

ACT NO. 8168

BILL NO. 32-0256

THIRTY-SECOND LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2018

An Act amending title 9 Virgin Islands Code, adding chapter 25 enacting The Finance Lenders Law

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Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 9 Virgin Islands Code is amended by adding chapter 26 to read as follows:

“CHAPTER 26 Virgin Islands Finance Lenders

SUBCHAPTER 1. General Provisions

§764. Short title. This chapter is known and may be cited as the “The Virgin Islands Finance Lenders Law”

§765. Definitions

As used in this chapter, the terms have the meaning set forth in this section, unless the context requires otherwise.

(a) The terms “accounts,” “chattel paper,” “documents,” “general intangibles,” “goods,” “instruments,” and “security interest,” are as defined in the Virgin Islands Uniform Commercial Code, Title 11A, Virgin Islands Code.

(b) “Board” means the Virgin Islands Banking Board established in 3 V.I.C. §42, or the Banking Board’s designee.

(c) “Branch office license” means a license to engage in business as a finance lender or broker at a location other than the location identified in a finance lender or broker license application or amended application.

(d) "Broker" includes any person who is engaged in the business of negotiating or performing any act as broker in connection with loans made by a finance lender.

(e) "Depository institution" has the same meaning as in Section 3 of the Federal Deposit Insurance Act and includes any federal credit union as defined in section 262 of this title.

(f) "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(g) "Finance lender" includes any person who is engaged in the business of making consumer loans or making commercial loans. The term includes in-house financing, which is a type of seller financing.

(1) The terms, "finance lender" and "finance broker" do not include employees regularly employed at the location specified in the license of the finance lender or broker, except that an employee, when acting within the employee's scope of employment is exempt from any other law from which the employee's employer is exempt.

(2) The business of making consumer loans or commercial loans may include lending money and taking, in the name of the lender, or in any other name, in whole or in part, as security for a loan, any contract or obligation involving the forfeiture of rights in or to personal property, the use and possession of which property is retained by other than the mortgagee or lender, or any lien on, assignment of, or power of attorney relative to wages, salary, earnings, income, or commission.

(h) "In-house financing" means a type of financing, which a retailer extends to its customers, allowing the purchaser to purchase its goods or services by obtaining a loan with interest.

(i) "Licensee" means any finance lender or broker who receives a license in accordance with this chapter.

(j) "Person" means an individual, a corporation, a partnership, a limited liability company, a joint venture, an association, a joint stock company, a trust, an unincorporated organization, a government, or a political subdivision of a government.

(k) "Regulatory ceiling provision" means a statement in a section or subchapter that specifies an original bona fide principal loan amount at or above which that section or subchapter does not apply to a loan.

§766. Purpose and scope

(a) This chapter must be liberally construed and applied to promote its underlying purposes and policies, which are:

(1) To ensure an adequate supply of credit to borrowers in this territory.

(2) To simplify, clarify, and modernize the law governing loans made by finance lenders.

(3) To foster competition among finance lenders.

(4) To protect borrowers against unfair practices by some lenders, having due regard for the interests of legitimate and scrupulous lenders.

(5) To permit and encourage the development of fair and economically sound lending practices.

(6) To encourage and foster a sound economic climate in the Territory.

(b) To accomplish its underlying purposes and policies, this chapter preserves existing chapters under title 9 of the Virgin Islands Code, which includes statutory law for banking institutions, small loans and pawnbrokers, savings and loans associations, mortgage lenders and brokers, mortgage loan originators and International Financial Services Entities. A finding that any provision of this chapter is invalid with respect to a particular lender or class of lenders does not affect the enforceability of this chapter with respect to any of the foregoing classifications of lenders, which in all events continue to be exempted by this chapter.

(c) Consumer loans, as defined in sections 833(4) and 834, are subject to this chapter. All subchapters apply to consumer loans, except subchapter 11.

(d) Commercial loans, as defined in section 914(c), are subject to this chapter. All subchapters except for subchapters 5, 6, 7, 8 and 9 apply to commercial loans.

Subchapter 2. General Exemptions from Finance Lenders Law

§767. General exemptions

(a) This chapter does not apply to any person doing business under any law of any state or territory or of the United States relating to banks, trust companies, savings and loan associations, insurance premium finance agencies, federal credit unions, small loans and pawnbrokers, mortgage lenders and brokers, mortgage loan originators and International Financial Services Entities when acting under federal law or other state authority.

(b) This chapter does not apply to a check casher who holds a valid license issued pursuant to section 521 of this title when acting under the authority of that license.

(c) This chapter does not apply to a college or university making a loan for the purpose of permitting a person to pursue a program or course of study leading to a degree or certificate.

(d) This chapter does not apply to a broker-dealer acting pursuant to a certificate then in effect and issued pursuant to section 631 of this title.

(e) This chapter does not apply to any person who makes five loans or less in a 12-month period, these loans are commercial loans as defined in section 914(c), and the loans are incidental to the business of the person relying upon the exemption.

(f) This chapter does not apply to any public corporation, any public entity or any agency of any one or more of the foregoing, when making any loan so long as the public corporation, public entity, or agency of any one or more of the foregoing complies with all applicable federal, state and territorial laws and regulations.

(g) This chapter does not apply to the Economic Development Bank, authorized pursuant to chapter 21 of title 29 Virgin Islands Code.

(h) This chapter does not apply to any loan that is made or arranged by any person licensed as a real estate broker by the Territory and secured by a lien on real property, or to any licensed real estate broker when making such a loan. A licensed real estate broker may make a loan secured by a lien on real property for sale to a finance lender or arrange for a loan secured by a lien on real property to be made by a finance lender without obtaining a license under this chapter.

(i) In any proceeding under the law the burden of proving an exemption is upon the person claiming it.

§768. Nonprofit cooperative association exemption

This chapter does not apply to the following:

(1) Any nonprofit cooperative association that loans or advances money in connection with any activity mentioned in paragraph (2).

(2) Any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or bee products on a cooperative nonprofit basis that loans or advances money to its members or in connection with those businesses.

(3) Any corporation securing money or credit from any federal intermediate credit bank organized and existing pursuant to the provisions of an act of Congress entitled "Agricultural Credits Act of 1923" which loans or advances money or credit so secured.

§769. Loan of credit exemption

This chapter does not apply to any loan of credit made by a person not licensed under this chapter pursuant to a plan having all of the following characteristics:

(1) Credit cards issued pursuant to a written application and to the plan whereby the organization issuing the cards can acquire those obligations that its members in good standing incur with those persons with whom the organization has entered into written agreements setting forth the plan, and where the obligations are incurred pursuant to those agreements; or whereby the organization issuing the cards can extend credit to its members.

(2) The fee for the credit cards is designed to cover the administrative costs of the plan and is imposed upon the issuance of the card and on annual renewal dates thereafter.

(3) Any charges, discounts, or fees resulting from the acquisition of the charges paid to the organization issuing the credit cards by the persons, corporations, or associations with whom the organization has entered into written agreements.

§770. Premium financing exemption

This chapter does not apply to insurance premium financing companies as defined in 22 V.I.C. § 1621(a)

§771. Limitation on broker's license exemption

A license to act as a broker under this chapter does not authorize the licensee to negotiate or perform any act as a broker in connection with loans made or to be made by a lender not licensed as a finance lender under this chapter.

§772. Residential mortgage lender or broker exemption

This chapter does not apply to a loan made or arranged by a licensed residential mortgage lender or broker when acting under the authority of that license.

§773. Nonprofit church extension fund exemption

(a) This chapter does not apply to any nonprofit church extension fund.

(b) For purposes of this section:

(1) "Nonprofit church extension fund" means a nonprofit organization affiliated with a church, that is formed for the purpose of making loans to that church's congregational organization or organizations for site acquisitions, new facilities, or improvements to existing facilities, purchased for the benefit of the church congregational organization.

