assets required to be maintained pursuant to this subsection shall be separate and apart from, and in addition to, any minimum liquid assets that the licensee is required to maintain in connection with any other business conducted in the same office.

B. Any person submitting an application to acquire, directly or indirectly, 25% or more of the voting shares of a corporation or 25% or more of the ownership of any other person licensed to conduct business under the Act shall pay a nonrefundable application fee of \$500.

~~C. Each original license shall be prominently posted in each place of business of the licensee. In order for a licensee to receive a replacement or reissued license, a licensee shall pay a fee of \$50 per place of business to the commission. Licenses will only be replaced or reissued if the licensee is in compliance with all laws and regulations applicable to the conduct of the licensee's business.~~ Loans made pursuant to the Act prior to January 1, 2021, that remain outstanding on or after January 1, 2021, may be collected in accordance with the preexisting terms of the loan contracts provided that such terms were permitted by law when the loans were made.

D. If a person has filed a bond with the bureau, as required by § 6.2-1804 of the Code of Virginia, such bond shall be retained by the bureau notwithstanding the occurrence of any of the following events:

1. The person's license is surrendered, suspended, or revoked; or
2. The person ceases engaging in business as a payday short-term lender; or
3. The person's application for a license is withdrawn or denied.

E. Upon becoming licensed, a licensee shall give written notice to the bureau [~~of its commencement of business~~] within 10 days [~~thereafter~~ after it commences business].

~~F. For purposes of clause 1 (v) of § 6.2-1816 of the Code of Virginia, the number of days in a borrower's pay cycle and the corresponding minimum loan term shall be determined by a licensee in accordance with the following:~~

~~1. If a borrower is paid on a weekly or more frequent basis, there are seven days in the borrower's pay cycle and the minimum loan term shall be 14 days.~~

~~2. If a borrower is paid on a biweekly basis, there are 14 days in the borrower's pay cycle and the minimum loan term shall be 28 days.~~

~~3. If a borrower is paid on a semimonthly basis, there are 15 days in the borrower's pay cycle and the minimum loan term shall be 31 days.~~

~~4. If a borrower is paid on a monthly basis, there are 30 days in the borrower's pay cycle and the minimum loan term shall be 62 days.~~

~~5. If a borrower is paid either (i) less frequently than monthly, or (ii) on an irregular basis (but less frequently than weekly), there are 30 days in the borrower's pay cycle and minimum loan term shall be 62 days.~~

~~G. A licensee shall retain supporting documentation for a borrower's pay cycle in each loan file, which may consist of (i) a copy of a borrower's pay stub or similar periodic earnings statement that clearly reflects the borrower's pay cycle, or (ii) a representation by the borrower in the written loan application.~~

~~H. F. A licensee shall not (i) electronically debit a borrower's deposit account or otherwise obtain any funds from a borrower by electronic means, including the use of the Automated Clearing House network, electronic funds transfers, electronic check conversions, or re-presented check entries; or (ii) obtain any agreement from a borrower that gives the licensee or a third party the authority to create or otherwise prepare a check that is drawn upon the borrower's account at a depository institution. However, this subsection shall not be construed to prohibit a licensee~~

~~from printing a replacement security check on behalf of a borrower, at the borrower's request, at such time that the borrower is present in the licensed office and makes a payment on an extended payment plan or an extended term loan. A replacement security check shall be (i) dated as of the date the loan or final installment is due, (ii) issued for the remaining amount owed to the licensee, (iii) manually signed by the borrower, and (iv) exchanged for the check that was previously held as security.~~

~~I. With the exception of the check given by a borrower to a licensee as security for a payday loan, a licensee shall not collect or receive from a borrower any interest or fees permitted by § 6.2-1817 of the Code of Virginia, either in whole or in part, prior to the date of loan maturity unless the borrower is voluntarily making a full or partial prepayment pursuant to 10VAC5-200-40. If a borrower enters into an extended payment plan or extended term loan, a licensee shall not collect or receive any interest or fees, either in whole or in part, prior to the due date of a scheduled installment unless the borrower is voluntarily making a payment in advance.~~

~~J. G. The amount of the check given by a borrower to a licensee as security for a payday short-term loan shall not exceed the sum of the principal amount advanced to the borrower and the interest and fees and charges permitted by § 6.2-1817 of the Code of Virginia. If a borrower enters into an extended payment plan at the time a loan is obtained, the amount of the check shall not include any interest.~~

~~K. H. Upon satisfaction of a loan or upon learning that a loan has been satisfied, a licensee shall ~~attach to each loan agreement~~ retain either (i) a copy of the signed and dated receipt for the payment that satisfied the loan or (ii) if a judgment was obtained and satisfied, a copy of the judgment marked satisfied.~~

~~L. Except as otherwise provided in subdivision B-2 of 10VAC5-200-33 or subdivision D-1 of 10VAC5-200-35, the check used to secure a payday loan shall be dated as of the date the loan is due. I. A licensee shall not deposit or otherwise present for payment a check given as security~~

for a loan, ~~including an extended term loan or a loan that a borrower elected to repay by means of an extended payment plan,~~ prior to the date stated on the face of the check. A licensee [~~shall not~~ may] require or accept multiple checks [~~or any additional or alternative security~~] in connection with a payday short-term loan. [However, a licensee shall not require or accept any additional or alternative security in connection with a short-term loan.]

~~M. J.~~ J. If a borrower (i) ~~cancels or rescinds a loan in accordance with subsection G of 10VAC5-200-40,~~ or (ii) repays a loan in full with cash or a good funds instrument and not with ~~the~~ a check securing the loan, the licensee shall immediately return ~~the~~ any check given as security for the loan to the borrower.

~~N. K.~~ K. A licensee or former licensee shall provide the following information to the bureau within 10 days after such person's license is surrendered or revoked or the licensed business is otherwise closed: (i) the names, addresses, telephone numbers, ~~fax numbers,~~ and email addresses of a designated contact person, the person responsible for updating information in the payday short-term lending database, and the person who consumers may contact to make payment arrangements for outstanding payday loans or short-term loans; (ii) the location of the licensee's or former licensee's payday loan or short-term loan records; and (iii) any additional information that the bureau may reasonably require. A licensee or former licensee shall maintain current information with the bureau until the licensee or former licensee has no outstanding payday loans or short-term loans.

~~O. L.~~ L. A person shall remain subject to the provisions of the Act and this chapter applicable to licensees in connection with all ~~payday~~ [short-term] loans that the person made while licensed [~~as a~~] payday [short-term lender under the Act] notwithstanding the occurrence of any of the following events:

1. The person's license is surrendered, suspended, or revoked; or

2. The person ceases making payday [~~short-term~~] loans [under the Act].

P. M. If a licensee or former licensee disposes of records containing a consumer's personal financial information, such records shall be shredded, incinerated, or otherwise disposed of in a secure manner. A licensee or former licensee may arrange for service from a business record destruction vendor.

Q. N. Within 15 days following the occurrence of any of the following events, a licensee shall file a written report with the ~~Commissioner of Financial Institutions~~ commissioner describing the event and its expected impact, if any, on the activities of the licensee in Virginia:

1. Bankruptcy, reorganization, or receivership proceedings are filed by or against the licensee.
2. The Attorney General or any other Virginia governmental authority institutes an action against the licensee under the Virginia Consumer Protection Act (§ 59.1-196 et seq. of the Code of Virginia).
3. Any local, state, or federal governmental authority institutes revocation, suspension, or other formal administrative, regulatory, or enforcement proceedings against the licensee.
4. Any local, state, or federal governmental authority (i) revokes or suspends the licensee's ~~payday short-term~~ lender license, ~~deferred presentment~~ license, or similar license; (ii) takes formal administrative, regulatory, or enforcement action against the licensee relating to its ~~payday short-term~~ lending, ~~deferred presentment~~, or similar business; or (iii) takes any other action against the licensee relating to its ~~payday short-term~~ lending, ~~deferred presentment~~, or similar business where the total amount of restitution or other payment from the licensee exceeds \$20,000. A licensee shall not be required to provide the ~~Commissioner of Financial Institutions~~ commissioner with information about such event to the extent that such disclosure is prohibited by the laws of another state.

5. Based on allegations by any local, state, or federal governmental authority that the licensee violated any law or regulation applicable to the conduct of its licensed ~~payday~~ short-term lending, ~~deferred presentment~~, or similar business, the licensee enters into, or otherwise agrees to the entry of, a settlement or consent order, decree, or agreement with or by such governmental authority.

6. The licensee surrenders its license to engage in ~~payday~~ short-term lending, ~~deferred presentment~~, or similar business in another state in lieu of threatened or pending license revocation, license suspension, or other administrative, regulatory, or enforcement action.

7. The licensee is denied a license to engage in ~~payday~~ short-term lending, ~~deferred presentment~~, or similar business in another state.

8. The licensee or any of its members, partners, directors, officers, principals, or employees is indicted [for] or convicted of a felony.

~~R. O.~~ Pursuant to ~~subsection B of~~ § 6.2-1801 of the Code of Virginia, a licensee shall not make a ~~payday~~ short-term loan that has been arranged or brokered by another person. This provision shall not be construed to prohibit a licensee from originating ~~payday~~ short-term loans through its own employees.

~~S. P.~~ A licensee shall comply with all federal laws and regulations applicable to the conduct of its business, including ~~but not limited to~~ the Truth in Lending Act (15 USC § 1601 et seq.), Regulation Z (12 CFR Part 1026), the Equal Credit Opportunity Act (15 USC § 1691 et seq.), Regulation B (12 CFR Part 1002), and the Standards for Safeguarding Customer Information (16 CFR Part 314).

~~T. Q.~~ A licensee shall not obtain or receive a personal identification number (PIN) for a credit card, prepaid card, debit card, or any other type of card in connection with a ~~payday~~ short-term loan transaction.

~~U. R.~~ A licensee shall not provide any information to a borrower or prospective borrower that is false, misleading, or deceptive.

~~V. S.~~ A licensee shall not engage in any activity that directly or indirectly results in an evasion of the provisions of the Act or this chapter.

T. Any person licensed under the Act to make payday loans as of December 31, 2020, shall be deemed licensed and authorized to make short-term loans pursuant to the Act beginning on January 1, 2021. Licenses issued by the commission prior to January 1, 2021, shall remain in force until they have been surrendered, revoked, or suspended.

U. A licensee shall continuously maintain the requirements and standards for licensure prescribed in § 6.2-1806 of the Code of Virginia.

10VAC5-200-30. ~~Notice and payday~~ Short-term lending pamphlet.

A. ~~Before entering into a payday loan transaction, a~~ A licensee shall provide each ~~prospective borrower~~ applicant for a short-term loan with a pamphlet ~~which explains the borrower's rights and responsibilities. This pamphlet shall use that uses~~ the exact language appearing in the "Payday Lending Pamphlet" set forth in 10VAC5-200-80. The ~~form~~ pamphlet shall be printed ~~or typed~~ without alteration separate from all other papers or documents obtained by the licensee in type of size not less than that known as 12 point. The title of the pamphlet ("Payday Short-Term Lending in the Commonwealth of Virginia—Borrower Rights and Responsibilities") and the headings for the individual sections of the pamphlet (e.g., "In General," "~~Notice from Lender,~~" "Short-Term Lending Database," "Limitations on Security Interest / Obtaining PINs," etc.) shall be in bold-face print or type.

