

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, JULY 22, 2010

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. BFI-2010-00165

Ex Parte: In re: motor vehicle
title lending regulations

ORDER TO TAKE NOTICE

Chapter 477 of the 2010 Virginia Acts of Assembly amends the Code of Virginia by adding Chapter 21 of Title 6.1 of the Code of Virginia ("Chapter 21"), which establishes a comprehensive licensing and regulatory framework for motor vehicle title lenders and motor vehicle title loans. Chapter 21 will become effective on October 1, 2010. Section 6.1-494 of Chapter 21 authorizes the State Corporation Commission ("Commission") to adopt regulations that it deems appropriate to effect the purposes of such chapter.

The Bureau of Financial Institutions ("Bureau") has submitted to the Commission proposed regulations that define various terms used in Chapter 21, clarify and implement certain requirements, limitations, and prohibitions applicable to motor vehicle title lenders and motor vehicle title loans, and prescribe the contents of the pamphlet that licensees must furnish to prospective borrowers. Since the final regulations will be made effective on or after the date that Title 6.1 of the Code of Virginia is replaced by Title 6.2 of the Code of Virginia,¹ all of the affected statutory citations that appear in the proposed regulations reference Title 6.2 rather than Title 6.1.

¹ Chapter 794 of the 2010 Virginia Acts of Assembly recodifies Title 6.1 of the Code of Virginia as Title 6.2 of the Code of Virginia effective October 1, 2010. Chapter 21 of Title 6.1 will become Chapter 22 of Title 6.2.

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NOW THE COMMISSION, based on the information supplied by the Bureau, is of the opinion and finds that the proposed regulations should be considered for adoption with an effective date of October 1, 2010.

Accordingly, IT IS ORDERED THAT:

(1) The proposed regulations, entitled "Motor Vehicle Title Lending," are appended hereto and made a part of the record herein.

(2) Comments on the proposed regulations must be submitted in writing to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, on or before August 30, 2010. All correspondence shall contain a reference to Case No. BFI-2010-00165. Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website:

<http://www.scc.virginia.gov/case>.

(3) The Commission shall conduct a hearing in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia, at 2:00 p.m. on September 7, 2010, to consider the adoption of the proposed regulations.

(4) This Order and the attached proposed regulations shall be posted on the Commission's website at <http://www.scc.virginia.gov/case>.

(5) The Commission's Division of Information Resources shall send a copy of this Order, including a copy of the attached proposed regulations, to the Virginia Registrar of Regulations for publication in the Virginia Register of Regulations.

AN ATTESTED COPY hereof shall be sent to the Commissioner of Financial Institutions, who shall forthwith mail a copy of this Order, including a copy of the proposed regulations, to any interested parties that he may designate.

CHAPTER 210MOTOR VEHICLE TITLE LENDING10VAC5-210-10. 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 22 (§ 6.2-2200 et seq.) of Title 6.2 of the Code of Virginia.

"Advertisement" for purposes of the Act and this chapter means a commercial message in any medium that promotes, directly or indirectly, a motor vehicle title loan. The term 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, calendars, etc.

"Bureau" means the Bureau of Financial Institutions.

"Business day" for purposes of the Act and this chapter means a day on which the licensee's office is open for business as posted as required by subsection B of 10VAC5-210-50.

"Commission" means the State Corporation Commission.

"Commissioner" means the Commissioner of Financial Institutions.

"Duplicate original" for purposes of the Act 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 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.

"Liquid assets" for purposes of the Act and this chapter means cash in depository institutions, money market funds, commercial paper, and treasury bills.

B. Other terms used in this chapter shall have the meaning set forth in § 6.2-2200 of the Act.

10VAC5-210-20. Requirements for licensees; reporting requirements; acquisitions.

A. A licensee shall maintain in its own name unencumbered liquid assets per place of business in Virginia of at least \$75,000 at all times.

1. 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.

2. A licensee shall upon request by the bureau submit proof that it is complying with the provisions of this subsection.

B. After receiving its license from the commission, a licensee shall give written notice to the bureau of its commencement of business within 10 days thereafter.

C. Within 15 days following the occurrence of any of the following events, a licensee shall file a written report with the 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 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 governmental authority institutes revocation, suspension, or other formal administrative, regulatory, or enforcement proceedings against the licensee.