(2) What constitutes a "church" must be determined from the following criteria, none of which has controlling weight:

(A) a distinct legal existence;

(B) a recognized creed and form of worship;

(C) a definite and distinct ecclesiastical government;

(D) a formal code of doctrine and discipline;

(E) a distinct religious history;

(F) a membership not associated with any other religion or denomination;

(G) a complete organization of ordained ministers ministering to their congregations; ordained ministers selected after completing prescribed courses of study;

(H) a literature of its own;

(I) established places of worship;

(J) regular congregations; regular religious services; or

(K) schools for the religious instruction of youth; and schools for the preparation of its ministers.

(3) "Church congregational organization" means a group of individuals that gathers for the purpose of practicing the religion or manner of worship promulgated by the church with which the organization is affiliated.

(4) "Site acquisitions" means purchases of land intended for use by a church congregational organization.

(5) "New facilities" means purchases of buildings or structures intended for use by a church congregational organization.

(6) "Improvements" means purchases of materials intended to increase the quality of existing religious sites or facilities.

(c) For purposes of this section, a nonprofit church extension fund must establish that it is exempt from federal taxation pursuant to Section 501 of Title 26 of the United States Code.

(d) For purposes of this section, no individual may be held responsible for the repayment of any loan made by a nonprofit church extension fund.

Section 774. Venture capital exemption

(a) This chapter does not apply to either of the following:

(1) A commercial bridge loan made by a venture capital company to an operating company.

(2) A venture capital investment made by a venture capital company in an equity security issued by an operating company.

(b) For purposes of this section:

(1) "Venture capital company" means a person other than an individual or sole proprietorship that meets all of the following:

(A) Engages primarily in the business of promoting economic, business, or industrial development through venture capital investments or the provision of financial or management assistance to operating companies.

(B) At all times maintains at least 50 percent of its assets in venture capital investments or commitments to make venture capital investments, and maintains or, assuming consummation of the equity investment to which the commercial bridge loan relates, will maintain a material equity interest in the operating company.

(C) Approves each loan made to an operating company through the venture capital company's board of directors, executive committee, or similar policy body, based on a reasonable belief that the loan is appropriate for the operating company after reasonable inquiry concerning the operating company's financing objectives and financial situation.

(D) Complies, when making the loan, with all applicable federal and territorial laws and rules or orders governing securities transactions including, but not limited to, the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Corporate Securities Law of 1968.

(2) "Operating company" means a person that meets all of the following:

(A) Primarily engages, wholly or substantially, directly or indirectly through a majority owned subsidiary or subsidiaries, in the production or sale, or the research or development, of a product or service other than the management or investment of capital. This does not include any of the following:

(i) A person that is either an individual or a sole proprietorship.

(ii) A person that has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies or other entity or person.

(B) Uses all of the proceeds of the commercial bridge loan for the operations of its business.

(C) Approves each commercial bridge loan through its board of directors, executive committee, or similar policy board, in the exercise of its fiduciary duty, based on a reasonable belief that the loan is appropriate for the operating company after reasonable inquiry concerning the operating company's financing objectives and financial situation.

(3) "Commercial bridge loan" means a loan that meets all of the following criteria:

(A) A loan of a principal amount of \$5,000 or more, or any loan under an open-end credit program, whether secured by personal property or unsecured, the proceeds of which are intended by the operating company for use primarily for other than personal, family, or household purposes.

(B) Is made with a maturity date not to exceed three years, and in connection with or in bona fide contemplation of, an equity investment in the operating company.

(C) Is secured, if at all, solely by the operating company's business assets, exclusive of any real property.

(D) Is subject to the implied covenant of good faith pursuant to 11A V.I.C. § 3-103.

(4) For purposes of paragraph (1), "venture capital investment" is an acquisition of securities in an operating company that a person, an investment adviser of the person, or an affiliated person of either, has or obtains management rights to.

(5) "Equity security" has the same meaning as in section 3(a) (11) of the Federal Securities Exchange Act of 1934.

(c) For purposes of paragraph (3) of subsection (b), for the purposes of determining whether a loan is a commercial bridge loan, a venture capital company may rely on any written statement of intended purposes signed by the operating company. The statement may be a separate statement signed by the operating company or may be contained in another document signed by the operating company, but in each case, it must be approved by its board of directors, executive committee, or similar policy body. The venture capital company is not required to ascertain that the proceeds of the loan are used in accordance with the statement of intended purposes.

(d) For purposes of subsection (b), paragraph (3), subparagraph (A), the principles set forth in section 916 must be used to determine whether the specified amount of a commercial bridge loan is a bona fide principal amount.

(e) Nothing in this section is intended to abrogate or diminish the application of any other law that are designed to protect borrowers, including, but not limited to, laws pertaining to licensing, unfair competition, usury, and conflicts of interest.

§775. Franchise loan exemption

(a) This chapter does not apply to a franchise loan made by a franchisor to a franchisee or a sub-franchisor or by a sub-franchisor to a franchisee.

(b) For purposes of this section:

(1) "Franchised business" means a business operated pursuant to a franchise or area franchise by a franchisee or pursuant to a franchise, area franchise or sub-franchise by a sub-franchisor.

(2) "Franchise loan" means a commercial loan, as defined in section 914(c), made by a franchisor to a current or prospective franchisee or sub-franchisor or a commercial loan by a sub-franchisor to a current or prospective franchisee for the acquisition, construction, operation, development, equipping, expansion, contraction, consolidation, merger, recapitalization, reorganization, or termination of a franchised business provided that the following conditions are satisfied:

(A) The franchisor or sub-franchisor making the franchise loan complies with all applicable federal and state franchise disclosure and registration laws, regulations,

rules and orders and the Federal Trade Commission Franchise Rule: Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures 16CFR 436, as amended, in connection with the offer or sale of any franchise, area franchise, or sub-franchise to which the franchise loan relates.

(B) The proceeds of the franchise loan are intended by the borrowing franchisee or sub-franchisor for use primarily for other than personal, family, or household purposes.

(C) The loan, if secured, is secured solely by the assets of the franchised business to which the franchise loan relates. Property used by the borrower primarily for personal, family, or household purposes, including the borrower's personal residence, may not be taken as security for the loan.

(D) The loan is subject to the implied covenant of good faith under section 11A V.I.C. §3-103.

(E) The lender fully and clearly discloses to the borrower, at or before the time the loan is made, the rates of interest, charges, and costs of the loan.

(c) For purposes of subsection (b), paragraph (2) subparagraph (B), a lending franchisor or sub-franchisor may rely on any written statement of intended purposes by the borrowing franchisee or sub-franchisor. The statement may be a separate statement signed by the borrowing franchisee or sub-franchisor or may be contained in another document signed by the borrowing franchisee or sub-franchisor. The lending franchisor or sub-franchisor may not be required to ascertain that the proceeds of a franchise loan are used in accordance with the statement of intended purposes.

(d) Nothing in this section is intended to abrogate or diminish the application of any other laws that are designed to protect borrowers, including, but not limited to, laws pertaining to licensing, unfair competition, usury and conflicts of interest.

§776. Investment related program exemption

(a) This chapter does not apply to the following:

(1) A program-related investment defined in subsection (c) of Section 4944 of the Internal Revenue Code and United States Treasury Regulations, Section 53.4944-3 that is made by a private foundation, tax-exempt organization within the meaning of Section 509(a) of the Internal Revenue Code.

(2) A loan, guaranty, or investment made by a public charity, tax-exempt organization within the meaning of paragraph (1), (2), or (3) of subsection (a) of Section 509 of the Internal Revenue Code that meets all of the following requirements:

(A) The primary purpose of the loan, guaranty, or investment is to accomplish one or more of the exempt purposes of the public charity making the loan, as described in Section 170(c)(2)(B) of the Internal Revenue Code.

(B) Neither the production of income nor the appreciation of property is a significant purpose of the loan, guaranty, or investment.

(C) No purpose of the loan, guaranty, or investment is to accomplish one or more of the purposes described in Section 170(c)(2)(D) of the Internal Revenue Code.

(b) Subsection (a) does not exempt a tax-exempt organization that is making consumer loans as defined in sections 833(4) and 834.

(c) A loan that is secured by any assets owned by an individual is exempt under subsection (a) only if the individual providing the security is an "accredited investor" as defined in paragraph (5) or (6) of subsection (a) of section 230.501 of title 17 of the Code of Federal Regulations. Property held by an individual for personal, family, or household purposes, including an individual's personal residence, may not be taken as security for a loan.