B. ~~Prior to furnishing a prospective borrower with a loan application or receiving any information relating to loan qualification, a licensee shall provide each prospective borrower with a printed notice which states the following: "WARNING: A payday loan is not intended to meet~~

long-term financial needs. It is recommended that you use a payday loan only to meet occasional or unusual short-term cash needs."

1. The notice and acknowledgement shall be printed or typed on 8-1/2 x 11 paper without alteration, be separate from all other papers or documents obtained by the licensee, and be in type not less than that known as 24 point. The notice must also end of each application form shall contain an acknowledgement a separate acknowledgment stating the following: "I acknowledge that I have received a copy of this notice and the pamphlet entitled "Payday Short-Term Lending in the Commonwealth of Virginia—Borrower Rights and Responsibilities."

2. The notice acknowledgment must be signed initialed and dated by each prospective borrower applicant for a short-term loan. A duplicate original of the acknowledged notice shall be kept in the separate loan file maintained with respect to the loan for the period specified in § 6.2-1809 of the Code of Virginia.

10VAC5-200-33. ~~Extended payment plans. (Repealed.)~~

A. ~~In any rolling 12-month period, an eligible borrower may elect to pay an outstanding payday loan from any licensee by means of an extended payment plan. A borrower shall not be eligible to obtain an extended payment plan if the borrower obtained an extended payment plan within the preceding 12 months.~~

B. ~~A borrower may enter into an extended payment plan at any time on or after the date a loan is made through the date that the loan is due to be repaid. A borrower shall not be permitted to repay a past due payday loan by means of an extended payment plan. If a loan is past due and a borrower cannot obtain an extended payment plan, a licensee may voluntarily accept payments from a borrower in accordance with subsection H of 10VAC5-200-70.~~

~~1. If an eligible borrower elects an extended payment plan, a licensee shall permit the borrower to repay the amount owed in at least four equal installments over a term of at least 60 days. The dollar amount of each installment shall be the same and the installment due dates shall be spread out evenly over the term of the extended payment plan (e.g., if the term is 60 days and there are four installments, an installment shall be due every 15 days).~~

~~2. If a borrower enters into an extended payment plan on the date a loan is made, the check used to secure the loan shall be dated as of the date the final installment is due. A licensee shall not require or accept multiple checks or any additional or alternative security in connection with an extended payment plan. A borrower shall have the option of exchanging security checks with a licensee at the time the borrower makes a payment on an extended payment plan. If a borrower wishes to exchange security checks, a licensee shall upon receipt of the payment return the check held as security to the borrower and the borrower shall deliver to the licensee a replacement security check, dated as of the date the final installment is due, for the remaining amount owed to the licensee.~~

~~3. A borrower who elects to repay a payday loan with an extended payment plan shall not be eligible for another payday loan until 90 days after the borrower has repaid or satisfied in full the balance of the loan.~~

~~G. A licensee shall provide notice to borrowers of the potential availability of the extended payment plan option in accordance with the provisions of this subsection.~~

~~1. A licensee shall conspicuously post in each licensed location a written notice in at least 24 point bold type informing borrowers that they may be eligible to enter into an extended payment plan. The minimum size for such written notice shall be 24 inches by 18 inches.~~

2. ~~The title of the written notice, which shall appear in at least 48 point bold type, shall be "NOTICE — EXTENDED PAYMENT PLANS AVAILABLE TO ELIGIBLE BORROWERS AT NO ADDITIONAL COST."~~

3. ~~The required text of the written notice shall be as follows:~~

~~If you are eligible, you have the option of repaying a payday loan by means of an extended payment plan. You may only obtain an extended payment plan once in any rolling 12-month period (even if you obtain loans from different lenders or locations). You may obtain an extended payment plan at any time on or after the date that you receive your loan through the date that your loan is due to be repaid. Under an extended payment plan, you will be permitted to repay the amount you owe in at least four equal installments over a term of at least 60 days. You will not be charged any additional interest or fees in connection with an extended payment plan, and interest will not accrue during the term of an extended payment plan. When you make a payment on an extended payment plan, you will have the option of providing a replacement security check for the remaining amount you owe. Please be advised that if you obtain an extended payment plan, you will not be permitted to get another payday loan from any lender for a period of 90 days after you fully repay or satisfy the extended payment plan.~~

4. ~~If the payday lending database referred to in 10VAC5-200-110 advises a licensee that an applicant is eligible for an extended payment plan, the licensee shall immediately provide oral notice to the applicant that (i) the applicant is eligible to repay the payday loan through an extended payment plan; (ii) information about extended payment plans may be found on the poster in the licensee's office or in the "Borrower Rights and Responsibilities" pamphlet; and (iii) the licensee is available to answer any questions that the applicant may have about extended payment plans. When providing this notice, the~~

~~licensee shall also direct the applicant to the specific locations of both the poster referred to in subdivision 1 of this subsection and the section of the pamphlet entitled "Extended Payment Plans."~~

~~D. A licensee shall immediately give a borrower receipts, signed and dated by the licensee, for all payments made in connection with an extended payment plan. The receipts shall also state the loan balance due after each payment.~~

~~E. A licensee shall retain the written and signed extended payment plan document identifying the terms of the extended payment plan and provide the borrower with a duplicate original. A licensee shall also retain copies of receipts provided in accordance with subsection D of this section. Upon full repayment or satisfaction of an extended payment plan, a licensee shall mark both the original loan agreement and original extended payment plan document with the word "paid" or "canceled," return both items to the borrower, and retain copies in its loan records.~~

10VAC5-200-35. Five payday loans within 180 days. (Repealed.)

~~A. A borrower obtaining a fifth payday loan within any rolling 180-day period may elect, at the option of the borrower, (i) to repay the loan through an extended payment plan, unless the borrower previously elected an extended payment plan within the preceding 12 months, or (ii) to obtain the loan in the form of an extended term loan.~~

~~B. If a borrower does not obtain an extended payment plan or extended term loan in connection with his fifth payday loan in 180 days, the borrower shall not be eligible for another payday loan until 45 days after the date the fifth payday loan is paid or otherwise satisfied in full.~~

~~C. If a borrower previously obtained an extended payment plan within the preceding 12-month period, the borrower shall not be eligible to repay a fifth payday loan obtained in any rolling 180-day period by means of an extended payment plan. However, if an eligible borrower elects to repay a fifth payday loan obtained in any rolling 180-day period by means of an extended payment~~

~~plan, the provisions of 10VAC5-200-33 shall apply. A borrower who elects to repay such loan by means of an extended payment plan shall not be eligible for another payday loan until 90 days after the borrower has repaid or satisfied in full the balance of the loan.~~

~~D. The following provisions shall apply to extended term loans.~~

~~1. An extended term loan is a payday loan, as this term is defined in § 6.2-1800 of the Code of Virginia. As with other payday loans, an extended term loan shall be secured by a check that does not exceed the sum of the principal amount advanced to the borrower and the interest and fees permitted by § 6.2-1817 of the Code of Virginia. The check used to secure an extended term loan shall be dated as of the date the final installment is due. A licensee shall not require or accept multiple checks or any additional or alternative security in connection with an extended term loan. A borrower shall have the option of exchanging security checks with a licensee at the time the borrower makes a payment on an extended term loan. If a borrower wishes to exchange security checks, a licensee shall upon receipt of the payment return the check held as security to the borrower and the borrower shall deliver to the licensee a replacement security check, dated as of the date the final installment is due, for the remaining amount owed to the licensee.~~

~~2. If an eligible borrower elects an extended term loan, a licensee shall permit the borrower to repay the amount owed in four equal installments over a term of 60 days. The dollar amount of each installment shall be the same and the installment due dates shall be spread out evenly over the term of the extended term loan (i.e., an installment shall be due every 15 days).~~

~~3. The terms of an extended term loan shall be set forth in a written agreement signed and dated by the borrower. An eligible borrower may elect the extended term loan option only on the date a payday loan is made.~~

~~4. A borrower who obtains an extended term loan shall not be eligible for another payday loan during the longer of 90 days following the date the extended term loan is paid or otherwise satisfied in full, or 150 days following the date the extended term loan is obtained. Subject to one of the applicable waiting periods associated with a fifth loan in any rolling 180-day period, a borrower may be eligible for consecutive extended term loans or multiple extended term loans in any rolling 12-month period.~~

~~5. A licensee shall immediately give a borrower receipts, signed and dated by the licensee, for all payments made in connection with an extended term loan. The receipts shall also state the loan balance due after each payment.~~

~~6. A licensee shall retain the written and signed extended term loan agreement and provide the borrower with a duplicate original. A licensee shall also retain copies of receipts provided in accordance with subdivision 5 of this subsection. Upon full repayment or satisfaction of an extended term loan, a licensee shall mark the original extended term loan agreement with the word "paid" or "canceled," return it to the borrower, and retain a copy in its loan records.~~

~~E. A licensee shall provide notice to borrowers of the potential availability of the extended term loan option in accordance with the provisions of this subsection.~~

~~1. A licensee shall conspicuously post in each licensed location a written notice in at least 24-point bold type informing borrowers that they may be eligible to obtain an extended term loan. The minimum size for such written notice shall be 24 inches by 18 inches.~~

~~2. The title of the written notice, which shall appear in at least 48-point bold type, shall be "NOTICE—EXTENDED TERM LOANS AVAILABLE TO BORROWERS OBTAINING A FIFTH PAYDAY LOAN WITHIN 180 DAYS."~~

~~3. The required text of the written notice shall be as follows:~~

~~Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2 of the Code of Virginia gives borrowers obtaining their fifth payday loan within 180 days the option to receive it in the form of an extended term loan. An extended term loan is a payday loan under which you are permitted to repay the amount you owe in four equal installments spread out evenly over a term of 60 days. You may obtain an extended term loan even if you previously obtained another extended term loan or an extended payment plan. If you want an extended term loan, you must choose this option on the date you obtain the payday loan. When you make a payment on an extended term loan, you will have the option of providing a replacement security check for the remaining amount you owe. Please be advised that if you obtain an extended term loan, you will not be permitted to get another payday loan from any lender for a period of 90 days after you fully repay or satisfy the extended term loan or 150 days after you obtain the extended term loan (whichever is longer). However, even if you do not choose an installment payment arrangement, you will still be unable to obtain another payday loan from any lender for a period of 45 days after you fully repay or satisfy your fifth payday loan.~~

~~4. If the payday lending database referred to in 10VAC5-200-110 advises a licensee that an applicant is eligible for an extended term loan, the licensee shall immediately provide oral notice to the applicant that (i) the applicant is eligible to obtain an extended term loan; (ii) information about extended term loans may be found on the poster in the licensee's office or in the "Borrower Rights and Responsibilities" pamphlet; and (iii) the licensee is available to answer any questions that the applicant may have about extended term loans. When providing this notice, the licensee shall also direct the applicant to the specific locations of both the poster referred to in subdivision 1 of this subsection and the section of the pamphlet entitled "Five Payday Loans within 180 days." In addition, if the payday~~

~~lending database advises a licensee that an applicant is eligible for an extended payment plan, the licensee shall also comply with subdivision C 4 of 10VAC5-200-33.~~

10VAC5-200-40. Borrower prepayment; right to cancel. (Repealed.)

