



## Virginia Fairness in Lending Act of 2020 Reforms Small Credit

A detailed summary of S.B. 421 / H.B. 789 changes by statute (effective Jan. 1, 2021)

After years of legislative efforts to foster a safe and viable market for small loans, Virginia lawmakers in 2020 passed bipartisan legislation—the Fairness in Lending Act—to bring down prices and prohibit loans with large final payments, known as balloon payments. The law rationalizes what had been a disparate regulatory structure, governed by a patchwork of laws that allowed payday and auto title loans with unaffordable payments and unnecessarily high costs and exposed borrowers to financial harm, including repeated borrowing and high rates of vehicle repossession. The new measure creates more uniform rules for lending to borrowers with thin or damaged credit histories, regardless of whether loans are made at a retail location or online or whether the lender is a payday, title, installment, or financial technology firm. This table summarizes key parts of the new law. For more information, see The Pew Charitable Trusts' issue brief, "How Virginia's 2020 Fairness in Lending Act Reforms Small-Dollar Loans."<sup>1</sup>

Statute	Before reform	Key provisions in reform law	Comments
<b>Open-end credit plans</b> <b>6.2-312<sup>2</sup></b>	Unlimited interest charges; no fee limits	<ul style="list-style-type: none"> <li>• 36% interest rate cap and an annual participation fee of no more than \$50.</li> <li>• No other fees.</li> </ul>	Until enactment, Virginia was one of only six states where payday lenders operated under open-end credit statutes without interest rate limits. The reforms allow mainstream open-end credit (loans without specific repayment durations, similar to credit cards) but direct higher-cost lenders to other statutes shown below.
	Title and payday lending overlap	<ul style="list-style-type: none"> <li>• Payday and title lenders must not make open-end loans.</li> </ul>	
	Online lending  Limited enforcement powers  Potential “choice of law” loopholes	<ul style="list-style-type: none"> <li>• State law applies to all loans including online loans, “choice of law” provisions are void, and other states’ laws cannot govern loans to Virginia residents.</li> <li>• Violation of this act is also a violation of state’s Consumer Protection Act (VA 59.1-200).</li> <li>• Loans made in violation of this statute or using evasive practices are void and uncollectible.</li> </ul>	
<b>Consumer finance companies</b> <b>6.2-1500<sup>3</sup></b>	36% interest rate cap for loans of up to \$2,500; no cap for larger loans	<ul style="list-style-type: none"> <li>• 36% interest rate cap applies to loans of any amount.</li> <li>• Loan processing fee of \$50 or 6% of the principal, whichever is greater, not to exceed \$150. No more than one repeat fee per 12 months on refinanced loans.</li> <li>• Minimum loan size of \$300 and minimum term of six months.</li> <li>• Substantially equal installment payments.</li> </ul>	Virginia was previously one of only 10 states that did not cap rates for mainstream, nonbank installment loans above \$2,500. Revised law enables regulated in-store and online installment lending at all loan sizes.
	Lenders must have a location in Virginia to obtain a license  No internet-only providers	<ul style="list-style-type: none"> <li>• Online lending from only licensed lenders that follow Virginia law.</li> <li>• “Access partners,” firms that help lenders originate or service loans, must be under contract with a licensed lender and operate according to a list of mandatory and prohibited practices. Licensed lenders are liable for any violation of this statute by an access partner. Regulatory examination and reporting requirements apply. Access partners may not be brokers (i.e., they cannot charge consumers, give advice, negotiate, act as lead generator, etc.) or offer types of loans other than those for which they are contracted, and they must have a physical location in the state.</li> </ul>	
	Limited enforcement powers against internet lenders	<ul style="list-style-type: none"> <li>• State law applies to all loans, including online loans to residents.</li> <li>• Loans made by unlicensed lenders are void and uncollectible.</li> </ul>	

Statute	Before reform	Key provisions in reform law	Comments
<b>Short-term loans formerly "payday lenders" 6.2-1800<sup>4</sup></b>	"Payday loans" with 36% interest cap and a fee of 20% of the loan amount per two pay periods, plus a \$5 database fee	<ul style="list-style-type: none"> <li>• 36% interest cap and one fee of 8% of the original loan amount per month, not to exceed \$25 per month.</li> </ul>	<p>Before reform, Virginia had extremely short-term payday loans with unaffordable balloon payments and prices three times higher than the same lenders charge in some other states. Outdated policies prevented access to lower-cost, regulated installment loans.</p> <p>Reforms modernize rules to enable unsecured, short-term small installment loans with affordable payments, reasonable time to repay, and lower prices that are still viable for responsible lenders. Virginia's law is similar to successful reforms in other states where small-dollar credit remains widely available.</p>
	Loan due in two pay periods	<ul style="list-style-type: none"> <li>• Minimum loan term of four months (unless monthly payments are limited to 5% of borrower's gross monthly income or 6% of net income).</li> <li>• Maximum term of 24 months.</li> </ul>	
	Payment due in a single lump sum unless borrower qualifies for and requests a payment plan	<ul style="list-style-type: none"> <li>• Loans must be payable in substantially equal amortizing installments (each payment reduces principal).</li> <li>• Borrowers may prepay without penalty.</li> </ul>	
	Repeated use can result in borrowers paying more in fees and interest than they originally received in credit	<ul style="list-style-type: none"> <li>• Total cost capped at 50% of the loan amount (or 60% for loans of more than \$1,500). Example: Maximum charge for a \$1,000 loan is \$500.</li> </ul>	
	Maximum loan size of \$500	<ul style="list-style-type: none"> <li>• Maximum loan size of \$2,500.</li> <li>• APRs decline as loan sizes increase.</li> </ul>	
	One payday loan at a time from any lender, enforced by a database	<ul style="list-style-type: none"> <li>• One short-term or title loan at a time.</li> <li>• Co-location of title and unsecured lending for lenders with both Chapter 18 and Chapter 22 licenses.</li> </ul>	
	No electronic access to checking accounts	<ul style="list-style-type: none"> <li>• Electronic payment plans with explicit borrower authorization.</li> <li>• Lenders may not prevent borrower from withdrawing authorization.</li> </ul>	
	Online lending	<ul style="list-style-type: none"> <li>• Internet lenders must obtain state license.</li> </ul>	
	Limited enforcement powers	<ul style="list-style-type: none"> <li>• Loans made by unlicensed lenders are void and uncollectible.</li> <li>• Attorney general has greater authority to enforce the law.</li> </ul>	
	Some reporting	<ul style="list-style-type: none"> <li>• Enhanced reporting, including publicly available regulatory report.</li> </ul>	