(d) A program-related investment by a private foundation, and any loan, guaranty, or investment made by a public charity that is exempt under subsection (a) if it is subject to the implied covenant of good faith under section 3-103 of title 11A, Virgin Islands Code.

(e) Exempt under subsection (a) is

(1) a program-related investment by a private foundation, or a loan, guaranty, or investment by a public charity, only if the following conditions are satisfied:

(A) The organization making the program-related investment, loan, guaranty, or investment is exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code and is organized and operated exclusively for one or more of the purposes described in Section 501(c)(3) of the Internal Revenue Code;

(B) No part of the net earnings of the organization making the program-related investment, loan, guaranty or investment inures to the benefit of a private shareholder or individual;

(C) No broker's fee will be paid in connection with the making of the program-related investment, loan, guaranty, or investment or placement of the program-related investment, loan, guaranty or investment; and

(2) This subsection does not prohibit the organization making the program-related investment, loan, guaranty, or investment from charging interest on the loan or investment or fees on the guaranty.

(f) Subsection (a) exempts from the provisions of this section only a program-related investment by a private foundation or a loan, guaranty, or investment by a public charity that is made for the primary purpose of accomplishing one or more of the organization's exempt purposes described in Section 501(c)(3) of the Internal Revenue Code, and no significant purpose of which is the production of income or the appreciation of property within the meaning of subsection (c) of Section 4944 of the Internal Revenue Code. A recipient shall use all funds received from the

private foundation or the public charity only for the charitable purposes for which the program-related investment, loan, guaranty, or investment was made.

(g) Only program-related investment by a private foundation or a loan, guaranty, or investment by a public charity is exempt under subsection (a) if the organization consummates not more than 35 loans in a calendar year. In the making and negotiating of these loans, the private foundation or public charity shall take into consideration the financial ability of the recipients to repay the loans in the time and manner provided.

(h) Nothing in this section is intended to abrogate or diminish the application of any other applicable laws that are designed to govern the tax-exempt organizations described in subsection (a), including, but not limited to, laws pertaining to recordkeeping and reporting to the Attorney General and the Internal Revenue Service or to protect borrowers, including, but not limited to, laws pertaining to licenses, unfair competition, usury, and conflicts of interest.

§777. Burden of proof

In any proceeding under this chapter the burden of proving an exemption is on the person claiming it.

Subchapter 3. Licensing by the Virgin Islands Banking Board

§778. License required

(a) It is unlawful for any person to engage in the business of a finance lender or broker without obtaining a license from the Board.

(b) A finance lender or broker may not make or broker a residential mortgage loan unless that loan is offered by, negotiated by, or applied for through a licensed mortgage loan originator and the finance lender or broker also holds a valid license under chapter 20 of this title.

(c) Every licensee that is also a mortgage lender or mortgage broker under chapter 20 of this title engaging in the business of making or brokering residential mortgage loans shall require that every mortgage loan originator employed or compensated by that licensee obtains and maintains a mortgage loan originator license from the Board under chapter 20 of this title.

§779. Contents of license

(a) The finance lender or broker license must state the name of the licensee, and if the licensee is a partnership, the names of its general partners, and if a corporation or an association, the date and place of its incorporation or organization, and the address of the licensee's principal business location. On the approval and licensing of a location pursuant to sections 782 or 787, the Board shall issue an original license endorsed to show the address of the authorized location and, if applicable, the name of the subsidiary corporation licensed to operate the location. The license must state whether the licensee is licensed as a finance lender or a finance broker.

(b) An application for a license for a business location outside this Territory constitutes an agreement by the applicant to do all of the following:

(1) Make the licensee's books, accounts, papers, records, and files mortgage lender to the Banking Board in this Territory.

(2) Pay the reasonable expenses for travel, meals, and lodging of the Board or the Board's representatives incurred during any investigation or examination made at the licensee's location outside this Territory.

(c) A licensee located outside this territory is not required to maintain books and records regarding licensed loans separate from those for other loans if the licensed loans can be readily identified.

§780. Separate licenses and fees required

Each finance lender and broker and mortgage lender and broker is required to hold a separate license and pay the respective fees for each license, if applicable.

§781. Investigation, application and licensure fees

(a) At the time of filing the application for a finance lender, the applicant shall pay to the Board the sum of \$200 as a fee for investigating the application, plus the cost of fingerprint processing and the criminal history record check under section 784 and \$300 as an application fee. The investigation fee, including the amount for the criminal history record check, and the application fee are not refundable if an application is denied or withdrawn.

(b) A finance lender shall pay a licensure fee of \$2,500.

(c) A finance broker shall pay a licensure fee of \$1,500.

§782. Application for a License

(a) An application for a license as a finance lender under this chapter must be in the form and contain the information that the Board may by regulations require and must be filed with the payment of the fees specified in section 781.

(b) An applicant who does not hold a license as a finance lender under this chapter shall furnish, the applicant's application, a full set of fingerprints and related information for purposes of the Board's conducting a criminal history record check for the person responsible for lending activities.

(c) Nothing in this section may be construed to prevent a licensee from engaging in the business of a finance lender through a subsidiary corporation if the subsidiary corporation is licensed under this chapter.

(d) For purposes of this section, "subsidiary corporation" means a corporation that is wholly owned by a licensee.

(e) A new application is not be required for a change in the street address of an existing location previously licensed under this chapter. However, the licensee shall comply with the requirements of section 793.

§783. Background Investigation of Applicants, General Partners and Principal Officers

(a) Upon the filing of an application pursuant to section 782 and the payment of the fees, the Board shall investigate the applicant and its general partners and persons owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or any person responsible for the conduct of the applicant's lending activities in this territory, if the applicant is a partnership. If the applicant is a corporation, trust, limited liability company, or association, including an unincorporated organization, the Board shall investigate the applicant, its principal officers, directors, managing members, and persons owning or controlling, directly or indirectly, 10 percent or more of the outstanding equity securities or any person responsible for the conduct of the applicant's lending activities in this territory. Upon the filing of an application pursuant to section 782 and the payment of the fees, the Board shall investigate the person responsible for the lending activity of the licensee at the new location described in the application. The investigation may be limited to information that was not included in prior applications filed pursuant to this chapter. If the Board determines that the applicant has satisfied this chapter and does not find facts constituting reasons for denial under section 789, the Board shall issue and deliver a license to the applicant.

(b) For the purposes of this section, "principal officers" means the president, chief executive officer, treasurer, and chief financial officer, as may be applicable, and any other officer with direct responsibility for the conduct of the applicant's lending activities within the Territory.

§784. Criminal history check

(a) The Division of Banking, Insurance and Financial Regulation, as designee of the Board shall submit images of fingerprints and related information of any person responsible for the lending activity, as defined by subsection (a) of section 782, for purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests.

(b) The agency providing background check shall provide its response to the Division of Banking, Insurance and Financial Regulation, as designee of the Board.

(c) The Board shall request from the agency subsequent arrest notification service, for license candidates described in subsection (a).

(d) The Board shall charge a fee sufficient to cover the costs of processing the fingerprints requests pursuant to this section.

(e) Notwithstanding subsections (a) to (e), inclusive, the Board may by regulation require fingerprints submitted by an applicant to be submitted to the Nationwide Mortgage Licensing System and Registry.

§785. Net worth required

The applicant shall file with the application for a finance lender or broker license audited financial statements prepared in accordance with generally accepted accounting principles and acceptable to the Board which indicate a minimum net worth of at least \$100,000 for finance lenders or \$25,000 for finance broker. A licensee shall maintain the required net worth at all times.

§786. Required surety bond

(a) A licensee shall maintain a surety bond in accordance with this subsection in a minimum amount of \$25,000. The bond must be payable to the Government of the Virgin Islands and issued by an insurer authorized to do business in the Virgin Islands. An original surety bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, must be filed with the Board not later than 10 days after execution. For licensees with multiple licensed locations, only one surety bond is required. The bond must be used for the recovery of expenses, fines, and fees levied by the Board in accordance with this chapter or for losses or damages incurred by borrowers or consumers as the result of a licensee's noncompliance with the requirements of this chapter.