4. Any governmental authority (i) revokes or suspends the licensee's motor vehicle title lender license, title pawn license, or similar license; (ii) takes formal administrative, regulatory, or enforcement action against the licensee relating to its motor vehicle title lending, title pawn, or similar business; or (iii) takes any other action against the licensee relating to its motor vehicle title lending, title pawn, 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 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 governmental authority that the licensee violated any law or regulation applicable to the conduct of its licensed motor vehicle title lending, title pawn, 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 motor vehicle title lending, title pawn, 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 motor vehicle title lending, title pawn, or similar business in another state.
8. The licensee or any of its members, partners, directors, officers, principals, or employees is indicted or convicted of a felony.
- D. 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.

E. If a person has filed a bond with the bureau, as required by § 6.2-2204 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 making motor vehicle title loans.

F. Within 30 days after a person's license is surrendered or revoked, the former licensee shall provide the bureau with (i) the name, address, and telephone number of a designated contact person; (ii) the location of the former licensee's motor vehicle title loan records; and (iii) any additional information that the bureau may reasonably require.

G. A person shall remain subject to the provisions of the Act and this chapter applicable to licensees in connection with all motor vehicle title loans that the person made while licensed as a motor vehicle title lender 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 motor vehicle title loans.

10VAC5-210-30. Notice and pamphlet.

A. Prior to furnishing a prospective borrower with a loan application or receiving any information relating to loan qualification, a licensee shall provide the prospective borrower with (i) a written notice that complies with subsection B; and (ii) a borrower rights and responsibilities pamphlet that complies with subsections C and D.

B. 1. The required text of the written notice shall be as follows: "WARNING: A motor vehicle title loan is not intended to meet your long-term financial needs. The interest rate on a motor vehicle title loan is high and you are pledging your motor vehicle as collateral for the loan. If you fail to repay your loan in accordance with your loan agreement, we may repossess and sell your

motor vehicle. You should consider whether there are other lower cost loans available to you. If you obtain a motor vehicle title loan, you should request the minimum loan amount required to meet your immediate needs." A licensee shall not modify or supplement the required text of the written notice.

2. The written notice shall be printed on a single 8-1/2 x 11 sheet of paper and be separate from all other papers, documents, or notices obtained or furnished by the licensee. The notice shall be printed in at least 24-point bold type and contain an acknowledgment that is signed and dated by each prospective borrower. The acknowledgement shall state the following: "I acknowledge that I have received a copy of this notice and the pamphlet entitled "Motor Vehicle Title Lending in the Commonwealth of Virginia - Borrower Rights and Responsibilities."

3. A duplicate original of the acknowledged notice shall be kept by a licensee in the separate file maintained with respect to the loan for the period specified in § 6.2-2209 of the Code of Virginia.

C. The borrower rights and responsibilities pamphlet shall be printed in at least 12-point type and be separate from all other papers, documents, or notices obtained or furnished by the licensee. The pamphlet shall contain the exact language prescribed in subsection D. A licensee shall not modify or supplement the required text of the pamphlet. The title of the pamphlet ("Motor Vehicle Title 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," etc.) shall be printed in bold type.

D. The required text of the borrower rights and responsibilities pamphlet shall be as follows:

MOTOR VEHICLE TITLE 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 motor vehicle title loan in Virginia under Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2 of the Code of Virginia.

If you have any questions about motor vehicle title 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>.

In General: You are responsible for evaluating whether a motor vehicle title loan is right for you. Alternatives may include among other things less expensive short-term financing from another financial institution, family, or friends, a cash advance on a credit card, or an account with overdraft protection.

Notice from Lender: A motor vehicle title lender is required to provide you with a clear and conspicuous printed notice advising you that a motor vehicle title loan is not intended to meet your long-term financial needs, that the interest rate on a motor vehicle title loan is high, and that if you fail to repay your loan in accordance with your loan agreement, the motor vehicle title lender may repossess and sell your motor vehicle.

Prohibition on Obtaining Loan if Motor Vehicle has Existing Lien / One Loan at a Time: Virginia law prohibits a motor vehicle title lender from making a motor vehicle title loan to you if (i) your certificate of title indicates that your motor vehicle is security for another loan or has an existing lien; or (ii) you currently have another motor vehicle title loan from either the same motor vehicle title lender or any other motor vehicle title lender conducting motor vehicle title lending business in Virginia.

Prohibition on Obtaining Loan on Same Day Another Loan was Repaid: Virginia law prohibits a motor vehicle title lender from making a motor vehicle title loan to you on the same

day that you repaid or satisfied in full a motor vehicle title loan from either the same motor vehicle title lender or any other motor vehicle title lender conducting motor vehicle title lending business in Virginia.