Statute	Before reform	Key provisions in reform law	Comments
<b>Motor vehicle title loans</b> <b>6.2-2200<sup>5</sup></b>	Small loans secured by a vehicle the borrower owns, with 180% to 264% interest depending on loan amount	<ul style="list-style-type: none"> <li>• Same reforms as short-term loans statute (see above) with certain exceptions:               <ul style="list-style-type: none"> <li>▪ Minimum term of six months, not four.</li> <li>▪ Maximum monthly fee of \$15, not \$25.</li> </ul> </li> </ul>	Before reform, Virginia allowed short-term loans secured against a vehicle the borrower owns (title loans). These loans often had unaffordable payments and were unnecessarily costly: Total repayment was usually more than double the amount borrowed. With few protections in place, the state had some of the highest vehicle repossession rates in the country.
	No cap on fees to repossess or sell vehicles (ambiguously referred to in the statute as “reasonable costs”)  Extra fees allowed for registering liens on cars used as security	<ul style="list-style-type: none"> <li>• Vehicle repossession and sale fees capped at 5% of original loan amount.</li> <li>• Lenders may not charge to perfect security interest and must permit borrowers to retrieve personal belongings upon repossession without charge.</li> </ul>	Lawmakers chose to keep the title loan statute with almost identical reforms as the short-term loan statute, with minor variances. Licensed lenders may offer secured loans, unsecured loans, or both.
<b>Credit services businesses</b> <b>59.1-335.1.<sup>6</sup></b>	Brokerage fees allowed even on small loans: This type of law creates loopholes that lenders can use to evade consumer finance, payday loan, and other statutory reforms.	<ul style="list-style-type: none"> <li>• Brokered loans must have minimum \$5,000 size and one-year term.</li> <li>• No brokering of open-ended credit.</li> <li>• 36% annual percentage rate cap on brokered loans.</li> </ul>	A small number of states have statutes that allow companies to charge a fee for brokering debt consolidation or other loans. These laws are known as credit services businesses, credit services organizations, or credit access businesses acts, and payday and title lenders have used them to evade rate caps and other rules. Virginia’s reforms preserve the credit brokering statute for its original intended purposes, including debt consolidation loans, while prohibiting its use as a loophole for avoiding rules specifically meant to govern small, short-term, or high-rate loans.
<b>General enforcement</b> <b>(all statutes)</b>	Unlicensed online lending; frequent attempted evasion of licensing requirements	Each reformed statute: <ul style="list-style-type: none"> <li>• Includes an anti-evasion clause.</li> <li>• Voids loans made without a license (where required).</li> <li>• Invokes the state’s Consumer Protection Act for violations.<sup>7</sup></li> <li>• Enhances the attorney general’s enforcement powers.</li> <li>• Clearly applies state law and licensing requirements to online loans to state residents.</li> </ul>	Corrects inconsistencies and improves enforcement. Making illegal loans void as a matter of state law helps prevent unlicensed or out-of-state lenders from collecting from in-state borrowers or their banks and improves enforcement powers of state officials.

## Endnotes

- 1 The Pew Charitable Trusts, “How Virginia’s 2020 Fairness in Lending Act Reforms Small-Dollar Loans” (2020), <http://pewtrusts.org/en/research-and-analysis/issue-briefs/2020/10/how-virginias-2020-fairness-in-lending-act-reforms-small-dollar-loans>.
- 2 Virginia Code 6.2-312, <https://law.lis.virginia.gov/vacode/title6.2/chapter3/section6.2-312>.
- 3 Virginia Code 6.2-1500 Et Seq., <https://law.lis.virginia.gov/vacode/title6.2/chapter15/>.
- 4 Virginia Code 6.2-1800 Et Seq., <https://law.lis.virginia.gov/vacode/6.2-1800/>.
- 5 Virginia Code 6.2-2200 Et Seq., <https://law.lis.virginia.gov/vacode/6.2-2200/>.
- 6 Virginia Code 59.1-335.1 Et Seq., <https://law.lis.virginia.gov/vacode/title59.1/chapter25.1/section59.1-335.1/>.
- 7 This provision does not apply to consumer finance companies. Virginia Code 6.2-1500 Et Seq.

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*This fact sheet was updated Nov. 10, 2020 to clarify licensing requirements for online lenders and the applicability of the Virginia Consumer Protection Act to small-dollar loans.*

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**For further information, please visit:**  
**[pewtrusts.org/small-loans](https://pewtrusts.org/small-loans)**

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