(b) When an action is commenced on a licensee's bond, the Board may require the filing of a new bond. Immediately upon recovery of any action on the bond, the licensee shall file a new bond. Failure to file a new bond by 10 days after the recovery on a bond, or by 10 days after notification by the Board that a new bond is required, constitutes sufficient ground for the suspension or revocation of the license.

§787. Application for a branch office

(a) A finance lender or broker licensee seeking to engage in business at a new location other than the licensee principal place of business shall submit an application for a branch office license to the Board at least 60 days before seeking to engage in business at a new location and pay the fee required by section 781.

(b) (1) The Board shall approve or deny the person responsible for the lending activity at the new location in accordance with section 789 and shall notify the licensee of this decision no later than 45 days after the date of receipt of the application.

(2) If the Board denies the application, the licensee may submit to the Board not later than 15 days after the date of receipt of notification of the Board's denial a new application designating a different person responsible for the lending activity at the new location. The Board shall approve or deny the different person as provided in paragraph (1).

(c) A licensee may not engage in business at a new location in a name other than a name approved by the Board.

(d) The Board may adopt regulations to implement the requirements of this section.

(e) A branch office license to engage in business at a new location must be issued in accordance with this section. A change of street address of a place of business designated in a license must be made in accordance with section 793 and does not constitute a new location subject to the requirements of this section.

§788. Changes in information in any application

(a) The Board may require licensees to file, at the times that the Banking Board may specify, information as to changes in the information provided in any application filed with the Boards pursuant to this chapter.

(b) The Board may by regulation require a licensee to file information through Nationwide Mortgage Licensing System and Registry.

§789. Denial of application for a finance lender or broker. Upon reasonable notice and opportunity to be heard, the Board may deny the application for a finance lender or broker license for any of the following reasons:

(1) A false statement of a material fact has been made in the application.

(2) The applicant or an officer, director, general partner, person responsible for the applicant's lending activities in the Territory, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has, within the last 10 years, been convicted of or pleaded nolo contendere to a crime, or committed an act involving dishonesty, fraud, or deceit, if the crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with this chapter.

(3) The applicant or an officer, director, general partner, person responsible for the applicant's lending activities in the Territory, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has violated any provision of this chapter or the regulations under this chapter, or any similar regulatory scheme of the Virgin Islands or a foreign jurisdiction.

(4) The application is considered withdrawn within the meaning of this section if the applicant fails to respond to a written notification of a deficiency in the application by 30 days after the date of the notification.

(5) The Board shall either issue or deny the license not later than 90 days from the filing of a full and complete application for a license with the required fees.

§790 Rejection of license application

(a)(1) If an applicant does not meet the requirements of licensure under this chapter, the Board shall:

- (A) notify the applicant in writing of this fact as provided in subsection (b);
- (B) return the bond filed; and
- (C) refund the license fee.

(2) The Board shall retain the application and investigation fees.

(b) No later than 30 days after the Board denies an application, the Board shall issue and send a written decision to the applicant. The written decision must contain:

(1) an explanation of the reasons upon which the denial was based; and

(2) a statement advising the applicant of a right to a hearing and the procedure for requesting a hearing.

(c) An applicant who seeks a hearing on a license application denial shall file a written request not later than 15 days following receipt of the written decision for denial.

(d) A hearing date established in response to the filing of a notice under this section may be postponed only once for a period of up to 30 days after the initial hearing date.

§791. Posting and transferring of license

(a) The licensee shall post the finance lender license in a conspicuous place at the business authorized.

(b) A license is not transferable or assignable. A license issued to a partnership or a limited partnership is not transferred or assigned within the meaning of this section by the death, withdrawal, or admission of a partner, general partner, or limited partner, unless the death, withdrawal, or admission dissolves the partnership to which the license was issued.

§792. Place of business under license

A finance lender or broker licensee shall maintain only one place of business under a duplicate or original license issued pursuant to section 782 or 787. The Board may issue more than one license to the same licensee upon compliance with all the provisions of this chapter governing an original issuance of a license.

§793. Change of street address of place of business

(a) If a finance lender or broker licensee seeks to change its place of business to a street address other than that designated in its license, the licensee shall provide notice to the Board at least 60 days prior to the change. The Board shall notify the licensee not later than 15 days after its decision if the Banking Board disapproves the change. If the Board does not notify the licensee of disapproval within 15 days, the change in address is deemed approved.

(b) If notice is not given at least 60 days before the change of a street address of a place of business, as required by subsection (a), or notice is not given at least 60 days before engaging in business at a new location, as required by section 787, the Board may assess a civil or administrative penalty on the licensee not to exceed \$500.

§794. Intermingling of offices and products

(a) It is unlawful for a licensee to conduct the business of making loans under this chapter within any office, room, or place of business in which any other business is solicited or engaged in, or in association or conjunction therewith, except as is authorized in writing by the Board upon

the Board's finding that the character of the other business is such that the granting of the authority would not facilitate evasions of this chapter or of regulations made pursuant to this chapter. An authorization once granted remains in effect until revoked by the Board.

(b) The products or services of an affiliated corporation of the licensee that is a supervised financial institution, or a parent or subsidiary of a supervised financial institution that is an affiliate of the licensee, may be provided, offered, or sold at the licensed location of the licensee without authorization by the Board pursuant to subsection(a) if:

(1) the activity is not prohibited by, or in violation of, the laws applicable to the affiliate or supervised financial institution, and

(2) the products and services are not offered and sold in a manner that restricts the ability of the borrower or customer to individually select or reject a product or service that is offered.

(c) The following definitions govern the construction of this section:

(1) "Affiliated" or "affiliate" means the following: A corporation is an affiliate of, or a corporation is affiliated with, another specified corporation if it directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the other specified corporation.

(2) "Supervised financial institution" means any commercial bank, industrial bank, credit card bank, trust company, savings and loan association, savings bank, federal credit union, Virgin Islands finance lender, residential mortgage lender or servicer, or insurer subject to supervision by an official or agency of the state or territory of the United States.

§795. Name on license

(a) Except as provided in subsection (b), it is unlawful for any finance lender or broker licensee to transact the business licensed or make any loan provided for by this chapter under any other name or at any other place of business than that named in the license.

(b) A licensee may, however, make any loan and engage in any other business provided for by this chapter, other than the business described in subsection (b) of section 794, at a place other than the licensed location under either of the following conditions:

(1) The borrower requests, either orally or in writing, that a loan be initiated or made at a location other than the licensee's licensed location. The use by the licensee of a preprinted solicitation form returned to the licensee by the borrower does not constitute a request by the borrower that a loan be initiated or made at a location other than the licensee's licensed location.

(2) The licensee makes a solicitation or advertises for, or makes an offer of, a loan displayed on "home pages" or similar methods by the licensee on the Internet, the World Wide Web, or similar proprietary or common carrier electronic systems, and the prospective borrower may transmit information over these electronic systems to the licensee in connection with the licensee's offer to make a loan.

§796. Retention of records

Finance lenders or broker licensees shall keep and use in their business, books, accounts, and records that will enable the Board to determine if the licensee is complying with this chapter and with the Board's regulations.

§797. Maintenance of card system

Finance lenders and brokers shall preserve their books, accounts, and records, including cards used in the card system, if any, for at least five years after making the final entry on any loan recorded therein.

§798. Maintenance or preservation of original records

Nothing contained in sections 796 and 797 requires the maintenance or preservation of original records, but any information requested by the Board must be furnished within 48 hours, excluding Saturdays, Sundays, and holidays.

§799. Annual report

(a) Finance lenders and broker licensees shall file an audited annual report with the Board, on or before the March 31, giving the relevant information that the Board reasonably requires concerning the business and operations conducted by the licensee within the Territory during the preceding calendar year for each licensed place of business. The individual audited annual reports filed pursuant to this section must be made available to the public for inspection except, upon request in the annual report to the Board, the balance sheet contained in the audited annual report of a sole proprietor or any other nonpublicly traded persons. The report must be made under oath and accompanied by a sworn affidavit and in the form prescribed by the Board. "Nonpublicly traded person" for purposes of this subsection means persons with securities owned by 35 or fewer individuals.