Prohibition on Loans to Covered Members of the Armed Forces and their Dependents: Virginia law prohibits a motor vehicle title lender from making motor vehicle title loans to covered members of the armed forces and their dependents. If you are (i) on active duty under a call or order that does not specify a period of 30 days or less; or (ii) on active guard and reserve duty, then you are a covered member of the armed forces and a motor vehicle title lender is prohibited from making a motor vehicle title loan to you. A motor vehicle title lender is also prohibited from making a motor vehicle title loan to you if (i) you are married to a covered member of the armed forces; (ii) you are the child, as defined in 38 U.S.C. § 101(4), of a covered member of the armed forces; or (iii) more than one-half of your support during the past 180 days was provided by a covered member of the armed forces.

Certificate of Title / Other Security Interests: Prior to obtaining a motor vehicle title loan, you will be required to give a motor vehicle title lender the certificate of title for your motor vehicle. The motor vehicle title lender is required to record its lien with the Virginia Department of Motor Vehicles and hold the certificate of title until your loan is repaid or satisfied in full. The motor vehicle title lender cannot take an interest in more than one motor vehicle as security for a motor vehicle title loan. Apart from your motor vehicle and any accessories that are attached to it, the motor vehicle title lender cannot take an interest in any other property you own as security for a motor vehicle title loan.

Maximum Loan Amount: A motor vehicle title lender cannot loan you more than 50 percent of the fair market value of your motor vehicle. The fair market value is generally based on the loan value for your motor vehicle according to a recognized pricing guide.

Minimum and Maximum Loan Term / Monthly Payments: Under Virginia law, your loan term cannot be either less than 120 days or more than 12 months. Your motor vehicle title loan will be repayable in substantially equal monthly installments of principal and interest. However, if you have a longer first payment period, your first monthly payment may be larger than your remaining monthly payments.

Interest and Other Loan Costs: The following are the maximum interest rates that a motor vehicle title lender is permitted to charge you PER MONTH on the principal amount of your loan that remains outstanding: (i) 22% per month on the portion of the outstanding balance up to and including \$700; (ii) 18% per month on the portion of the outstanding balance between \$701 and \$1,400; and (iii) 15% per month on the portion of the outstanding balance of \$1,401 and higher. As long as these maximum rates are not exceeded, a motor vehicle title lender is allowed to accrue interest using a single blended interest rate if the outstanding balance is higher than \$700. In addition to interest, a motor vehicle title lender may charge you for the actual cost of recording its lien with the Virginia Department of Motor Vehicles.

If you make a payment more than seven calendar days after its due date, a motor vehicle title lender may impose a late charge of up to five percent of the amount of the payment.

A motor vehicle title lender is prohibited from accruing or charging you interest on or after (i) the date the motor vehicle title lender repossesses your motor vehicle; or (ii) 60 days after you fail to make a monthly payment on your loan, unless you are hiding your motor vehicle.

Other than interest and the costs specifically mentioned in this section and the section below ("Costs of Repossession and Sale"), no additional amounts may be directly or indirectly charged, contracted for, collected, received, or recovered by a motor vehicle title lender.

Costs of Repossession and Sale: A motor vehicle title lender may charge you for any reasonable costs that it incurs in repossessing, preparing for sale, and selling your motor

vehicle if (i) you default on your motor vehicle title loan; (ii) the motor vehicle title lender sends you a written notice at least 10 days prior to repossession advising you that your motor vehicle title loan is in default and that your motor vehicle may be repossessed unless you pay the outstanding principal and interest; and (iii) you fail to pay the amount owed prior to the date of repossession. A motor vehicle title lender is prohibited from charging you for any storage costs if the motor vehicle title lender takes possession of your motor vehicle.

Written Loan Agreement: A motor vehicle title lender must provide you with a written loan agreement, which must be signed by both you and an authorized representative of the motor vehicle title lender. Your motor vehicle title loan agreement is a binding, legal document that requires you to repay your loan. Make sure you read the entire loan agreement carefully before signing and dating it. A motor vehicle title lender must provide you with a duplicate original of your loan agreement at the time you sign it. If any provision of your loan agreement violates Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2 of the Code of Virginia, the provision will not be enforceable against you.

Property Insurance: A motor vehicle title lender may require you to purchase or maintain property insurance for your motor vehicle. However, a motor vehicle title lender cannot require you to purchase or maintain property insurance from or through a particular provider or list of providers.

Prohibition on Obtaining Funds Electronically: A motor vehicle title lender is prohibited from electronically debiting your deposit account or obtaining any of your funds by electronic means.

Loan Proceeds: You will receive your loan proceeds in the form of (i) cash; (ii) a check from the motor vehicle title lender; or (iii) a debit card. If you receive a check, the motor vehicle title lender is prohibited from charging you a fee for cashing the check. Similarly, a check casher located in the same office is prohibited from charging you a fee for cashing the motor vehicle

title lender's check. If you receive a debit card, the motor vehicle title lender is prohibited from charging you an additional fee when you withdraw or use the loan proceeds.