~~A. In order to prepay a payday loan in full, a borrower shall only be required to pay the principal amount advanced as well as any accrued and unpaid fees. A borrower shall be permitted to make partial payments, in increments of not less than \$5.00, on the loan at any time without charge. The licensee shall give the borrower signed, dated receipts for each payment made, which shall state the balance due on the loan.~~

~~B. For purposes of the Act and this chapter, the interest and loan fee permitted by subsections A and B of § 6.2-1817 of the Code of Virginia shall be deemed accrued on a straight line basis over the term of a payday loan. A licensee shall calculate interest charges using either a 360 day year or a 365 day year. The verification fee permitted by subsection C of § 6.2-1817 of the Code of Virginia shall be deemed accrued in full at the time a payday loan is made.~~

~~C. 1. A borrower choosing to prepay his payday loan in full shall only be responsible for the verification fee and the pro rata portion of the total interest and loan fee based upon the number of days that have elapsed between the loan disbursement date and the date of repayment. (For example, if a \$400 loan with a simple annual interest rate of 36%, a 20% loan fee, a \$5.00 verification fee, a term of 28 days, and a 360 day year is prepaid in full after seven days, the borrower shall only be required to pay in cash or good funds instrument \$427.80 (\$400 + \$2.80 interest + \$20 loan fee + \$5.00 verification fee) to the licensee.)~~

~~2. A borrower choosing to make partial payments on a payday loan shall only be responsible for the verification fee and the pro rata portion of the total interest and loan fee based upon the timing and amount of such partial payments. (For example, given a \$500 loan with a simple annual interest rate of 36%, a 20% loan fee, a \$5.00 verification~~

~~fee, a term of 31 days, and a 360-day year, a borrower making a partial payment of \$200 after 15 days shall only be required to pay a total of \$603.91 to the licensee (\$500 principal + \$103.91 interest and fees). In this example, \$60.89 of the borrower's \$200 partial payment would be applied toward interest (\$7.50) and fees (\$48.39 loan fee + \$5.00 verification fee) and the remaining \$139.11 would be applied toward principal, thereby resulting in an outstanding balance of \$360.89 until maturity. Based on this outstanding balance, the charges for the remainder of the term are \$5.77 (interest on \$360.89 for 16 days) + \$37.25 (loan fee on \$360.89 pro-rated for 16 days.)~~

~~D. If a borrower enters into an extended payment plan and subsequently elects to prepay it in full, the borrower shall only be responsible for the verification fee, any interest that accrued prior to the borrower entering into the extended payment plan, and the pro-rata portion of the total loan fee based upon the number of days that have elapsed between the loan disbursement date and the date the loan would have been due if the borrower had not entered into the extended payment plan. The total payoff amount shall be reduced by the amount of any installment payments made by the borrower prior to prepaying the extended payment plan in full.~~

~~1. Example: Assume that a borrower who is paid on a semimonthly basis (minimum term of 31 days) obtains a \$500 loan on April 1 with an extended payment plan, an extended payment plan term of 60 days, no interest (interest does not accrue during the term of an extended payment plan), a 20% loan fee, a \$5.00 verification fee, and installment payments of \$151.25 due on April 16, May 1, May 16, and May 31. Since the borrower is paid on a semimonthly basis, the loan fee shall accrue over a period of 31 days. If the borrower prepays the extended payment plan in full on April 21, the borrower shall only be required to pay in cash or good funds instrument the principal (\$500), a pro-rata portion of the loan fee (\$64.52), and the verification fee (\$5.00) for a total of \$569.52 to the~~

licensee. If the borrower made an installment payment of \$151.25 on April 16, the payoff amount on April 21 would be \$418.27 (~~\$569.52 - \$151.25~~).

2. Example: Assume that a borrower who is paid on a semimonthly basis obtains a \$500 loan on April 1 with a simple annual interest rate of 36%, a 20% loan fee, a \$5.00 verification fee, a term of 31 days, and a 360 day year. Next assume that the borrower elects an extended payment plan on April 23 with a term of 60 days and installment payments of \$154 due on May 8, May 23, June 7, and June 22. If the borrower prepays the extended payment plan in full on June 2, the borrower shall only be required to pay in cash or good funds instrument the principal (\$500), the interest that accrued prior to the borrower electing an extended payment plan (\$11), the entire loan fee (\$100), and the verification fee (\$5.00) for a total of \$616 to the licensee. If the borrower made installment payments of \$154 on both May 8 and May 23, the payoff amount on June 2 would be \$308 (~~\$616 - \$154 - \$154~~).

E. If a borrower enters into an extended term loan and subsequently elects to prepay it in full, the borrower shall only be responsible for the verification fee and the pro-rata portion of the total interest and loan fee based upon the number of days that have elapsed between the loan disbursement date and the loan maturity date (i.e., the date the fourth installment is due). The total payoff amount shall be reduced by the amount of any installment payments made by the borrower prior to prepaying the extended term loan in full.

Example: Assume that a borrower obtains a \$500 extended term loan on April 1 with a simple annual interest rate of 36%, a 20% loan fee, a \$5.00 verification fee, a 360 day year, a 60 day term, and installment payments of \$158.75 due on April 16, May 1, May 16, and May 31. If the borrower prepays the extended term loan in full on May 20, the borrower shall only be required to pay in cash or good funds instrument the principal (\$500), the interest that accrued for 49 days (\$24.50), a pro-rata portion of the loan fee (\$81.67), and the verification fee (\$5.00) for a total of

~~\$611.17 to the licensee. If the borrower made installment payments of \$158.75 on April 16, May 1, and May 16, the payoff amount on May 20 would be \$134.92 (\$611.17 - \$158.75 - \$158.75 - \$158.75).~~

~~F. Unless it results in the prepayment in full of an extended payment plan or extended term loan pursuant to subsection D or E of this section, a partial payment, excess payment, installment payment, or other payment received by a licensee in advance of the date the funds are due under the terms of the extended payment plan or extended term loan shall not result in a modification of the payment schedule or a pro-rata adjustment of the total interest, if any, or loan fee. Payments made by a borrower pursuant to an extended payment plan or extended term loan shall be first applied to any past due installment and then to the next regularly scheduled installment.~~

~~G. Notwithstanding any provision of this section, a borrower shall have the right to cancel a payday loan (including an extended term loan or a loan repayable by means of an extended payment plan) at any time before the close of business on the next business day following the date of the loan by paying to the licensee, in the form of cash or good funds instrument, the principal amount advanced to the borrower. The licensee shall not be entitled to charge or receive any interest or fees, including a verification fee, when a borrower cancels a payday loan.~~

10VAC5-200-60. Posting of charges.

A. A licensee shall conspicuously post the following in its each licensed location and on its website:

1. A schedule of payments, fees and interest charges, with examples using (i) a \$300 loan payable in 14 days that is repaid in three months; (ii) a \$300 \$500 loan payable in 30 days that is repaid in five months; and (iii) a \$300 \$1,000 loan payable in 31 days; (iv) a \$300 loan payable in 62 days; and (v) a \$300 extended term loan that is repaid in 10 months. A

licensee may post additional examples when posting the information required by this subsection.

2. A notice with this statement: "If you wish to file a complaint against us, you may contact the Virginia Bureau of Financial Institutions at (800) 552-7945 or at scc.virginia.gov."

B. A licensee shall display its fees and interest charges not only as a dollar amount, but also as an Annual Percentage Rate, which shall be stated using this term, calculated in accordance with Regulation Z (12 CFR Part 1026).

10VAC5-200-70. Additional business requirements and restrictions.

A. A licensee shall conspicuously post [on its website, and] in or on its licensed locations [so that the posting is legible from the outside,] the days and hours during which it is open for business [so that the posting is legible from outside].

~~B. A licensee shall not deposit or otherwise present for payment more than two times any check given by a borrower as security for a loan, and in no event shall a licensee recover from a borrower more than a total of \$25 attributable to returned check fees incurred by the licensee with respect to a single check. Subject to subdivision 11 or 12 of § 6.2-1816 of the Code of Virginia, if applicable, a licensee may charge and collect from a borrower the actual amount of one or more deposit item return fees incurred by the licensee provided that (i) the conditions prescribed in § 6.2-1817 A 3 of the Code of Virginia are met, and (ii) the amount charged and collected does not exceed \$25 per deposit item return fee.~~

C. A licensee shall not knowingly make a ~~payday~~ short-term loan to 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. To enable a licensee to make this determination, a licensee shall clearly and conspicuously include the following questions in its written loan application, which the licensee shall require each applicant to answer before ~~obtaining~~ making a payday short-term loan.

A licensee shall not make a ~~payday~~ short-term loan to an applicant unless the applicant answers "no" to all of these questions:

1. Are you a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or National Guard serving on active duty under a call or order that does not specify a period of 30 days or fewer?
2. Are you married to a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or National Guard serving on active duty under a call or order that does not specify a period of 30 days or fewer?
3. Are you under the age of 18 and the son or daughter of a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or National Guard serving on active duty under a call or order that does not specify a period of 30 days or fewer?
4. Was more than one-half of your financial support for the past 180 days provided by a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or National Guard serving on active duty under a call or order that does not specify a period of 30 days or fewer?

D. A licensee shall maintain in its licensed offices such books, accounts, and records as the ~~Commissioner of Financial Institutions~~ commissioner may reasonably require in order to determine whether such licensee is complying with the provisions of the Act and all rules and regulations adopted in furtherance thereof. Such books, accounts, and records shall be maintained apart and separate from those relating to any other business in which the licensee is involved. Such records relating to loans, including loan applications, shall be retained for at least three years after final payment is made on any loan.

~~E. A licensee shall report, in accordance with § 6.2-1812 of the Code of Virginia, the institution of an action against the licensee under the Virginia Consumer Protection Act (§ 59.1-196 et seq. of the Code of Virginia) by the Attorney General or any other governmental authority~~ require each applicant for a short-term loan to sign and date a written loan application prior to the licensee making a credit decision. [An applicant may sign and date the loan application by hand or electronically.]

F. A licensee shall endeavor to provide the loan documents, ~~printed notice,~~ and pamphlet required by 10VAC5-200-30, in a language other than English when a prospective borrower is unable to read the materials printed in English.