(b) The annual reports must include:

- (1) the number and total dollar amount of loans each fiscal year for which a valid license is maintained by the licensee;
- (2) the number of loans made in each district in the Virgin Islands; and
- (3) the income level.

(c) A licensee shall submit other special reports that may be required by the Board.

§800. Prohibited practices

It is unlawful for any person subject to this chapter to do any of the following:

- (1) Make a materially false or misleading statement or representation to a borrower about the terms or conditions of that borrower's loan, when making or brokering the loan.

(2) Advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast in any manner, any statement or representation with regard to the business subject to this chapter, including the rates, terms, or conditions for making or negotiating loans that is false, misleading, or deceptive, or that omits material information that is necessary to make the statements not false, misleading, or deceptive, or in the case of a licensee that refers to the supervision of the business by the Territory or any department or official of the Territory.

(3) Knowingly misrepresent, circumvent, or conceal, through subterfuge or device, any material aspect or information regarding a transaction to which the person is a party.

(4) Commit an act that constitutes fraud or dishonest dealings.

(5) Commit an act that results in a felony conviction and the crime or act is substantially related to the qualifications, functions or duties of a person engaged in business.

§801. Advertisement

It is unlawful for any licensee to place an advertisement disseminated primarily in this Territory for a loan unless the licensee discloses in the printed text of the advertisement, or in the oral text in the case of a radio or television advertisement, the license under which the loan would be made or arranged.

§802. Rate disclosure

The Board shall require that rates of charge, if stated by a licensee, be stated fully and clearly in the manner that the Board considers necessary to prevent misunderstanding by prospective borrowers.

§803. Advertising of rates, charges or costs

If any person engaged in the business regulated by this chapter refers in any advertising to rates of interest, charges, or cost of loans, the Board shall require that the rates, charges, or costs are stated fully and clearly in the manner that gives adequate information to prospective borrowers. If the rates or costs advertised do not apply to loans of all classes made or negotiated by the person, this fact must be clearly indicated in the advertisement.

§804. Advertisement disapproved

(a) The Board may by order direct any licensee to submit advertising copy to the Board for review prior to use.

(b) It is unlawful for any licensee to use an advertising copy after the Board has disapproved its use and notified the licensee in writing of the disapproval.

§805. Advertising file

The Banking Board shall require licensees to maintain a file of all advertising copy for a period of three years from the date of its use. The file must be available to the Board upon request.

§806. Place of Business

A licensed finance lender may act as a broker as defined in section 765 at its licensed place of business without obtaining an additional license as a broker under this chapter if the licensee has notified the Board of the action in writing.

§807. Hearing

(a) The Board may, after appropriate notice and opportunity for hearing, suspend for a period not to exceed 12 months or bar a person from any position of employment with a licensee if the Board finds that the person has willfully used or claimed without authority a designation or certification of special education, practice, or skill that the person has not attained, or willfully held out to the public a confusingly similar designation or certification for the purpose of misleading the public regarding the person's qualifications or experience.

(b) Within 15 days from the date of a notice of intention to issue an order pursuant to subsection (a), the person may request a hearing **under this chapter and the regulations issued pursuant to this chapter**. Upon receiving a request, the matter must be set for hearing to commence within 30 days after receipt unless the person subject to this chapter consents to a later date. If no hearing is requested within 15 days after the mailing or service of the notice and none is ordered by the Board, the failure to request a hearing constitutes a waiver of the right to a hearing.

(c) Upon receipt of a notice of intention to issue an order pursuant to subsection (a), the person who is the subject of the proposed order is immediately prohibited from engaging in any activities subject to licensure under this chapter.

(d) Persons suspended or barred under this section are prohibited from participating in any business activity of a licensed finance lender or broker, and from engaging in any business activity on the premises where a licensed finance lender or broker, is conducting its business. This subsection may not be construed to prohibit suspended or barred persons from having their personal transactions processed by a licensed finance lender or broker.

§808. Notice and opportunity for hearing

(a) The Board may, after appropriate notice and opportunity for hearing, by order, censure or suspend for a period not exceeding 12 months, or bar from any position of employment, management, or control, any finance lender or broker, or any other person, if the Board finds either of the following:

(1) That the censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of this chapter or regulation or order of the Board, and the violation was either known or should have been known by the person committing or causing it or has caused material damage to the finance lender or broker, or to the public.

(2) That the person has been convicted of, or pleaded nolo contendere to any crime, or has been held liable in any civil action by final judgment, or any administrative judgment by any public agency, if that crime or civil or administrative judgment involved any offense involving dishonesty, fraud, or deceit, or any other offense reasonably related to the qualifications, functions, or duties of a person engaged in the business in accordance with this chapter.

(b) Within 15 days from the date of receipt of order pursuant to subsection (a), the person may request a hearing under this chapter and the regulations issued pursuant to this chapter. Upon receipt of a request, the matter must be set for hearing to commence within 30 days after the receipt unless the person subject to this chapter consents to a later date. If no hearing is requested within 15 days after the mailing or service of the notice and none is ordered by the Board, the failure to request a hearing constitutes a waiver of the right to a hearing.

(c) Upon receipt of a notice of intention to issue an order under this section, the person who is the subject of the proposed order is immediately prohibited from engaging in any activities subject to licensure under the law.

(d) Persons suspended or barred under this section are prohibited from participating in any business activity of a finance lender, broker, or mortgage loan originator, and from engaging in any business activity on the premises where a finance lender or broker, is conducting business.

§809. False record or untrue statement

(a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this chapter.

(b) It is unlawful for any person to knowingly make an untrue statement to the Board during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this chapter.

§810. Adoption of policies and procedures for finance brokers and lenders

A finance lender or broker licensee shall adopt and adhere to policies and procedures that are reasonably intended to achieve the objectives set forth in the documents described in this section.

§811. Denial, Suspension, Revocation, condition or decline to Renew or Fines

(a) The Board may do one or more of the following:

(1) Deny, suspend, revoke, condition, or decline to renew a finance lender or broker license for a violation of this chapter, or any regulations adopted thereunder.

(2) Order restitution against any finance lender or broker licensee for a violation of this chapter.

(3) Impose fines on any finance lender or broker licensee.

(4) Issue orders or directives to any finance lender or broker under this chapter as follows:

(A) Order or direct any finance lender or broker licensee to desist and refrain from conducting business, including immediate temporary orders to desist and refrain.

(B) Order or direct any finance lender or broker licensee to cease any harmful activities or violations of this chapter, including immediate temporary orders to desist and refrain.

(C) Enter immediate temporary orders to cease business under a license issued pursuant to the authority granted under section 778, if the Board determines that the license was erroneously granted, or finance lender or broker is in violation of this chapter and its continuation of business is to the detriment of the public.

(D) Order or direct any other affirmative action as the Board deems necessary.

(b) The Board may impose a civil penalty on any finance lender or broker licensee, if the Board finds, on the record after notice and opportunity for hearing, that the finance lender or broker licensee has violated or failed to comply with any requirement of this chapter or any regulation prescribed by the Board under this chapter or order issued under authority of this chapter.

(c) The maximum amount of penalty for each act or omission described in subsection (b) is \$25,000.

(d) Each violation of any directive or order of the Board is a separate and distinct.

Subchapter 4. Revocation, Suspension and Penalties

§812. Revocation and suspension of license

Finance lender and broker licenses issued under this chapter remain in effect until they are surrendered, revoked, or suspended.

§813. Investigation and examination of records

For the purpose of discovering violations of this chapter or securing information required by the Board in the administration and enforcement of this chapter, the Board may at any time investigate the loans and business, and examine the books, accounts, records, and files used in the business, of every person engaged in the business of a finance lender or broker, whether the person acts or claims to act as principal or agent, or under or without the authority of this chapter. For the purpose of examination, the Board has free access during business hours to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all these persons.

§814. Taking possession of licensee records

In making any examination or investigation, the Board may, for a reasonable time not to exceed 60 days, take possession of the books, records, accounts, and other papers pertaining to the

business. The Board may place a keeper in exclusive charge and custody of the books, records, accounts, and other papers in the office or place where they are usually kept. During possession, no person may remove or attempt to remove any of the books, accounts, papers, records, files, safes, and vaults, or any part thereof, except in compliance with a court order or written consent of the Banking Board.