Other Businesses: A motor vehicle title lender is prohibited from engaging in any other businesses in its motor vehicle title loan offices unless permitted by order of the State Corporation Commission. A motor vehicle title lender is also prohibited by statute from selling you any type of insurance coverage.

Using Motor Vehicle Title Loan to Purchase Products or Services or Repay Other Loans: A motor vehicle title lender is prohibited from making you a motor vehicle title loan so that you can purchase another product or service sold at the motor vehicle title lender's business location. A motor vehicle title lender is also prohibited from making you a motor vehicle title loan so that you can repay another loan you may have from either the motor vehicle title lender or an affiliate of the motor vehicle title lender.

Right to Cancel: You have the right to cancel your motor vehicle title loan at any time prior to the close of business on the next day the motor vehicle title lender is open following the date your loan is made by either returning the original loan proceeds check or paying the motor vehicle title lender the amount advanced to you in cash or by certified check, cashier's check, money order or, if the motor vehicle title lender is equipped to handle such payments, by using a credit card. If you cancel your motor vehicle title loan, the motor vehicle title lender must mark your original loan agreement with the word "canceled" and return it to you along with your certificate of title.

Cash Payments / Partial Payments / Prepayments: You have the right to receive a signed, dated receipt for each cash payment made in person, which will show the balance remaining on your motor vehicle title loan.

Additionally, you have the right to make a partial payment on your motor vehicle title loan at any time prior to its specified due date without penalty. However, a motor vehicle title lender may apply a partial payment first to any amounts that are due and unpaid at the time of such payment. If your motor vehicle title loan is current, a partial payment will reduce your outstanding balance as well as the total amount of interest that you will be required to pay.

You also have the right to prepay your motor vehicle title loan in full before its specified maturity date without penalty by paying the motor vehicle title lender the total outstanding balance on your loan, including any accrued and unpaid interest and other charges that you may owe on your motor vehicle title loan.

Lender to Return Original Loan Agreement and Certificate of Title: Within 10 days after the date that you repay your motor vehicle title loan in full, the motor vehicle title lender must (i) mark your original loan agreement with the word "paid" or "canceled" and return it to you; (ii) take any action necessary to reflect the termination of its lien on your motor vehicle's certificate of title; and (iii) return the certificate of title to you. If you have any questions or concerns regarding your certificate of title, you should contact the Virginia Department of Motor Vehicles.

No Rollovers, Extensions, Etc.: A motor vehicle title lender cannot refinance, renew, extend, or rollover your motor vehicle title loan.

Failure to Repay: Pay back your motor vehicle title loan! Know when your payments are due and be sure to repay your motor vehicle title loan on time and in full. IF YOU DO NOT REPAY YOUR MOTOR VEHICLE TITLE LOAN IN ACCORDANCE WITH YOUR LOAN AGREEMENT, THE MOTOR VEHICLE TITLE LENDER MAY REPOSSESS AND SELL YOUR MOTOR VEHICLE (see section below on "Repossession and Sale of your Motor Vehicle").

In general, a motor vehicle title lender cannot seek a personal money judgment against you if you fail to pay any amount owed in accordance with your loan agreement. However, a motor

vehicle title lender may seek a personal money judgment against you if you impair the motor vehicle title lender's security interest by (i) intentionally damaging or destroying your motor vehicle; (ii) intentionally hiding your motor vehicle; (iii) giving the motor vehicle title lender a lien on a motor vehicle that has an undisclosed prior lien; (iv) selling your motor vehicle without the motor vehicle title lender's written consent; or (v) securing another loan or obligation with a security interest in your motor vehicle without the motor vehicle title lender's written consent.

In collecting or attempting to collect a motor vehicle title loan, a motor vehicle title lender is required to comply with the restrictions and prohibitions applicable to debt collectors contained in the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq., regarding harassment or abuse, false, misleading or deceptive statements or representations, and unfair practices in collections. A motor vehicle title lender is also prohibited from threatening or beginning criminal proceedings against you if you fail to pay any amount owed in accordance with your loan agreement.

Repossession and Sale of your Motor Vehicle: If you do not repay your motor vehicle title loan in accordance with your loan agreement, the motor vehicle title lender may repossess and sell your motor vehicle in order to recover any outstanding amounts that you owe.