~~G. A licensee shall not file or initiate a legal proceeding against a borrower until 60 days after the date of default on a payday loan, including defaults under extended payment plans or extended term loans, during which time the licensee and borrower may voluntarily enter into a repayment arrangement.~~

~~H. Nothing in the Act or this chapter shall be construed to prohibit a licensee from voluntarily accepting a payment on an outstanding loan from a borrower after the date that such payment was due to the licensee. However, except as otherwise permitted by the Act and this chapter, the licensee shall not collect, receive, or otherwise recover any additional interest, fees, or charges from the borrower.~~

H. If a licensee disburses loan proceeds by means of a check, the licensee shall not (i) charge the borrower a fee for cashing the check or (ii) permit either an affiliate or any person in the same office as the licensee to charge the borrower a fee for cashing the check.

10VAC5-200-75. Annual reporting requirements.

~~When~~ Unless otherwise directed by the commissioner, licensees shall provide the following data regarding loans made pursuant to the Act when making the annual report required by § 6.2-

1811 of the Code of Virginia, ~~in addition to other information required by the commissioner, licensees shall provide the following data:~~

1. The total number and dollar amount of ~~payday~~ loans made.
2. The total number of individual borrowers to whom loans were made.
3. The minimum, and maximum, ~~and average dollar amount of payday loans made~~ contracted loan amount.
4. The average contracted annual percentage rate, ~~and range of annual percentage rates, charged on payday loans made.~~
5. The average number of days, and the range of number of days, of the term of payday loans made total amount of contracted loan charges.
6. The total amount of loan charges actually paid.
7. The total number and dollar amount of ~~borrower checks returned unpaid by the drawee depository institution~~ deposit item return fees paid by borrowers.
7. ~~The total number and dollar amount of returned checks ultimately paid.~~
8. The total number and dollar amount of ~~returned checks charged off as uncollectible~~ defaulted loans.
9. The total number of charged-off loans and the total dollar amount ~~of returned check fees collected from borrowers whose checks are returned for insufficient funds~~ charged off.
10. The total number of individual borrowers against whom ~~lawsuits were instituted~~ civil actions were brought.

11. ~~The number of individual borrowers who received more than one loan but less than 13 loans, and the number of individual borrowers who received 13 loans or more~~ Any additional information required by the commissioner.

10VAC5-200-80. Payday Short-term lending pamphlet text.

The required text of the ~~payday~~ short-term lending pamphlet referred to in 10VAC5-200-30 is as follows:

**PAYDAY SHORT-TERM LENDING IN THE COMMONWEALTH OF VIRGINIA
BORROWER RIGHTS AND RESPONSIBILITIES**

Please take the time to carefully review the information contained in this pamphlet. It is designed to advise you of your rights and responsibilities in connection with obtaining a ~~payday~~ short-term loan in Virginia under Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2 of the Code of Virginia. If you have any questions about ~~payday~~ short-term lending or want additional information, you may contact the Virginia State Corporation Commission's Bureau of Financial Institutions toll-free at (800) 552-7945 or ~~on the Internet at <http://www.scc.virginia.gov/bfi>~~ [scc.virginia.gov](http://www.scc.virginia.gov). ~~The Bureau of Financial Institutions has available a "Consumer Guide to Payday Lending" that may be viewed at this website or obtained by calling the toll free telephone number listed above.~~

In General: You are responsible for evaluating whether a ~~payday~~ short-term loan is right for you. Alternatives may include among other things less expensive short-term financing from another financial institution, family, [~~or~~] friends, [or] a cash advance on a credit card [~~; or an account with overdraft protection~~] ~~; or a loan repayable over several months.~~

Advertisements: A lender is prohibited from sending you an envelope or other written material that gives the false impression that it is an official communication from a governmental entity, unless it is required by the United States Postal Service.

~~**Notice from Lender:** The lender is required to provide you with a clear and conspicuous printed notice advising you that a payday loan is not intended to meet long-term financial needs and that you should use a payday loan only to meet occasional or unusual short-term cash needs.~~

Information from Lender: Virginia law prohibits the lender from providing you with any false, misleading, or deceptive information.

Payday Short-Term Lending Database: Before making a payday short-term loan to you, a lender is required by Virginia law to access a database that ~~contains detailed information about payday loans made to Virginia residents by all lenders licensed to do business in Virginia.~~ The database will inform the lender whether you are eligible for a payday short-term loan. The Bureau of Financial Institutions is unable to advise you of your eligibility for a payday short-term loan. If you are ineligible ~~for a payday loan~~, the lender will provide you with the toll-free telephone number of the database provider, which you can use to find out the specific reason for your ineligibility. To enable the lender to check the database, you will be required to provide the lender with a ~~written~~ signed and dated loan application and ~~your~~ the original or a copy of your current driver's license or identification card issued by a state driver's licensing authority (e.g., Department of Motor Vehicles for the Commonwealth of Virginia). ~~If you wish to obtain a payday loan but do not have a driver's license or identification card, you will need to obtain a driver's license or identification card from the driver's licensing authority in your home state.~~

~~**Prohibition on Loans to Individuals with Certain Previous or Outstanding Loans:** Virginia law prohibits a lender from making a payday loan to you if (i) you currently have an outstanding payday loan; (ii) you paid or satisfied in full a previous payday loan on the same day that you are applying for a new payday loan; (iii) in the past 90 days you paid or satisfied in full a previous payday loan by means of an extended payment plan; (iv) in the past 45 days you paid or satisfied in full a fifth payday loan that you obtained within a period of 180 days; (v) in the past 90 days you~~

~~paid or satisfied in full an extended term loan; or (vi) in the past 150 days you entered into an extended term loan.~~

~~It is important to note that the previous or outstanding payday loans referred to above include loans made by the same lender as well as any other lender conducting payday lending business in Virginia.~~

Verification of Income: Before making a short-term loan to you, a lender must make a reasonable attempt to verify and document your income.

Prohibition on Loans to Members of the Military and their Spouses and Dependents:

Virginia law prohibits lenders from making ~~payday~~ short-term loans to members of the military services of the United States as well as their spouses and dependents. If you are a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or National Guard serving on active duty under a call or order that does not specify a period of 30 days or fewer, the lender is prohibited from making a ~~payday~~ short-term loan to you. The lender is also prohibited from making a loan to you if (i) you are married to such a member, (ii) you are less than 18 years old and the son or daughter of such a member, or (iii) more than one-half of your financial support for the past 180 days was provided by such a member.

Limitations on Security Interest / ~~Prohibition on Obtaining Funds Electronically~~ / Obtaining

PINs: The lender [~~cannot~~ may] require you to provide [one or] more [~~than one check~~ checks] as security for [any your] ~~payday~~ short-term loan. The check [or checks] must be dated ~~as of~~ no earlier than the date ~~your loan is due~~ of the first required loan payment shown in your loan agreement. The lender cannot require you to provide any security for your ~~payday~~ short-term loan other than [~~a check~~ one or more checks] payable to the lender. ~~The lender is also prohibited from electronically debiting your deposit account or obtaining any of your funds by electronic means.~~ The lender also cannot obtain any agreement from you that gives the lender or a third party the authority to prepare a check that is drawn upon your deposit account. Additionally, the

lender is prohibited from obtaining or receiving a personal identification number (PIN) for a credit card, prepaid card, debit card, or any other type of card in connection with your loan.

One Loan at a Time / \$500 \$2,500 Maximum: ~~The lender cannot have~~ Virginia law prohibits you from having more than one short-term loan outstanding to you at any one time. If you currently have an outstanding payday a short-term loan or a motor vehicle title loan from any lender that is licensed to make these types of loans, then you cannot obtain another payday ~~are prohibited from obtaining a short-term loan. The maximum loan amount is \$500 \$2,500.~~

Minimum Loan Term: ~~Under Virginia law, your loan term must be at least twice as long as your pay cycle. For example, if you are paid on a weekly basis, your minimum loan term would be 14 days cannot be more than 24 months. Your loan term also cannot be less than four months unless your total monthly payment will not exceed the greater of (i) 5.0% of your verified gross monthly income or (ii) 6.0% of your verified net monthly income.~~

Fees, Charges, and Interest: Your loan is payable in substantially equal installments of principal, fees, and interest combined. ~~The lender is permitted to charge you (i) interest at a simple annual rate of not to exceed 36%, (ii) a loan fee not exceeding 20% of the amount of money advanced to you (i.e., \$20 per \$100 advanced), and (iii) a verification fee not exceeding \$5.00; and (ii) a monthly maintenance fee that does not exceed the lesser of \$25 or 8.0% of your originally contracted loan amount, provided that the maintenance fee is not added to your loan balance on which interest is charged. [For example, if the lender advances you] \$300 for 31 days, the lender may charge you up to \$9.30 interest, a loan fee of \$60, and a verification fee of \$5.00 for a total of \$74.30 [\$500 and your loan is repayable in five substantially equal monthly installments, the lender may charge you interest totaling \$45.90 and monthly maintenance fees totaling \$125 for a combined total cost of \$170.90. If the lender advances you] \$300 for 62 days, the lender may charge you up to \$18.60 interest, a loan fee of \$60, and a verification fee of \$5.00 for a total of \$83.60 [\$1,000 and your loan is repayable in 10 substantially equal monthly installments, the~~

lender may charge you interest totaling \$172.30 and monthly maintenance fees totaling \$250 for a combined total cost of \$422.30.] Other than the specific fees and costs discussed in this section and the section of this pamphlet entitled "Failure to Repay" (see below), no additional amounts may be directly or indirectly charged, contracted for, collected, received, or recovered by the lender. Note that if your originally contracted loan amount is \$1,500 or less, the lender cannot charge or receive from you a total amount of fees and charges greater than 50% of your loan amount. If your loan amount is more than \$1,500, the total amount of fees and charges cannot exceed 60% of your loan amount.

In addition to interest and the monthly maintenance fee, the lender may charge you a deposit item return fee for the actual amount incurred by the lender, not to exceed \$25, if your check or electronic payment is returned unpaid because the account on which it was drawn was closed by you or contained insufficient funds, or you stopped payment on the check or electronic payment. If you make a payment more than seven calendar days after its due date, the lender may also impose a late charge of up to 5.0% of the amount of the payment, but not to exceed \$20.

You will receive your loan proceeds in the form of either cash or a check from the lender. The lender cannot charge you a fee for cashing their check. Similarly, ~~a check-casher affiliated with an affiliate of the lender or a person in the lender's office~~ cannot charge you a fee for cashing the lender's check.

The fees, charges, and interest mentioned in this section may not be charged, collected, or received unless they are included in your written loan agreement.

Written Agreement: The lender must provide you with a written loan agreement, which must be signed by both you and an authorized representative of the lender. The loan agreement is a binding, legal document that requires you to repay the loan. Make sure you read the entire loan agreement carefully before signing and dating it. The lender must provide you with a ~~duplicate~~ original copy of the signed loan agreement at the time of your loan transaction. If any provision of

your loan agreement violates Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2 of the Code of Virginia, the provision will not be enforceable against you.