§815. Record kept by the Board

The officers, employees, partners, directors, and stockholders may inspect and examine the books, accounts, papers, records, files, safes, and vaults while they are in the custody of the Board. Employees may make entries in these documents reflecting current operations or transactions.

§816. Authority of Board not limited

The power of investigation and examination by the Board is not terminated by the surrender, suspension, or revocation of any license issued by it.

§817. Broad authority of the Board

Whenever the Board considers it necessary for the general welfare of the public, the Board has continuous authority to exercise the powers set forth in this chapter whether or not an application for a license has been filed with the Board, any license has been issued, or if issued, has been surrendered, suspended, or revoked.

§818. Disciplinary action by the Board

(a) For any licensee, a disciplinary action taken by the Virgin Islands, another state or territory, an agency of the federal government, or another country for an action substantially related to the activity regulated under this chapter may be grounds for disciplinary action by the Board. A certified copy of the record of the disciplinary action taken against the licensee by the Virgin Islands, other state or territory, agency of the federal government, or other country is conclusive evidence of the events related therein.

(b) Nothing in this section precludes the Board from applying a specific statutory provision in this chapter providing for discipline against a licensee as a result of disciplinary action taken against a licensee by the territory of the Virgin Islands, another state or territory, an agency of the federal government, or another country.

§819. Attendance of witness

The Board may require the attendance of witnesses and examine under oath all persons whose testimony the Board requires relative to loans or business regulated by this chapter or to the subject matter of any examination, investigation, or hearing.

§820. Examination of a licensee

(a) The licensee or person examined shall pay the cost of each examination of the licensee or a person subject to this chapter to the Board, and the Board may maintain an action for the recovery of the cost in any court of competent jurisdiction. In determining the cost of an

examination, the Board may use the estimated average hourly cost for all persons performing examinations of licensees or other person or persons subject to this chapter for the fiscal year.

(b) When it becomes necessary to examine or investigate the books and records of a licensee required to be licensed under this chapter at a location outside of the Virgin Islands, the licensee is liable for, and shall pay to the Board, no later than 30 days after the expenses are incurred, the actual travel and reasonable living expenses incurred on account of its examination, supervision, and regulation, or shall pay a reasonable per diem rate approved by the Board.

(c) For the purpose of this section only, no person other than a licensee may be deemed to be a person subject to this chapter until the person is determined to be a person subject to this chapter by an administrative hearing in accordance with regulations or by a judicial hearing in any court of competent jurisdiction.

§821. Issuing order

(a) If, upon inspection, examination, or investigation, the Board has cause to believe that a licensee or other person is violating any provision of this chapter or any regulation or order thereunder, the Board, may issue an order to the licensee or person in writing, describing with particularity and the basis of the order. Each order may contain a concise statement of the action taken; the effective date of such action; the designation of the provisions of this title pursuant to which the action is taken; and a concise statement of the findings of the Board in support of the action. Additionally, the Order must contain the action necessary to correct the violation or violations identified and provide a reasonable time period or periods by which the violation or violations must be corrected. In addition, each order may assess an administrative fine not to exceed \$10,000 that must be deposited in General Fund. In assessing a fine, the Board shall give due consideration to the appropriateness of the amount of the fine with respect to factors including the gravity of the violation, the good faith of the person or licensees cited, and the history of previous violations. An order issued or a fine assessed pursuant to this section, while constituting punishment for a violation of law, must be instead of other administrative discipline by the Board for the offense or offenses cited, and the order and fine payment thereof by a licensee may not be reported as disciplinary action taken by the Board.

(b) Notwithstanding subsection (a), nothing in this section prevents the Board from issuing an order to cease and desist from engaging in a specific business or activity or activities, or an order to suspend all business operations to a person or licensee who is engaged in or who has engaged in continued or repeated violations of this chapter. In any of these circumstances, the sanctions authorized under this section are separate from, and in addition to, all other administrative, civil, or criminal remedies.

(c) If, within 15 days from the receipt of the order, the licensee or person cited fails to notify the Board that of an intent to request a hearing as described in subsection (d), the Board shall deem the order final.

(d) Any hearing under this section must be conducted in accordance with this chapter and the regulations issued pursuant to this chapter.

(e) After the exhaustion of the review procedures provided for in this section, the Board may apply to the appropriate court for a judgment in the amount of the administrative fine and an

order compelling the cited licensee or person to comply with the order of the Board. The application, which must include a certified copy of the final order of the Board, constitutes a sufficient showing to warrant the issuance of the judgment and order.

§822. Certifying Record

After an examination, investigation, or hearing under this chapter, if the Board considers it of public interest or advantage, the Board may certify a record to the proper prosecuting official of the city, county, or city and county in which the act complained of, examined, or investigated occurred.

§823. Examination of Records

The Board may require the production for examination in the Territory of all books, records, and supporting data used by the licensee in the preparation of its audited annual reports and any other report required to be submitted to the Board. The books, records, and supporting data must be made available for examination to the Board in the Territory no later than five working days after a written demand.

§824. Suspension of license

(a) Notwithstanding any other provisions of this chapter, the Board may upon three days' notice, suspend any license for a period not exceeding 30 days, pending investigation and hearing if the Board finds the continuation of business is to the detriment of the public.

(b) Surrender of a license becomes effective 30 days after receipt of an application to surrender the license or within a shorter period of time that the Banking Board or its designee may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the surrender is instituted not later than 30 days after the application is filed. If a proceeding is pending or instituted, surrender of a license becomes effective at the time and upon the conditions that the Banking Board determines.

§825. Surrender of license

Any licensee may surrender any license by delivering to the Board written notice that the licensee surrenders that license. Surrender of the license does not affect the licensee's civil or criminal liability for acts committed prior to surrender of the license.

§826. Unauthorized conducting of finance lender or broker business

(a) Whenever, in the opinion of the Board, any person is engaged in the business as a broker or finance lender, as defined in this chapter, without a license from the Board, or any licensee is violating any provision of this chapter, the Board may order that person or licensee to desist and to refrain from engaging in the business or further violating this chapter. If, within 15 days after the order is served, a written request for a hearing is filed and no hearing is held within 30 days thereafter, the order is rescinded.

(b) Notwithstanding subsection (a), if, after an investigation, the Board has reasonable grounds to believe that a person is conducting business in an unsafe or injurious manner, the Board

shall, by written order addressed to that person, direct the discontinuance of the unsafe or injurious practices. The order is effective upon the violator's receipt but does not become final except in accordance with the provisions of section 807.

§827. Violation of this chapter

(a) Whenever the Board believes from evidence satisfactory to the Board that any person has violated or is about to violate a provision of this chapter, or a provision of any order, license, decision, demand, requirement, or any regulation adopted pursuant to this chapter, the Board may, in the Board's discretion, bring an action, or the Board may request the Attorney General to bring an action in the name of the people of the territory of the Virgin Islands, against that person to enjoin that person from continuing that violation or doing any act in furtherance of the violation. Upon a proper showing, a permanent or preliminary injunction, restraining order, or writ of mandate must be granted, and other ancillary relief may be granted as appropriate.

(b) If the Board determines that it is in the public interest, the Board may include in any action authorized by subsection (a), a claim for ancillary relief, including, but not limited to, a claim for restitution, disgorgement, or damages on behalf of the persons injured by the act or practice constituting the subject matter of the action. The court has jurisdiction to award additional relief.

(c) Any person who willfully violates any provisions of this chapter, or who willfully violates any regulation or order adopted pursuant to this chapter, is liable for a civil penalty not to exceed \$25,000 for each violation, which must be assessed and recovered in a civil action brought in the name of the people of the territory of the Virgin Islands by the Board in any court of competent jurisdiction.

(d) As applied to the penalties for acts in violation of this chapter, the remedies provided by this section and by other sections of this chapter are not exclusive and may be sought and employed in any combination to enforce the provisions of this chapter.