If a motor vehicle title lender repossesses your motor vehicle, the motor vehicle title lender must send you a written notice at least 15 days prior to the sale of your motor vehicle. The notice will contain (i) the date and time after which your motor vehicle may be sold; and (ii) a written accounting of the outstanding balance on your motor vehicle title loan, the amount of interest accrued through the date the motor vehicle title lender took possession of your motor vehicle, and any reasonable costs incurred to date by the motor vehicle title lender in connection with repossessing, preparing for sale, and selling your motor vehicle. At any time prior to the sale of your motor vehicle, you may obtain your motor vehicle by paying the motor vehicle title lender the total amount specified in the notice. Payment must be made in cash or

by certified check, cashier's check, money order or, if the motor vehicle title lender is equipped to handle such payments, by using a credit card.

Within 30 days of a motor vehicle title lender receiving funds from the sale of your motor vehicle, you are entitled to receive any surplus from the sale in excess of the sum of the following: (i) the outstanding balance on your motor vehicle title loan; (ii) the amount of interest accrued on your motor vehicle title loan through the date the motor vehicle title lender repossessed your motor vehicle; and (iii) any reasonable costs incurred by the motor vehicle title lender in repossessing, preparing for sale, and selling your motor vehicle.

See section above on "Costs of Repossession and Sale" for additional information regarding the conditions that must be met in order for a motor vehicle title lender to collect the reasonable costs of repossessing, preparing for sale, and selling your motor vehicle.

Violation of the Virginia Consumer Protection Act: Losses suffered as the result of a motor vehicle title lender's violation of Chapter 22 of Title 6.2 of the Code of Virginia may 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 motor vehicle title 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>. Complaints must be filed in writing with the Bureau of Financial Institutions. Complaints should be mailed to the Bureau of Financial Institutions, Attn: Complaints, P.O. Box 640, Richmond, Virginia 23218-0640, or faxed to the Bureau of Financial Institutions, Attn: Complaints, at (804) 371-9416.

10VAC5-210-40. Posting of charges and contact information for complaints.

Licensees shall conspicuously post the schedule of finance charges and notice required by subdivision 14 of § 6.2-2215 of the Code of Virginia in accordance with the provisions of this section.

A. The minimum size for the poster shall be 24 inches by 18 inches.

B. The title for the schedule of finance charges, which shall be printed in at least 48-point bold type, shall be "SCHEDULE OF FINANCE CHARGES FOR MOTOR VEHICLE TITLE LOANS." The title for the notice, which shall also be printed in at least 48-point bold type, shall be "HOW TO FILE A COMPLAINT AGAINST US."

C. The schedule of finance charges and notice shall be printed in at least 24-point bold type.

D. The notice shall contain the following statement: "Should you wish to file a complaint against us, you may contact the Bureau of Financial Institutions at (800) 552-7945 or on the Internet at <http://www.scc.virginia.gov/bfi>. Complaints must be filed in writing with the Bureau of Financial Institutions. Complaints should be mailed to the Bureau of Financial Institutions, Attn: Complaints, P.O. Box 640, Richmond, Virginia 23218-0640, or faxed to the Bureau of Financial Institutions, Attn: Complaints, at (804) 371-9416."

10VAC5-210-50. Additional business requirements and restrictions.

A. Each original license shall be prominently posted in each place of business of the licensee.

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

C. A licensee shall endeavor to provide the loan documents, printed notice, and pamphlet required by 10VAC5-210-30, in a language other than English when a prospective borrower is unable to read the materials printed in English.

D. A licensee shall not knowingly make a motor vehicle title loan to (i) a person who has an outstanding motor vehicle title loan from the same licensee or another licensee; (ii) a covered member of the armed forces; or (iii) a dependent of a covered member of the armed forces. To enable a licensee to make these determinations and the determination in subsection F, 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 a motor vehicle title loan. A licensee shall not make a motor vehicle title loan to an applicant unless the applicant answers "no" to all of these questions:

1. Do you currently have a motor vehicle title loan from any motor vehicle title lender?
2. At any time today, did you repay or satisfy in full a motor vehicle title loan from any motor vehicle title lender?
3. Are you (i) on active duty under a call or order that does not specify a period of 30 days or less, or (ii) on active guard and reserve duty?
4. Are you married to an individual who is either (i) on active duty under a call or order that does not specify a period of 30 days or less, or (ii) on active guard and reserve duty?
5. Are you the child, as defined in 38 U.S.C. § 101(4), of an individual who is either (i) on active duty under a call or order that does not specify a period of 30 days or less, or (ii) on active guard and reserve duty?

6. Was more than one-half of your support during the past 180 days provided by an individual who is either (i) on active duty under a call or order that does not specify a period of 30 days or less, or (ii) on active guard and reserve duty?