~~**Extended Payment Plans:** Under Virginia law eligible borrowers have the option of repaying a payday loan by means of an extended payment plan. You may only obtain an extended payment plan once in any rolling 12-month period (even if you obtain loans from different lenders or locations). You may obtain an extended payment plan at any time on or after the date that you received your loan through the date that your loan is due to be repaid.~~

~~Under an extended payment plan, you are permitted to repay the amount you owe in at least four equal installments spread out evenly over a term of at least 60 days. You will not be charged any additional interest or fees in connection with an extended payment plan, and interest will not accrue during the term of an extended payment plan.~~

~~If you obtain an extended payment plan, you will not be able to get another payday loan from any lender for a period of 90 days after you fully repay or satisfy the extended payment plan.~~

~~**Five Payday Loans within 180 Days:** If you are obtaining a fifth payday loan within a rolling 180-day period, you have the option to (i) repay the fifth loan through an extended payment plan, unless you previously obtained an extended payment plan within the preceding 12 months, or (ii) obtain the loan in the form of an extended term loan.~~

~~You do not have to choose either one of these options. However, even if you do not obtain an extended payment plan or extended term loan, you will not be able to obtain another payday loan from any lender for a period of 45 days after you fully repay or satisfy your fifth payday loan.~~

~~Extended payment plans are discussed above. If you are eligible to repay your fifth payday loan by means of an extended payment plan and choose to do so, you will not be able to obtain another payday loan from any lender for a period of 90 days after you fully repay or satisfy the extended payment plan.~~

~~An extended term loan is a payday loan under which you are permitted to repay the amount you owe in four equal installments spread out evenly over a term of 60 days. You may obtain an extended term loan even if you previously obtained another extended term loan or an extended payment plan. If you want an extended term loan, you must choose this option on the date you obtain the payday loan. If you obtain an extended term loan, you will not be able to get another payday loan from any lender for a period of 90 days after you fully repay or satisfy the extended term loan or 150 days after you obtain the extended term loan (whichever is longer).~~

~~**Other Businesses:** A lender is prohibited by statute from engaging in other businesses, besides check cashing, unless permitted by order of the State Corporation Commission. A lender is also prohibited by statute from selling you any type of insurance coverage.~~

~~**Loans for Other Products & Services:** You are prohibited from using any of the money from your payday short-term loan to purchase any other product or service sold (i) at the lender's business location, or (ii) on or through the lender's website or mobile application.~~

~~**Right to Cancel or Rescind:** You have the right to cancel or rescind your short-term loan at any time prior to ~~the close~~ 5 p.m. of the third business on the next day immediately following the day the lender is open following the date your loan is made you entered into the loan agreement by returning the loan proceeds check or paying the lender the amount advanced to you in cash, certified check, cashier's check, money order or, if the lender is equipped to handle such payments, by using a credit card, prepaid card, or debit card, or the Automated Clearing House system. If you timely cancel or rescind your loan, the lender must mark your original loan agreement with the word "canceled" and return it to you along with any check that you provided as security for the loan.~~

~~**Partial Payments and Prepayments:** You have the right to make partial payments (in increments of not less than \$5.00) on your payday loan at any time prior to its specified due date without penalty. If you make a partial payment, the total interest and loan fee you pay will be reduced~~

~~(unless you have an extended payment plan or extended term loan — see "Payments on Extended Payment Plans and Extended Term Loans" below).~~ [The lender is required to accept any loan payment that you or another person acting on your behalf make provided that the payment is in the form of cash, certified check, cashier's check, money order or, if the lender is equipped to handle such payments, by use of a credit card, prepaid card, debit card, or the Automated Clearing House system. The lender is required to credit your loan account on the date that the lender receives your payment.] You have the right to receive signed, dated receipts for each payment made along with a statement of the balance remaining on your payday loan. If you have authorized electronic payments for your loan, you have the right to remove your authorization at any time. [If the lender presents your check, negotiable order of withdrawal, share draft, or other negotiable instrument for payment and it is dishonored for any reason and returned to the lender, then the lender is prohibited from presenting it for payment again unless the lender obtains a new written authorization from you to present the previously returned item. Similarly, if the lender attempts on two consecutive occasions to transfer or withdraw funds electronically from your account and both attempts fail, then the lender is prohibited from making an additional attempt unless the lender obtains a new written authorization from you to transfer or withdraw funds electronically from your account.] You also have the right to prepay your loan in full before its ~~specified due~~ maturity date without penalty by paying the lender in cash, certified check, cashier's check, money order or, if the lender is equipped to handle such payments, by use of a credit card, prepaid card, ~~or~~ debit card, or the Automated Clearing House system, ~~the amount of money advanced to you~~ remaining outstanding balance as well as any accrued and unpaid interest and fees. If you prepay your loan in full or your loan is refinanced with another short-term loan, the lender must refund to you a prorated portion of fees and charges, except for any deposit item return fees and late charges, based on a ratio of the number of days the loan was outstanding and the number of days for which the loan was originally contracted. [The lender must provide

you with the refund in the form of cash or a business check as soon as reasonably possible but no later than two business days after receiving payment from you.]

~~**Payments on Extended Payment Plans and Extended Term Loans:** You have the right to prepay an extended payment plan or extended term loan without penalty. However, unless it results in the prepayment in full of an extended payment plan or extended term loan, a partial payment, excess payment, installment payment, or other payment you give to the lender in advance of the date the funds are due does not result in either a change to your payment schedule or a pro rata adjustment of the total interest, if any, or loan fee that you will be required to pay. Payments you make on an extended payment plan or extended term loan are first applied to any past due installment and then to your next regularly scheduled installment. The lender must give you receipts, signed and dated by the lender, for all payments you make on an extended payment plan or extended term loan. When you make a payment on an extended payment plan or extended term loan, you have the option to give the lender a replacement security check for the remaining amount you owe. At your request, the lender may print a replacement security check on your behalf when you are in the lender's office and make a payment on an extended payment plan or extended term loan.~~

~~**Lender to Return Original Loan Agreement:** Upon repayment of your loan in full, the lender must mark your original loan agreement with the word "paid" or "canceled" and return it to you. If you obtained an extended payment plan, the lender is also required to mark your original extended payment plan document with the word "paid" or "canceled" and return it to you.~~

~~**Lender to Return Security Check:** If your loan is secured by a check and you cancel or rescind your loan (see "Right to Cancel or Rescind" above) or repay it in full with cash or by certified check, cashier's check, money order or, if the lender is equipped to handle such payments, by using a credit card, prepaid card, or debit card, the lender must immediately return the check you gave as security for the loan.~~

~~**No Rollovers, Extensions, Etc.:** The lender cannot refinance, renew, extend, or rollover your payday loan.~~

~~**Failure to Repay:** Pay back your loan! Know when your ~~payment is~~ payments are due and be sure to repay your loan on time and in full. ~~You are responsible for having sufficient funds in your checking account on the due date of your loan so that your check does not bounce if the lender deposits it in his account. If you do not repay your loan by the specified due date, the lender may begin accruing interest on the principal amount of your loan at a maximum rate of 6.0% per year.~~ [If you fail to make a payment on your loan in accordance with your loan agreement, the loan agreement may permit the lender to terminate your loan in advance of the maturity date and demand repayment of the entire outstanding balance along with prorated interest and fees earned up to the date of termination. However, at least 10 days after your payment was due, the lender must provide you with written notice that it is terminating your loan.]~~

~~In collecting or attempting to collect a payday short-term loan, the lender is required to comply with the restrictions and prohibitions applicable to debt collectors contained in the Fair Debt Collection Practices Act, 15 USC § 1692 et seq., regarding harassment or abuse, false or misleading misrepresentations, and unfair practices in collections. The lender is also prohibited from threatening or beginning criminal proceedings against you if a check you provide to the lender bounces or if you fail to pay any amount owed according to your loan agreement. If a lender knowingly violates this prohibition, the lender is required to pay you a civil monetary penalty equal to three times the amount of the dishonored check.~~

~~If you cannot or do not repay the loan: (i) the lender is permitted to recover from you any fee charged to the lender (maximum of \$25) as a result of your check being returned due to your account being closed by you or containing insufficient funds, or if you stopped payment on your check; and (ii) if the lender seeks and obtains judgment against you as a result of your returned~~

~~check, the lender may obtain court costs and reasonable attorney's fees (total may not exceed \$250) if such costs and fees are awarded by the court.~~

~~The If you default on your loan, the lender cannot file or initiate a legal proceeding may bring a civil action against you until 60 days or more after the date that you default on a payday loan, including a default under an extended payment plan or extended term loan. During this 60-day period the lender may voluntarily enter into a repayment arrangement with you.~~

Legal Action Against Lender: You have the right to bring a civil action against the lender if you suffer a loss as a result of the lender violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2 of the Code of Virginia. If you are successful in your civil action, you have the right to be reimbursed for reasonable attorney's fees, expert witness fees, and court costs you have incurred in connection with your civil action. Losses suffered as the result of the lender's violation of Chapter 18 of Title 6.2 of the Code of Virginia may also be pursued under the Virginia Consumer Protection Act (§ 59.1-196 et seq. of the Code of Virginia), which in some cases permits consumers to recover actual and punitive damages.

Complaints and Contacting the Bureau of Financial Institutions: For assistance with any complaints you may have against a payday short-term lender, please contact the Bureau of Financial Institutions toll free at (800) 552-7945 or ~~on the Internet at <http://www.scc.virginia.gov/bfi>~~ [scc.virginia.gov](http://www.scc.virginia.gov). Complaints must be filed in writing with the Bureau of Financial Institutions and include copies of supporting documentation. ~~Complaints should be mailed to Bureau of Financial Institutions, Attn: Complaints, P.O. Box 640, Richmond, Virginia 23218-0640, or faxed to Bureau of Financial Institutions, Attn: Complaints, at (804) 371-9416.~~

10VAC5-200-85. Advertising.

A. A licensee shall disclose the following information in its advertisements ~~in a conspicuous manner:~~

1. The name of the ~~payday~~ short-term lender as set forth in the license issued by the commission.
2. A statement that the ~~payday~~ short-term lender is "licensed by the Virginia State Corporation Commission."
3. The license number assigned by the commission to the ~~payday~~ short-term lender (i.e., PL-XXX).

B. A licensee shall not deliver or cause to be delivered to a consumer any envelope or other written material that gives the false impression that the mailing or written material is an official communication from a governmental entity, unless required by the United States Postal Service.

C. Every advertisement used by, or published on behalf of, a licensee shall comply with the disclosure requirements for advertisements contained in Regulation Z (12 CFR Part 1026).

D. ~~For purposes~~ The information required by subsection A of this section, the term "conspicuous" shall have the meaning set forth be disclosed in accordance with the disclosure standards prescribed in subdivision 20 subsection C of § 6.2-1816 6.2-1819 of the Code of Virginia.

E. Every licensee shall retain for at least three years after it is last published, delivered, transmitted, or made available, an example of every advertisement used, including but not limited to solicitation letters, print media proofs, commercial scripts, and recordings of all radio and television broadcasts, but excluding copies of Internet web pages.

10VAC5-200-90. Schedule of annual fees for the examination, supervision, and regulation of payday short-term lenders.