§828. Suspension and revocation of license

(a) The Board shall suspend or revoke any license, upon notice and reasonable opportunity to be heard, if the Board finds any of the following:

(1) The licensee has failed to comply with any demand, ruling, or requirement of the Board or its design made pursuant to and within the authority of this chapter.

(2) The licensee has violated any provision of this chapter or any regulation made by the Board under and within the authority of this chapter.

(3) A fact or condition exists that, if it had existed at the time of the original application for the license, reasonably would have warranted the Board in refusing to issue the license originally.

(4) There has been repeated failure by the finance lender, when making or negotiating loans, to take into consideration in determining the size and duration of loans,

the financial ability of the borrower to repay the loan in the time and manner provided in the loan contract, or to refinance the loan at maturity.

(b) A parent company license may not be suspended or revoked pursuant to this section as a result of any action or failure to act by a subsidiary licensee unless grounds exist for the suspension or revocation of the parent company license pursuant to this section. An order suspending or revoking a license or imposing sanctions against a licensee does not affect other licensed locations unless expressly stated in the order.

§829. Suspension or revocation of license by order

The Board may by order summarily suspend or revoke the license of any licensee if that person fails to file the audited annual report required by section 799 within 10 days after notice by the Board that the report is due and not filed. If, after an order is made, a request for hearing is filed in writing within 15 days and the hearing is not held within 30 days thereafter, the order is deemed rescinded as of its effective date.

§830. Revocation, suspension, expiration or surrender of license

The revocation, suspension, expiration, or surrender of any license does not impair or affect the obligation of any preexisting lawful contract between the licensee and any borrower.

§831. Hearing procedures

(a) Before the Board takes any action by order under this chapter, unless specifically provided otherwise, the Board shall give the licensee an opportunity to request a hearing at least 15 days prior to the effective date of the Order.

(b) The hearing notice to the licensee must be sent by certified mail, return receipt requested, to the principal place of business of the licensee at least 30 days before the hearing.

§832. Action of Board

Every order, decision, license, or other official act of the Board is subject to judicial review of such action in the court of competent jurisdiction.

Subchapter 5. Consumer Loans

§833. Definitions

(a) As used in this subchapter:

(1) "Charges" include the aggregate interest, fees, bonuses, commissions, brokerage, discounts, expenses, and other forms of costs charged, contracted for, or received by a licensee or any other person in connection with the investigating, arranging, negotiating, procuring, guaranteeing, making, servicing, collecting, and enforcing of a loan or forbearance of money, credit, goods, or things in action, or any other service rendered.

(2) "Charges" include any profit or advantage of any kind that a licensee may contract for, collect, receive, or obtain by a collateral sale, purchase, or agreement, in connection with negotiating, arranging, making, or otherwise in connection with any loan.

(3) "Charges" do not include any of the following:

(A) Commissions received as a licensed insurance agent or broker in connection with insurance written as provided in section 848.

(B) Amounts not in excess of the amounts in the Virgin Islands Code and rules and regulations paid to holders of possessory liens to release motor vehicles that secure loans subject to this chapter.

(C) Court costs, excluding attorney's fees, incurred in a suit and recovered against a debtor who defaults on the loan.

(D) Fees paid to a licensee for the privilege of participating in an open-end credit program, which fees are to cover administrative costs and are imposed upon executing the open-end loan agreement and on annual renewal dates or anniversary dates thereafter.

(E) Amounts received by a licensee from a seller, from whom the borrower obtains money, goods, labor, or services on credit, in connection with a transaction under an open-end credit program that are paid or deducted from the loan proceeds paid to the seller at the direction of the borrower and which are an obligation of the seller to the licensee for the privilege of allowing the seller to participate in the licensee's open-end credit program. Amounts received by a licensee from a seller pursuant to this subchapter may not exceed 6 percent of the loan proceeds paid to the seller at the direction of the borrower.

(F) Actual and necessary fees not exceeding \$500 paid in connection with the repossession of a motor vehicle to repossession agencies provided that the licensee complies with sections 866 and 867, and actual fees paid to a licensee is not in an amount that exceeds the amount specified by Virgin Islands Code and rules and regulations.

(G) Moneys paid to, and commissions and benefits received by, a licensee for the sale of goods, services, or insurance, whether or not the sale is in connection with a loan, that the buyer by a separately signed authorization acknowledges is optional, if sale of the goods, services, or insurance has been authorized pursuant to section 794.

(4) "Consumer loan" means a loan, whether secured by either real or personal property, or both, or unsecured, the proceeds of which are intended by the borrower for use primarily for personal, family, or household purposes. For purposes of determining whether a loan is a consumer loan, the lender may rely on any written statement of intended purposes signed by the borrower. The statement may be a separate statement signed by the borrower or may be contained in a loan application or other document signed by the borrower. The lender is not required to ascertain that the proceeds of the loan are used in accordance with the statement of intended purposes.

(b) Nothing in this section authorizes the taking of real property as security, except as specified in section 869.

§834. Consumer loan defined

(a) In addition to the definition of consumer loan in section 833(4), a "consumer loan" also means a loan of a principal amount of less than \$50,000, the proceeds of which are intended by the borrower for use primarily for other than personal, family, or household purposes. For purposes of determining whether a loan is or is not a consumer loan, the lender may rely on any written statement of intended purposes signed by the borrower. The statement may be a separate statement signed by the borrower or may be contained in a loan application or other document signed by the borrower. The lender is not required to ascertain that the proceeds of the loan are used in accordance with the statement of intended purposes.

(b) A consumer loan under this section is a loan secured in the manner provided for in this chapter if it is secured, in whole or in part, by any lien on, security interest in, assignment of, or power of attorney relative to income arising from the operation of a business by the borrower, such as accounts, and chattel paper, including the right to payment for accounts or chattel paper sold by the borrower prior to or contemporaneously with the making of the loan.

835. Interest or charge on loan

A licensee may not directly or indirectly charge, contract for, or receive any interest or charge of any nature unless a loan is made.

§836. Limitation and Exemption on applying interest or charges

(a) Except as provided otherwise in subsection (b), a licensee may not directly or indirectly charge, contract for, or receive any interest or charge of any nature with respect to a loan of \$5,000 or more unless the loan is made.

(b) Notwithstanding subsection (a), whenever a loan of \$5,000 or more is not consummated because of the borrower's failure to disclose outstanding liens or other information essential to making the loan or solely because of the borrower's failure to complete the loan in accordance with the loan application, a licensee may charge, contract for, and receive an amount equal to the actual expenses incurred by the licensee in connection with the preparation for the loan.

§837. Unconscionable contract

(a) Section 2-302 of title 11A, Virgin Islands Code applies to the provisions of a loan contract that is subject to this chapter.

(b) A loan found to be unconscionable is in violation of this chapter and is subject to the remedies specified in this chapter.

§838. Limitation on charges

(1) Every licensee who lends any sum of money may contract for and receive charges at a rate not exceeding the sum of the following:

(a) Two and one-half percent per month on that part of the unpaid principal balance of any loan up to, including, but not in excess of \$225.

(b) Two percent per month on that portion of the unpaid principal balance in excess of \$225 up to, including, but not in excess of \$900.

(c) One and one-half percent per month on that part of the unpaid principal balance in excess of \$900 up to, including, but not in excess of \$1,650.

(d) One percent per month on any remainder of the unpaid balance in excess of \$1,650.

(2) This section does not apply to any loan of a bona fide principal amount of \$2,500 or more as determined in accordance with section 885.

(3) Notwithstanding paragraph (1), the maximum amount of interest rate that is directly or indirectly charged, contracted for, or received by any person seeking a consumer loan in the amount of the consumer lending bona fide principal amount of \$50,000 or less must not be in excess of 26 percent.

(4) Paragraphs (1) and (2) do not apply to persons seeking in-house financing. No interest rate in excess of 12 percent may be charged to persons seeking in-house financing of consumer auto loans or any other financing transactions where the loan is secured by a finance lender.

§839. Exemptions to limitation on charges authorized by section 838(1)

(a) As an alternative to the charges authorized by section 838(1), a licensee may contract for and receive charges at the greater of the following:

(1) A rate not exceeding 1.6 percent per month on the unpaid principal balance.