E. A licensee shall not require a borrower to purchase or maintain property insurance for a motor vehicle from or through a particular provider or list of providers.

F. A licensee shall not make a motor vehicle title loan to a borrower on the same day that the borrower repaid or satisfied in full a motor vehicle title loan from the same licensee or another licensee. Any motor vehicle title loan made in violation of this subsection shall for purposes of subdivision 17 of § 6.2-2215 of the Code of Virginia be deemed an evasion of the prohibition on refinancing a motor vehicle title loan agreement set forth in § 6.2-2216 F of the Code of Virginia.

G. The maturity date of a motor vehicle title loan shall not be earlier than 120 days from the date a motor vehicle title loan agreement is executed by a borrower or later than 12 months from the date a motor vehicle title loan agreement is executed by a borrower.

H. A licensee shall not 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.

I. 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 a check casher located in the same office or any affiliated check casher to charge the borrower a fee for cashing the check.

J. A borrower shall have the right to cancel a motor vehicle title loan agreement at any time before the close of business on the next business day following the date that the loan

agreement is executed by the borrower by returning the original loan proceeds check or paying to the licensee, in the form of cash or good funds instrument, the principal amount advanced to the borrower. If a borrower cancels a loan agreement in accordance with this subsection, the licensee shall upon receipt of the loan proceeds check, cash, or good funds instrument (i) mark the original loan agreement with the word "canceled," return it to the borrower, and retain a copy in its records, and (ii) return the certificate of title to the borrower. Furthermore, the licensee shall not be entitled to charge, contract for, collect, receive, recover, or require a borrower to pay any interest, fees, or other amounts otherwise permitted by § 6.2-2216 of the Code of Virginia.

K. A licensee shall give a borrower a signed, dated receipt for each cash payment made in person, which shall state the balance due on the loan.

L. A borrower shall be permitted to prepay a motor vehicle title loan either in whole or in part without charge. Partial prepayments shall reduce the outstanding loan balance upon which interest is calculated. A licensee may apply a payment first to any amounts that are due and unpaid at the time of such payment.

M. Pursuant to §§ 6.2-2215 and 46.2-643 of the Code of Virginia, a licensee shall release its security interest and perform the following acts within 10 days after the date that a borrower's obligations under a motor vehicle title loan agreement are satisfied in full: (i) mark the original loan agreement with the word "paid" or "canceled," return it to the borrower, and retain a copy in its records; (ii) take any action necessary to reflect the termination of its lien on the motor vehicle's certificate of title; and (iii) return the certificate of title to the borrower.

N. When sending the written notices and accounting specified by § 6.2-2217 of the Code of Virginia, a licensee shall obtain proof of mailing from the United States Postal Service or other common carrier.

O. A licensee may impose a late charge for failure to make timely payment of any amount due under a motor vehicle title loan agreement provided that (i) the late charge is specified in the loan agreement; and (ii) the amount of the late charge does not exceed 5.0% of the amount of the payment. A payment shall be considered to be timely if it is made no later than seven calendar days after the due date specified in the loan agreement.

P. Nothing in the Act or this chapter shall be construed to prohibit a licensee from (i) voluntarily accepting a payment on an outstanding motor vehicle title loan from a borrower after the date that such payment was due to the licensee; or (ii) considering a payment to be timely if it is made more than seven calendar days after its due date. However, except as otherwise permitted by the Act and this chapter, the licensee shall not charge, contract for, collect, receive, recover, or require a borrower to pay any additional interest, fees, or other amounts.

10VAC5-210-60. Annual reporting requirements.

When making the annual report required by § 6.2-2210 of the Code of Virginia, in addition to other information required by the commissioner, a licensee shall provide the following data regarding motor vehicle title loans made to Virginia residents:

1. The total number and dollar amount of motor vehicle title loans made by the licensee.
2. The total number of individual borrowers to whom motor vehicle title loans were made by the licensee.
3. The minimum, maximum, and average loan amount of motor vehicle title loans made by the licensee.
4. The minimum, maximum, and average Annual Percentage Rate of motor vehicle title loans made by the licensee.
5. The minimum, maximum, and average term (in days) of motor vehicle title loans made by the licensee.

6. The total number of individual borrowers that failed to make a monthly payment on a motor vehicle title loan for at least 60 days.

7. The total number of motor vehicles that were repossessed by or on behalf of the licensee.

8. The total number of repossessed motor vehicles that were sold by or on behalf of the licensee.

9. The total number of personal money judgments against borrowers that were obtained by or on behalf of the licensee.

10VAC5-210-70. Other business in motor vehicle title lending offices.