Pursuant to § 6.2-1814 of the Code of Virginia, the commission sets the following schedule of annual fees to be paid by ~~payday lenders licensed~~ licensees under ~~Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2 of the Code of Virginia~~ the Act. Such fees are to defray the costs of the

examination, supervision, and regulation of licensees by the bureau. The fees are related to the actual costs of the bureau, to the number of offices operated by licensees, to the volume of business of licensees, and to other factors relating to their supervision and regulation.

The annual fee shall be \$500 per office plus \$.47 per payday loan made by each licensee. The annual fee shall be computed on the basis of (i) the number of offices, authorized and opened, as of December 31 of the year preceding the year of the assessment, and (ii) the number of payday loans made under Chapter 18 (~~§ 6.2-1800 et seq.~~) of Title 6.2 of the Code of Virginia the Act during the calendar year preceding the year of the assessment.

Fees shall be assessed on or before September 15 for the current calendar year. The assessment shall be paid by licensees on or before October 15.

The annual report, due March 25 each year, of each licensee provides the basis for its assessment (~~i.e., the number of offices and payday loans made~~). In cases where a license has been granted between January 1 and September 15 of the year of the assessment, the licensee shall pay ~~\$250 per office, authorized and opened, as of September 15 of that year.~~

Fees prescribed and assessed pursuant to this schedule are apart from, and do not include, the reimbursement for expenses authorized by subsection B of § 6.2-1814 of the Code of Virginia.

10VAC5-200-100. ~~Other~~ Conducting other business in ~~payday~~ lending offices.

A. This section governs the conduct of any business other than ~~payday~~ short-term lending where a licensed ~~payday~~ short-term lending business is conducted. As used in this section, the term "other business operator" refers to a ~~licensed payday lender licensee~~ or third party, including an affiliate or subsidiary of the ~~licensed payday lender licensee~~, who conducts or wants to conduct other business from one or more ~~payday~~ short-term lending offices.

1. Pursuant to § 6.2-1820 of the Code of Virginia, a licensee shall not conduct the business of making ~~payday~~ short-term loans at any office, suite, room, or place of business where

any other business is solicited or conducted, except a ~~registered~~ check cashing business registered under Chapter 21 (§ 6.2-2100 et seq.) of Title 6.2 of the Code of Virginia, a motor vehicle title lending business licensed under Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2 of the Code of Virginia, 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.

2. Notwithstanding any provision of this section or order entered by the commission prior to October 1, 2010, the following other businesses shall not be conducted from any office, suite, room, or place of business where a licensed ~~payday~~ short-term lending business is conducted:

a. Selling insurance or enrolling borrowers under group insurance policies.

b. Making loans under an open-end credit plan as described in § 6.2-312 of the Code of Virginia. ~~However, if prior to October 1, 2010, a licensee received commission authority for an other business operator to conduct open end credit business or open end auto title lending business from the licensee's payday lending offices, the other business operator may continue collecting payments on any outstanding open end loans (i) in accordance with the terms of its existing open end credit agreements and (ii) subject to the conditions imposed by this section.~~

3. ~~Pursuant to § 6.2-2107 of the Code of Virginia, no person registered or required to be registered as a check casher under Chapter 21 (§ 6.2-2100 et seq.) of Title 6.2 of the Code of Virginia shall make loans from any location, including an office, suite, room, or place of business where a licensed payday lending business is conducted, unless the person is licensed under the Act and the loans are made in accordance with the Act~~ This section shall not apply to any other business that is transacted solely with persons residing outside of the Commonwealth.

4. Notwithstanding any provision of this section or order entered by the commission prior to January 1, 2021, a licensee shall not make short-term loans at the same location at which the licensee, or any affiliate or owner of the licensee, conducts business under Chapter 15 (§ 6.2-1500 et seq.) of Title 6.2 of the Code of Virginia. However, if prior to January 1, 2021, a licensee obtained authority under § 6.2-1820 for the licensee or its affiliate or owner to make consumer finance loans from the licensee's payday lending offices, then the licensee or its affiliate or owner may continue collecting payments on any outstanding consumer finance loans (i) in accordance with the preexisting terms of the loan contracts provided that such terms were permitted by law when the loans were made, and (ii) subject to the general conditions set forth in subsection E of this section.

5. If a licensee accepts loan applications, sends or receives loan-related information or documents, disburses loan funds, or accepts loan payments on or through the licensee's website or mobile application, and any other products or services are or will be offered or sold to Virginia residents on or through such website or mobile application, then the offer or sale of such other products or services shall constitute the conduct of other business and shall be subject to all of the provisions of this section to the same extent as if such other business was conducted by an other business operator from the licensee's short-term lending offices.

B. No other business shall be conducted in a location where a licensee conducts a payday short-term lending business unless the proposed other business is financial in nature and the licensee obtains prior approval from the commission. Applications for approval shall be made in writing on a form provided by the ~~Commissioner of Financial Institutions~~, commissioner and shall be accompanied by payment of the ~~a \$300 fee required by law~~ and any information relating to the application that the ~~Commissioner of Financial Institutions~~ commissioner may require. In acting upon an application, the commission shall consider (i) whether the other business operator has

the general fitness to warrant belief that the business will be operated in accordance with law; (ii) whether the applicant has been operating its ~~payday-lending~~ business in accordance with the Act and this chapter; and (iii) any other factors that the commission deems relevant.

1. The commission shall in its discretion determine whether a proposed other business is "financial in nature," and shall not be obliged to consider the meaning of this term under federal law. A business is financial in nature if it primarily deals with the offering of debt, money or credit, or services directly related thereto.

2. Prior approval from the commission shall not be required for a licensee to conduct a short-term lending business from one or more locations where an other business operator will conduct (i) a registered check cashing business under Chapter 21 (§ 6.2-2100 et seq.) of Title 6.2 of the Code of Virginia, or (ii) a licensed motor vehicle title lending business under Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2 of the Code of Virginia. However, the conduct of these other businesses from a licensee's short-term lending offices shall otherwise be governed by this section, including the conditions prescribed in subsections E, F, and G of this section.

C. Nonfinancial other business may be conducted pursuant to any order of the commission entered on or before June 15, 2004. However, this subsection shall not be construed to authorize any person to begin engaging in such other business at ~~payday-lending~~ locations where such other business was not conducted as of June 15, 2004.

D. ~~Written~~ Except as provided in subdivision B 2 of this section, written evidence of commission approval of each other business conducted by an other business operator should be maintained at each approved location ~~where such other business is conducted~~.

E. Except as otherwise provided in subsection O of this section, all ~~approved~~ other businesses in ~~payday~~ short-term lending offices shall be conducted in accordance with the following conditions:

1. The licensee shall not make a ~~payday~~ short-term loan to a borrower to enable the borrower to purchase or pay any amount owed in connection with the (i) goods or services sold, or (ii) loans offered, facilitated, or made, by the other business operator at the licensee's ~~payday~~ short-term lending offices.
2. The other business operator shall comply with all federal and state laws and regulations applicable to its other business, including any applicable licensing or registration requirements.
3. The other business operator shall not use or cause to be published any advertisement or other information that contains any false, misleading, or deceptive statement or representation concerning its other business, including the rates, terms, or conditions of the products, services, or loans that it offers. The other business operator shall not make or cause to be made any misrepresentation as to (i) its being licensed to conduct the other business, or (ii) the extent to which it is subject to supervision or regulation.
4. The licensee shall not make a ~~payday~~ short-term loan or vary the terms of a ~~payday~~ short-term loan on the condition or requirement that a person also (i) purchase a good or service from, or (ii) obtain a loan from or through, the other business operator. The other business operator shall not (a) sell its goods or services, (b) offer, facilitate, or make loans, or (c) vary the terms of its goods, services, or loans, on the condition or requirement that a person also obtain a ~~payday~~ short-term loan from the licensee.
5. The other business operator shall maintain books and records for its other business separate and apart from the licensee's ~~payday~~ short-term lending business and in a

different location within the licensee's ~~payday~~ short-term lending offices. The bureau shall be given access to all such books and records and be furnished with any information and records that it may require in order to determine compliance with all applicable conditions, laws, and regulations.

F. If ~~a licensee received commission authority for an other business operator to conduct open-end credit~~ conducts a check cashing business or open-end auto title lending business from the licensee's ~~payday~~ short-term lending offices, the following additional conditions shall be applicable:

1. The other business operator shall ~~not (i) enter into any new open-end credit agreements or (ii) make any new loans pursuant to its existing open-end credit agreements~~ be registered or exempt from registration under Chapter 21 (§ 6.2-2100 et seq.) of Title 6.2 of the Code of Virginia.

2. The licensee shall ~~not make a payday loan to a person if (i) the person has an outstanding open-end loan from the other business operator, or (ii) on the same day the person repaid or satisfied in full an open-end loan from~~ If the other business operator is registered under Chapter 21 (§ 6.2-2100 et seq.) of Title 6.2 of the Code of Virginia, then the other business operator shall not make any loans unless the other business operator is licensed under the Act and the loans are made in accordance with the Act.

3. The other business operator shall not charge a fee to cash a check issued by the licensee or any other person operating in the licensee's short-term lending offices.

G. If ~~a licensee received or receives commission authority for an other business operator to conduct~~ conducts a motor vehicle title lending business from the licensee's ~~payday~~ short-term lending offices, the following additional conditions shall be applicable:

1. The other business operator shall be licensed or exempt from licensing under Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2 of the Code of Virginia.
2. The licensee shall not make a ~~payday~~ short-term loan to a person if (i) the person has an outstanding motor vehicle title loan from the other business operator, or (ii) on the same day the person repaid or satisfied in full a motor vehicle title loan from the other business operator.
3. The other business operator shall not make a motor vehicle title loan to a person if (i) the person has an outstanding ~~payday~~ short-term loan from the licensee, or (ii) on the same day the person repaid or satisfied in full a ~~payday~~ short-term loan from the licensee.
4. The other business operator and the licensee shall not make a motor vehicle title loan and a ~~payday~~ short-term loan contemporaneously or in response to a single request for a loan or credit.
5. The licensee and other business operator shall provide each applicant for a ~~payday~~ short-term loan or motor vehicle title loan with a separate disclosure, signed by the applicant, that clearly identifies all of the loan products available in the licensee's ~~payday~~ short-term lending offices along with the corresponding Annual Percentage Rate, interest rate, and other costs associated with each loan product. The disclosure shall also identify the collateral, if any, that will be used to secure repayment of each loan product.

H. If a licensee received or receives commission authority for an other business operator to conduct business as an authorized delegate or agent of a money order seller or money transmitter from the licensee's ~~payday~~ short-term lending offices, the other business operator shall be and remain a party to a written agreement to act as an authorized delegate or agent of a person licensed or exempt from licensing as a money order seller or money transmitter under Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2 of the Code of Virginia. The other business operator shall not

engage in money order sales or money transmission services on its own behalf or on behalf of any person other than a licensed or exempt money order seller or money transmitter with whom it has a written agreement.