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

1. Pursuant to subdivision 18 of § 6.2-2215 of the Code of Virginia, a licensee shall not conduct the business of making motor vehicle title loans at any office, suite, room, or place of business where any other business is solicited or conducted, except a registered check cashing business or such other business as the commission determines should be permitted, and subject to such conditions as the commission deems necessary and in the public interest.

2. No person shall engage in the business of selling insurance or enrolling borrowers under group insurance policies from any office, suite, room, or place of business where a licensed motor vehicle title lending business is conducted.

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 motor vehicle title lending business is conducted, unless the person is licensed under Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2 of the Code of Virginia and the loans are made in accordance with Chapter 18 of Title 6.2 of the Code of Virginia. Accordingly, a person registered or required to be registered as a check casher shall not make motor vehicle title loans.

B. Upon the filing of a written application, provision of any information relating to the application as the commissioner may require, and payment of the fee required by law, other business may be conducted in a location where a licensed motor vehicle title lending business is conducted if the commission finds that (i) the proposed other business is financial in nature; (ii) the proposed other business is in the public interest; (iii) the other business operator has the general fitness to warrant belief that the business will be operated in accordance with law; and (iv) the applicant has been operating its motor vehicle title lending business in accordance with the Act and this chapter. 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.

C. Written evidence of commission approval of each other business conducted by an other business operator should be maintained at each location where such other business is conducted.

D. All approved other businesses in motor vehicle title lending offices shall be conducted in accordance with the following conditions:

1. The licensee shall not make a motor vehicle title 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 motor vehicle title 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 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 motor vehicle title loan or vary the terms of a motor vehicle title 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 motor vehicle title 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 motor vehicle title lending business and in a different location within the licensee's motor vehicle title 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.

E. If a licensee receives commission authority for an other business operator to conduct a payday lending business from the licensee's motor vehicle title lending offices, the following additional conditions shall be applicable:

1. The licensee shall not make a motor vehicle title loan to a person if (i) the person has an outstanding payday loan from the other business operator, or (ii) on the same day the person repaid or satisfied in full a payday loan from the other business operator.

2. The other business operator shall not make a payday loan to a person if (i) the person has an outstanding motor vehicle title loan from the licensee, or (ii) on the same day the person repaid or satisfied in full a motor vehicle title loan from the licensee.

3. The other business operator and the licensee shall not make a payday loan and a motor vehicle title loan contemporaneously or in response to a single request for a loan or credit.

4. The licensee and other business operator shall provide each applicant for a motor vehicle title loan or payday loan with a separate disclosure, signed by the applicant, that clearly identifies all of the loan products available in the licensee's motor vehicle title lending offices along with the corresponding Annual Percentage Rate, interest rate, and other costs associated with each loan product.

F. If a licensee 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 motor vehicle title 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.

G. If a licensee receives commission authority for an other business operator to conduct the business of (i) tax preparation and electronic tax filing services, or (ii) facilitating third party tax preparation and electronic tax filing services, from the licensee's motor vehicle title lending offices, the following additional conditions shall be applicable:

1. The licensee shall not make, arrange, or broker a motor vehicle title loan that is secured by (i) an interest in a borrower's tax refund, (ii) an assignment of income payable to a borrower, or (iii) an assignment of an interest in 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.

H. If a licensee 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 motor vehicle title 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 motor vehicle title 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 motor vehicle title loan contemporaneously or in response to a single request for a loan or credit.

3. The licensee shall not make, arrange, or broker a motor vehicle title loan that is secured by (i) an interest in a borrower's tax refund, (ii) an assignment of income payable to a borrower, or (iii) an assignment of an interest in 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 motor vehicle title 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 motor vehicle title lending offices along with the corresponding Annual Percentage Rate, interest rate, and other costs associated with each loan product.

I. If a licensee receives commission authority for an other business operator to conduct a consumer finance business from the licensee's motor vehicle title lending offices, the following additional conditions shall be applicable:

1. The licensee shall not make a motor vehicle title 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. The other business operator shall not make a consumer finance loan to a person if (i) the person has an outstanding motor vehicle title loan from the licensee, or (ii) on the same day the person repaid or satisfied in full a motor vehicle title loan from the licensee.

3. The licensee and other business operator shall not make a motor vehicle title loan and a consumer finance loan contemporaneously or in response to a single request for a loan or credit.

4. The licensee and other business operator shall provide each applicant for a motor vehicle title 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 motor vehicle title lending offices along with the corresponding Annual Percentage Rate, interest rate, and other costs associated with each loan product.

J. If a licensee receives commission authority for an other business operator to conduct the business of operating an automated teller machine from the licensee's motor vehicle title 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 motor vehicle title loan from the licensee.