I. If a licensee received or receives commission authority for an other business operator to conduct the business of (i) tax preparation ~~and~~ or electronic tax filing services, or (ii) facilitating third party tax preparation ~~and~~ or electronic tax filing services, from the licensee's payday short-term lending offices, the following additional conditions shall be applicable:

1. The licensee shall not make, ~~arrange, or broker~~ a payday short-term loan that is secured by an interest in a borrower's tax refund, ~~or in whole or in part by (i) any other assignment of income payable to a borrower, or (ii) any assignment of an interest in a borrower's account at a depository institution.~~ This condition shall not be construed to prohibit the licensee from making a payday loan that is secured solely by a check payable to the licensee drawn on a borrower's account at a depository institution.

2. The other business operator shall not engage in the business of (i) accepting funds for transmission to the Internal Revenue Service or other government instrumentalities, or (ii) receiving tax refunds for delivery to individuals, unless licensed or exempt from licensing under Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2 of the Code of Virginia.

J. If a licensee received or receives commission authority for an other business operator to conduct the business of facilitating or arranging tax refund anticipation loans or tax refund payments from the licensee's payday short-term lending offices, the following additional conditions shall be applicable:

1. The other business operator shall not facilitate or arrange a tax refund anticipation loan or tax refund payment to enable a person to pay any amount owed to the licensee as a result of a payday short-term loan transaction.

2. The other business operator and the licensee shall not facilitate or arrange a tax refund anticipation loan or tax refund payment and make a payday short-term loan contemporaneously or in response to a single request for a loan or credit.

3. The licensee shall not make, ~~arrange, or broker~~ a payday short-term loan that is secured by an interest in a borrower's tax refund, ~~or in whole or in part by (i) any other assignment of income payable to a borrower, or (ii) any assignment of an interest in a borrower's account at a depository institution.~~ This condition shall not be construed to prohibit the licensee from making a payday loan that is secured solely by a check payable to the licensee drawn on a borrower's account at a depository institution.

4. The other business operator shall not engage in the business of receiving tax refunds or tax refund payments for delivery to individuals unless licensed or exempt from licensing under Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2 of the Code of Virginia.

5. The licensee and other business operator shall provide each applicant for a payday short-term loan or tax refund anticipation loan with a separate disclosure, signed by the applicant, that clearly identifies all of the loan products available in the licensee's payday short-term lending offices along with the corresponding Annual Percentage Rate, interest rate, and other costs associated with each loan product. The disclosure shall also identify the collateral, if any, that will be used to secure repayment of each loan product.

K. If a licensee received or receives commission authority for an other business operator to conduct a consumer finance business from the licensee's payday short-term lending offices, the following additional conditions shall be applicable:

1. The other business operator shall be licensed or exempt from licensing under Chapter 15 (§ 6.2-1500 et seq.) of Title 6.2 of the Code of Virginia.

2. Pursuant to subdivision A 4 of this section, the other business shall be conducted by a person other than the licensee or an affiliate or owner of the licensee.

3. The licensee shall not make a payday short-term loan to a person if (i) the person has an outstanding consumer finance loan from the other business operator, or (ii) on the same day the person repaid or satisfied in full a consumer finance loan from the other business operator.

~~2.~~ 4. The other business operator shall not make a consumer finance loan to a person if (i) the person has an outstanding payday short-term loan from the licensee, or (ii) on the same day the person repaid or satisfied in full a payday short-term loan from the licensee.

~~3.~~ 5. The licensee and other business operator shall not make a payday short-term loan and a consumer finance loan contemporaneously or in response to a single request for a loan or credit.

~~4.~~ 6. The licensee and other business operator shall provide each applicant for a payday short-term loan or consumer finance loan with a separate disclosure, signed by the applicant, that clearly identifies all of the loan products available in the licensee's payday short-term lending offices along with the corresponding Annual Percentage Rate, interest rate, and other costs associated with each loan product. The disclosure shall also identify the collateral, if any, that will be used to secure repayment of each loan product.

L. If a licensee received or receives commission authority for an other business operator to conduct the business of operating an automated teller machine from the licensee's payday short-term lending offices, the other business operator shall not charge a fee or receive other compensation in connection with the use of its automated teller machine by a person when the person is withdrawing funds in order to make a payment on a payday loan ~~from~~ that was made

by the licensee or any other lender conducting business from the licensee's short-term lending offices.

M. The commission may impose any additional conditions upon the conduct of other business in payday short-term lending offices that it deems necessary and in the public interest.

N. Except as otherwise provided in subsection O of this section, the conditions set forth or referred to in subsections E through M of this section shall supersede the conditions set forth in the commission's approval orders entered prior to January 1, ~~2011~~ 2021.

O. If prior to January 1, 2011, a licensee received commission authority for an other business operator to conduct a business not identified in subsections F through L of this section, the conditions that were imposed by the commission at the time of the approval shall remain in full force and effect.

P. Failure by a licensee or other business operator to comply with any provision of this section or any condition imposed by the commission, or failure by a licensee to comply with the Act, this chapter, or any other law or regulation applicable to the conduct of the licensee's business, may result in revocation of the authority to conduct other business or any form of enforcement action specified in 10VAC5-200-120.

10VAC5-200-110. Payday Short-term lending database.

A. This section sets forth the rules applicable to the payday short-term lending database referred to in § 6.2-1810 of the Code of Virginia.

B. Except as otherwise provided in this section, a licensee shall transmit all information to the database via the Internet. In order to maintain the confidentiality and security of the information, a licensee shall not transmit information to the database using publicly accessible computers, computers that are not under the licensee's control, unsecured wireless (Wi-Fi) connections, or other connections that are not secure. A licensee shall maintain generally accepted security

safeguards to protect the confidentiality of the information transmitted to the database, including but not limited to installing and regularly updating malware protection (antivirus and antispyware) software and a firewall.

C. After receiving a completed written loan application but prior to making a payday short-term loan, a licensee shall transmit the following information to the database for purposes of determining whether an applicant is eligible for a payday short-term loan. The licensee shall obtain the applicant information required by this subsection in accordance with the provisions of subsection D of this section.

1. Name of licensee and license number.
2. Office location of licensee.
3. First and last name or identification number of employee entering information into the database.
4. Applicant's first and last name.
5. Last four digits of applicant's driver's license number or identification card number.
6. Applicant's address.
7. Applicant's date of birth.
8. Type of card (e.g., driver's license or identification card issued by a state driver's licensing authority) provided by the applicant pursuant to subdivision D 1 of this section.

D. 1. A licensee shall obtain the information required by subdivisions C 4, 5, 6, 7, and 8 of this section ~~directly~~ from the applicant's unexpired ~~original~~ driver's license or identification card issued by a state driver's licensing authority (e.g., Department of Motor Vehicles for the Commonwealth of Virginia), regardless of whether the information on the driver's license or identification card is

still accurate. A licensee ~~shall not~~ may accept photocopies, facsimiles, or other reproductions of a driver's license or identification card.

2. A licensee shall ~~photocopy~~ retain a copy of the applicant's driver's license or identification card, ~~partially redact the~~ in its records. The driver's license number or identification card number shall be partially redacted by the licensee so that only the last four digits of the number remain visible, ~~and retain the redacted photocopy in its records~~.

3. A licensee shall not accept a driver's license or identification card from an applicant when there is reason to believe that (i) it belongs to an individual other than the applicant or (ii) it is fake, counterfeit, or has been altered, fraudulently obtained, forged, or is otherwise nongenuine or illegitimate.

E. If the database advises a licensee that an applicant is ineligible for a ~~payday~~ short-term loan, then the licensee shall inform the applicant of his ineligibility, instruct the applicant to contact the database provider for information about the specific reason for his ineligibility, and provide the applicant with the toll-free telephone number of the database provider.

F. ~~If~~ Except as otherwise provided in subsection O of this section, if the database advises a licensee that an applicant is eligible for a ~~payday~~ short-term loan, then the licensee shall transmit the following additional information to the database prior to making a ~~payday~~ short-term loan:

1. Application date.
2. Loan number.
3. Date of loan.
4. Principal amount of loan.
5. Interest rate.
6. Dollar amount of precomputed interest to be charged until date of loan maturity.

7. Dollar amount of ~~loan~~ monthly maintenance fee to be charged.

8. Dollar amount of ~~verification fee to be charged~~ each payment.

9. Dollar amount of total ~~finance~~ fees and charges.

10. Annual Percentage Rate (APR) of loan.

11. ~~Number of days in applicant's pay cycle [~~ Applicant's verified (i) gross monthly income and (ii) net monthly income.]

[~~12.~~] ~~Number~~ Total number of days in loan term payments.

[~~13.~~ 12.] Date of loan is ~~due~~ maturity.

[~~14.~~ 13.] Dollar If applicable, dollar amount of check given by applicant to secure the loan (i.e., at the time the loan is made).

~~G. If the database advises a licensee that an applicant is eligible for an extended payment plan or extended term loan and the applicant subsequently elects an extended payment plan or extended term loan, then the licensee shall transmit the following additional applicable information to the database no later than the time the licensee closes for business on the date the applicant enters into the extended payment plan or extended term loan:~~

~~1. Date the extended payment plan or extended term loan is entered into.~~

~~2. Principal amount owed under the extended payment plan or extended term loan.~~

~~3. Number of installment payments and the amount of each payment to be made under the extended payment plan or extended term loan.~~

~~4. Date each installment payment is due under the extended payment plan or extended term loan.~~

~~5. Number of days in term of extended payment plan or extended term loan.~~

~~H. For purposes of this section, a licensee closes for business when it officially shuts its doors to the general public on a business day, or within one hour thereafter.~~

~~I. G. A licensee shall generate a separate printout from the database showing the results of each loan eligibility query, including whether an applicant is eligible for an extended payment plan or extended term loan, and retain the printout in its loan records.~~

~~J. H. Except as otherwise provided in subsection O of this section and subdivisions 3, 7, and 8 of this subsection, a licensee shall transmit the following additional information relating to loans made under the Act, as applicable, to the database no later than the time the licensee closes for end of the business day on the date of the event:~~

- ~~1. If a borrower cancels or rescinds a payday loan, the date of the cancellation or rescission.~~
- ~~2. If a payday loan (including an extended term loan or a loan that a borrower elected to repay by means of an extended payment plan) is repaid or otherwise satisfied in full, (i) the date of repayment or satisfaction, and (ii) the total net dollar amount ultimately paid by the borrower in connection with the loan (i.e., principal amount of loan plus all fees and charges received or collected pursuant to §§ § 6.2-1817 and 6.2-1818 of the Code of Virginia, less any amount refunded to the borrower as a result of overpayment).~~
- ~~3. If a borrower's check used to repay a loan in full is returned unpaid or electronic draft is returned unpaid because the account on which it was drawn was closed by the borrower or contained insufficient funds, (i) the date the check or electronic draft is returned unpaid, and (ii) the dollar amount of the check or electronic draft. A licensee shall transmit such information to the database no later than five calendar days after the date the check or electronic draft is returned unpaid.~~

4. If a licensee collects a ~~returned check~~ deposit item return fee from a borrower, the dollar amount of the ~~returned check~~ deposit item return fee.
5. If a licensee ~~initiates~~ brings a ~~legal proceeding~~ civil action against a borrower for nonpayment of a ~~payday~~ loan, the date the proceeding is initiated and the total dollar amount sought to be recovered.
6. If a licensee obtains a judgment against a borrower, the date and total dollar amount of the judgment.
7. If a judgment obtained by a licensee against a borrower is satisfied, the date of satisfaction. A licensee shall transmit such information to the database on the date the licensee learns that the judgment has been satisfied.
8. If a licensee obtains a judgment against a borrower and collects any ~~court~~ damages or costs or attorney's fees from a the borrower, the dollar amount of the ~~court~~ damages or costs or attorney's fees. A licensee shall transmit such information to the database on the date the licensee learns that the ~~court~~ damages or costs or attorney's fees have been paid.
9. If a licensee charges off a ~~payday~~ loan as uncollectible, the date the loan is charged off and the total dollar amount charged off.

~~K~~ L 1. If any information required to be transmitted by a licensee to the database is automatically populated or calculated by the database provider, the licensee shall verify the information and immediately correct any inaccuracies or other errors.

2. If a licensee becomes aware of any changes, inaccuracies, or other errors in the information previously verified or transmitted by the licensee to the database, the licensee shall immediately update or correct the database.

~~L~~ J. The following provisions address a licensee's inability to access the database via the Internet at the time of loan application:

1. If at the time a licensee receives a loan application the licensee is unable to access the database via the Internet due to technical problems beyond the licensee's control, then the licensee shall to the extent possible use the database provider's alternative means of database access, such as a telephone interactive voice response system, for purposes of transmitting the information required by this section and obtaining applicant eligibility information from the database.

2. If a licensee makes a ~~payday~~ short-term loan based on applicant eligibility information obtained from the database provider's alternative means of database access, then the licensee shall transmit to the database any remaining information required by this section no later than ~~the time the licensee closes for business on~~ the date that the database becomes accessible to the licensee via the Internet.

3. If at the time a licensee receives a loan application the licensee is unable to access the database via the Internet due to technical problems beyond the licensee's control and the database provider's alternative means of database access is unavailable or otherwise unable to provide the licensee with applicant eligibility information (~~including eligibility for an extended payment plan or extended term loan~~), then the licensee may make a ~~payday~~ short-term loan to an applicant if the applicant signs and dates a separate document containing all of the representations and responses to the questions set forth below and the prospective loan otherwise complies with the provisions of the Act and this chapter. The document shall be ~~printed~~ in a type size of not less than 14 point and contain a statement that the representations and questions relate to loans obtained from either the licensee or another ~~payday~~ short-term lender. The licensee shall retain the original document in its loan file and provide the applicant with a duplicate original.

a. The representations to be made by an applicant are as follows:

(1) I do not currently have any outstanding payday loans or short-term loans under Chapter 18 of Title 6.2 of the Code of Virginia.

~~(2) I did not repay or otherwise satisfy in full a payday loan today.~~

~~(3) In the past 90 days I did not repay or otherwise satisfy in full a payday loan by means of an extended payment plan.~~

~~(4) In the past 45 days I did not repay or otherwise satisfy in full a fifth payday loan that was obtained within a period of 180 days.~~

~~(5) In the past 90 days I did not repay or otherwise satisfy in full an extended term loan.~~

~~(6) I did not obtain an extended term loan within the past 150 days.~~

~~(7)~~ (2) I am not a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or National Guard serving on active duty under a call or order that does not specify a period of 30 days or fewer.

~~(8)~~ (3) I am not married to a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or National Guard serving on active duty under a call or order that does not specify a period of 30 days or fewer.

~~(9)~~ (4) I am not under the age of 18 and the son or daughter of a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or National Guard serving on active duty under a call or order that does not specify a period of 30 days or fewer.

~~(10)~~ (5) One-half or less (including none) of my financial support for the past 180 days was provided by a regular or reserve member of the United States Army, Navy, Marine

Corps, Air Force, Coast Guard, or National Guard serving on active duty under a call or order that does not specify a period of 30 days or fewer.

~~b. The questions to be presented to an applicant are as follows:~~

~~(1) In the past 12 months, have you obtained an extended payment plan in order to repay a payday loan? If the applicant's response is "no" and the applicant is eligible for a payday loan, then the licensee shall immediately provide the applicant with the oral notice prescribed in subdivision C 4 of 10VAC5-200-33.~~

~~(2) Have you obtained four or more payday loans within the past 180 days? If the applicant's response is "yes" and the applicant is eligible for a payday loan, then the licensee shall immediately provide the applicant with the oral notice prescribed in subdivision E 4 of 10VAC5-200-35.~~

~~e. b. If a licensee makes a payday short-term loan pursuant to subdivision 3 of this subsection, then the licensee shall transmit to the database the information required by this section no later than the time the licensee closes for business on the date that the database becomes accessible to the licensee, via either the Internet or the database provider's alternative means of database access.~~

4. If at the time a licensee receives a loan application the licensee is unable to access the database via the Internet due to technical problems beyond the licensee's control, then the licensee shall document in its records the technical problems it experienced and the date and time that it sought to access the database.

M. K. The following provisions address a licensee's inability to access the database via the Internet subsequent to making a loan:

1. If a licensee is required to transmit to the database information regarding a loan that has already been made, but the licensee is unable to access the database via the Internet

due to technical problems beyond the licensee's control, then the licensee shall to the extent possible use the database provider's alternative means of database access, such as a telephone interactive voice response system, for purposes of transmitting the information required by this section to the database. If the database provider's alternative means of database access is unavailable or otherwise unable to accept the information, then the licensee shall transmit to the database the information required by this section no later than ~~the time the licensee closes for business on~~ the date that the database becomes accessible to the licensee, via either the Internet or the database provider's alternative means of database access.

2. If a licensee is required to transmit to the database information regarding a loan that has already been made, but the licensee is unable to access the database via the Internet due to technical problems beyond the licensee's control, then the licensee shall document in its records the technical problems it experienced and the date and time that it sought to transmit the information to the database.

~~N. L.~~ A licensee shall have limited access to the information contained in the database. The database shall only provide a licensee with the following information: (i) whether an applicant is eligible for a new payday short-term loan; and (ii) if an applicant is ineligible for a new payday short-term loan, the general reason for the ineligibility (e.g., the database may state that the applicant has an outstanding payday short-term loan but it shall not furnish any details regarding the outstanding loan); ~~and (iii) if an applicant is eligible for a new payday loan, whether the applicant is also eligible for an extended payment plan or extended term loan.~~ The database shall also permit a licensee to access information that the licensee is required to transmit to the database provided that such access is for the sole purpose of verifying, updating, or correcting the information. Except as otherwise provided in this subsection or 10VAC5-200-113, a licensee

shall be prohibited from accessing or otherwise obtaining any information contained in or derived from the database.

~~Q. M.~~ If the ~~Commissioner of Financial Institutions~~ commissioner determines that a licensee or former licensee has ceased business but still has one or more outstanding payday loans or short-term loans that cannot be repaid due to the licensee's or former licensee's closure, the ~~Commissioner of Financial Institutions~~ commissioner may authorize the database provider to administratively close the outstanding loans in the database in order to enable the affected borrowers to obtain payday short-term loans in the future. A licensee or former licensee shall be deemed by the ~~Commissioner of Financial Institutions~~ commissioner to have ceased business if it (i) fails to respond to the bureau after two written requests mailed to the address on file with the bureau or (ii) fails to maintain its contact information in accordance with subsection ~~N~~ K of 10VAC5-200-20.

~~P. 1. N.~~ Payday loans made ~~on or after October 1, 2008,~~ and prior to January 1, ~~2009~~ 2021, that ~~remained~~ remain outstanding on January 1, ~~2009~~ 2021, shall be considered for purposes of determining a borrower's eligibility for a payday short-term loan.

~~2. For every payday loan made on or after October 1, 2008, that remained outstanding as of January 1, 2009, a licensee shall (i) transmit to the database all applicable information required by subsection J of this section within the time prescribed therein and (ii) retain the photocopies specified in subdivision D 2 of this section in accordance with § 6.2-1809 of the Code of Virginia.~~

O. If the database provider is unable to complete the modifications to the database that are needed to accommodate the transmission of certain information required by this section, then the commissioner shall notify all licensees of this in writing and identify the specific information that they are not required to transmit until the commissioner further notifies them that the database provider has completed the modifications. Once the modifications have been completed,

licensees shall not be required to transmit any information that they were previously unable to transmit due to the database being unable to accommodate it. The database provider shall complete all of the modifications no later than January 1, 2022.

10VAC5-200-113. Limited disclosure of data from payday short-term lending database.

A. Pursuant to § 6.2-1810 of the Code of Virginia, the information contained in the payday short-term lending database is confidential. However, provided that it does not directly or indirectly identify or pertain to any specific borrowers, licensees, or loan transactions, aggregate data and data that is otherwise derived from information contained in the database is not confidential and may be furnished by the database provider to the public. The database provider may charge and collect a fee to defray the cost of compiling and furnishing such data.

B. The database provider shall notify the bureau prior to furnishing data pursuant to this section.

10VAC5-200-115. Database inquiry fee.

Pursuant to subdivision B 4 of § 6.2-1810 of the Code of Virginia, a ~~licensed payday lender licensee~~ shall pay a database inquiry fee to the database provider in connection with every payday short-term loan consummated by the licensee. The amount of the database inquiry fee shall ~~not exceed \$5.00~~ be [\$6.98 per loan set by the commission], which and all database inquiry fees shall be remitted by each licensee directly to the database provider on a weekly basis.

10VAC5-200-120. Enforcement.

A. Failure to comply with any provision of the Act or this chapter may result in ~~fines~~ civil penalties, license suspension, or license revocation.

B. Pursuant to § 6.2-1824 of the Code of Virginia, a licensee shall be subject to a separate ~~fine~~ civil penalty of up to \$1,000 for every violation of the Act, this chapter, or other law or regulation applicable to the conduct of the licensee's business. If a licensee violates any provision

of the Act, this chapter, or other law or regulation applicable to the conduct of the licensee's business in connection with multiple loans or borrowers, the licensee shall be subject to a separate ~~fine~~ civil penalty for each loan or borrower. For example, if a licensee makes five loans and the licensee violates two provisions of this chapter that are applicable to the five loans, the licensee shall be subject to a maximum ~~fine~~ civil penalty of \$10,000.

C. If a licensee (i) fails to transmit information to the ~~payday~~ short-term lending database in accordance with the Act or 10VAC5-200-110, (ii) transmits incorrect information to the database, or (iii) transmits information to the database in an untimely manner, the licensee shall be subject to a separate ~~fine~~ civil penalty under § 6.2-1824 of the Code of Virginia for each item of data that is omitted, incorrect, or untimely. For example, if a licensee makes three loans and fails to transmit two items of information to the database in connection with each of the three loans, the licensee shall be subject to a maximum ~~fine~~ civil penalty of \$6,000.