K. The commission may impose any additional conditions upon the conduct of other business in motor vehicle title lending offices that it deems necessary and in the public interest.

L. 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 10VAC5-210-100.

10VAC5-210-80. Advertising.

A. A licensee shall disclose the following information in its advertisements:

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

B. The information required by subsection A shall be disclosed in accordance with the disclosure standards prescribed in § 6.2-2218 B of the Code of Virginia.

10VAC5-210-90. Books, accounts, and records; responding to requests from the Bureau.

A. A licensee shall maintain in its licensed offices such books, accounts, and records as the bureau may reasonably require in order to determine whether the licensee is complying with the Act and this chapter. Such books, accounts, and records shall be maintained apart and separate from those relating to any other business in which the licensee is involved.

B. In addition to any other books, accounts, and records as the bureau may reasonably require, a licensee shall maintain copies of the following records for at least three years after final payment is made on any motor vehicle title loan:

1. The loan application.
2. The motor vehicle title loan agreement. If a loan has been repaid or satisfied in full, a licensee shall maintain a copy of the motor vehicle title loan agreement with the word "paid" or "canceled" along with documentation showing that the licensee released its security interest in the borrower's motor vehicle.
3. A record of the fair market value of the motor vehicle securing the loan along with supporting documentation from a recognized pricing guide. Supporting documentation

shall include any factors used to determine the value of the motor vehicle, including the motor vehicle's condition, features, mileage, as well as the name of the pricing guide that the licensee relied upon in making the loan.

4. Any disclosures that were given to a borrower pursuant to the Truth in Lending Act (15 U.S.C. § 1601 et seq.) or any other federal or state laws.

5. The certificate of title for the motor vehicle, which shall reflect the licensee's security interest unless the borrower canceled or fully satisfied the motor vehicle title loan prior to the licensee recording its security interest with the Virginia Department of Motor Vehicles.

C. A licensee shall maintain a repossession log or similar record of all motor vehicles that have been repossessed by or on behalf of the licensee, including motor vehicles that are voluntarily surrendered by borrowers. The log or record shall include the following information: (i) the borrower's first and last name; (ii) the make, model, year, and vehicle identification number of the motor vehicle; (iii) the date the motor vehicle was repossessed; (iv) the date the motor vehicle was sold; (v) the name of the purchaser; and (vi) the sale price of the motor vehicle. Furthermore, in addition to any other books, accounts, and records as the bureau may reasonable require, a licensee shall maintain copies of the following records for at least three years after a motor vehicle used to secure a loan is repossessed and sold by or on behalf of the licensee:

1. The written notices and accounting sent by the licensee to a borrower pursuant to § 6.2-2217 of the Code of Virginia along with the proof of mailing from the United States Postal Service or other common carrier.

2. Supporting documentation of the sale of the motor vehicle and the proceeds derived from the sale.

3. The check or other method of payment used to deliver any excess proceeds from the sale of the motor vehicle to a borrower.

D. A motor vehicle title lender 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, commercial scripts, and recordings of all radio and television broadcasts, but excluding copies of Internet web pages.

E. When the bureau requests a written response, books, records, documentation, or other information from a licensee in connection with the bureau's investigation, enforcement, or examination of compliance with applicable laws, the licensee shall deliver a written response as well as any requested books, records, documentation, or information within the time period specified in the bureau's request. If no time period is specified, a written response as well as any requested books, records, documentation, or information shall be delivered by the licensee to the bureau not later than 30 days from the date of such request. In determining the specified time period for responding to the bureau and when considering a request for an extension of time to respond, the bureau shall take into consideration the volume and complexity of the requested written response, books, records, documentation, or information, and such other factors as the bureau determines to be relevant under the circumstances. Requests made by the bureau pursuant to this subsection are deemed to be in furtherance of the investigation and examination authority provided for in § 6.2-2212 of the Code of Virginia.

F. If a licensee disposes of records containing a consumer's personal financial information following the expiration of any applicable record retention periods, such records shall be shredded, incinerated, or otherwise disposed of in a secure manner. Licensees may arrange for service from a business record destruction vendor.

10VAC5-210-100. Enforcement; civil penalties.

A. Failure to comply with any provision of the Act or this chapter may result in civil penalties, license suspension, license revocation, the entry of a cease and desist order, or other appropriate enforcement action.

B. Pursuant to § 6.2-2222 of the Code of Virginia, a licensee shall be subject to a separate 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 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 civil penalty of \$10,000.

10VAC5-210-110. Commission authority.

The commission may, at its discretion, waive or grant exceptions to any provision of this chapter for good cause shown.