(2) A rate not exceeding five-sixths of 1 percent per month plus a percentage per month equal to one-twelfth of the annual rate prevailing on the 25th day of the second month of the quarter preceding the quarter in which the loan is made, as established by the Federal Reserve Bank of New York, on advances to member banks under Sections 13 and 13a of the Federal Reserve Act, as now in effect or hereafter from time to time amended, charges must be calculated on the unpaid principal balance.

(b) This section does not apply to any loan of a bona fide principal amount of \$2,500 or more as determined in accordance with section 885.

§840. Administrative fee

In addition to the charges authorized by section 838 or 839, a licensee may contract for and receive an administrative fee, that must be fully earned immediately upon making the loan, with respect to a loan of a bona fide principal amount of not more than \$2,500 at a rate not in excess of 5 percent of the principal amount, exclusive of the administrative fee, or \$50, whichever is less, and with respect to a loan of a bona fide principal amount of \$2,500 to \$50,000, at an amount not to exceed \$75. No administrative fee may be contracted for, or received in connection with the refinancing of a loan unless at least one year has elapsed since the receipt of a previous administrative fee paid by the borrower. Only one administrative fee may be contracted for or received until the loan has been repaid in full. For purposes of this section, "bona fide principal amount" must be determined in accordance with section 885.

§841. Aggregate may not exceed maximum rate

No interest rate in excess of 26 percent may be directly or indirectly charged, contracted for, or received by any person seeking a consumer loan, and the total charges of the finance lender and broker and any other person in the aggregate may not exceed the maximum rate provided for in this chapter.

§842. Computation on charges

(a) Except as provided in section 840 and with regards to consumer loans, all charges on loans made under this chapter may be computed and paid only as a percentage per month of the unpaid principal balance or portions thereof and must be so expressed in every obligation signed by the borrower. The charges on loans must be computed on the basis of the number of days actually elapsed. For the purpose of these computations, a month is any period of 30 consecutive days.

(b) The loan contract must provide for payment of the aggregate amount contracted to be paid in substantially equal periodical installments, the first of which may be due not less than 15 days nor more than one month and 15 days from the date the loan is made. This subchapter does not apply to a loan made to a graduate student at an accredited college or university while the student is actively pursuing a study program leading to a post baccalaureate degree, or to a student loan made by an eligible lender under the Higher Education Act of 1965, as amended, 20 U.S.C. § 1070 et seq., or to a student loan made pursuant to the Public Health Service Act, as amended, 42 U.S.C. § 294 et seq.

(c) This section does not apply to open-end loans.

§843. Charges on unpaid principal balance

Notwithstanding section 842, a licensee may contract for and receive charges on the unpaid principal balance at a single annual percentage rate, applied on the basis of the number of days actually elapsed, if the annual rate would produce a finance charge at the maturity of the contract not in excess of the finance charge resulting from the application of the graduated rates specified in section 838, when the loan is paid according to its terms, and charges are computed on the basis that a month is any period of 30 consecutive days, as provided in section 842, but if prepayment in full occurs on or before the third installment date, all charges must be recomputed as a

percentage per month of the unpaid principal balance or portions thereof, based on the number of days actually elapsed.

§844. No Advance or compound charges

Except as provided in section 840 and with regards to consumer loans, no charges on loans made pursuant to this chapter may be paid, deducted, or received in advance, or compounded. However, if part or all of the consideration for a new loan contract is the unpaid balance of a prior loan, the principal amount payable under the new loan contract may include any unpaid interest that has accrued on the prior loan. The unpaid principal balance of a precomputed loan is the balance due after refund or credit of unearned interest as provided in section 886. At the time of making the loan, the licensee shall deliver to the borrower, or, at the direction of the borrower, deliver to another person, an amount equal to the face value of the loan and the note evidencing the loan.

§845. Rebate or Refund

(a) Except for a rebate or refund pursuant to any administrative, civil, or criminal action, or any act of the Board, a rebate or refund required to be made upon payment in full of a loan pursuant to this chapter need not be made if the aggregate of all rebates or refunds required in connection with a loan is less than \$1.

(b) No licensee may contract for or receive any payment required in connection with a loan for the purpose of avoiding a rebate or refund of less than \$1.

§846. Contract for purchase

No person in connection with or incidental to the making of any loan regulated by this chapter may require the borrower to contract for purchase, or agree to purchase, any other thing in connection with the loan. A policy of insurance of the type specified in section 848 and credit life and disability insurance is not prohibited by this section. A policy of mortgage guaranty insurance may not be deemed to be a collateral sale, purchase, or agreement within the terms of this section or of section 833(2) or 847.

§847. Collateral sales agreement of contract

No person in connection with, or incidental to, the making of a loan may require the borrower to enter into any collateral sales agreements or contracts, other than the contract of pledge, assignment, or mortgage of personal property, or if otherwise permitted by this chapter, the deed of trust, mortgage, or lien on real property, by the borrower to the lender as security for the repayment of the loan and charges on the loan. Private mortgage insurance, mortgage guaranty insurance, credit life insurance, and credit disability insurance are not prohibited by this section.

§848. Insurance offered as security

(a) Insurance on tangible personal or real property offered as security may not be deemed to be a collateral sale, purchase, or agreement within the terms of sections 833(2), 846, or 847, when all the following requirements are met:

(1) The insurance is sold at standard rates through licensed insurance brokers or agents.

(2) The property is reasonably insured against loss for a reasonable term, which may be up to the term of the loan.

(3) The policy relating to personal property is made payable to the borrower or any member of the borrower's family even though the customary mortgagee clause is attached, or the mortgagee is co-assured.

(4) Except in the case of purchase money encumbrances, the amount of title insurance may not exceed the principal amount of the loan that is secured by a deed of trust, mortgage, or lien on the real property that is the subject of the policy of title insurance.

(5) The policy of title insurance insures the lender or is made payable jointly to the lender and the borrower as their interests may appear.

(6) Title insurance is placed through a title insurance company, duly authorized to do business in the state in which the real property is located, at rates comparable to rates being used by other title insurance companies duly authorized to do business in that state.

(7) Title insurance is placed in connection with the renewal or extension of a loan only when the additional cash advance is at least \$1,000.

(b) This section does not apply to any loan of a bona fide principal amount of \$50,000 or more, or to a duly licensed finance lender in connection with the loan or loans as determined in accordance with section 885.

§849. Credit insurance

(a) Credit insurance may not be deemed to be a collateral sale, purchase, or agreement within the terms of section 833 (2), section 846, or section 847 when the insurance is provided in accordance with the Virgin Islands Insurance Code and this section. As used in this chapter:

(1) "Credit insurance" means credit life, disability, and loss-of-income insurance, or any combination of these coverages.

(2) "Credit life insurance" means a life insurance policy designed to pay off a borrower's debt if that borrower dies. The face value of a credit life insurance policy decreases proportionately with an outstanding loan amount as the loan is paid off over time until both reach zero value and "credit disability insurance" is defined as a type of disability insurance policy that makes payments if you become sick or disabled and are unable to work.

(3) "Credit loss-of-income insurance" means insurance issued to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is involuntarily unemployed, as defined in the policy.

(b) A licensee may provide credit insurance with the borrower's consent, the form to be approved by the Commissioner of Insurance, and a copy, together with evidence of its approval by the Commissioner of Insurance, and a copy of the schedule of rates together with evidence of its approval by the Commissioner, to be filed with the Board prior to the offer or sale of the credit insurance and in an amount not in excess of the amount of the indebtedness, and, with respect to credit life or disability insurance, may collect from the borrower an amount not in excess of that permitted by the Virgin Islands Insurance Code and rules and regulations.

(c) If the loan is prepaid in full by cash, a new loan, refinancing, or otherwise, except by credit insurance, before the final installment date, the borrower shall receive a rebate of that amount computed in accordance with the formula approved by the Commissioner.

(d) When charges for the loan are precomputed in accordance with section 886, any permitted deferment charge may be computed on the combined total of the precomputed charge and the credit insurance charge. Only one deferment charge may be collected in connection with any loan contract, irrespective of the number of borrowers, and only one borrower need be insured. The amount of the deferment charge may be deducted from the principal of the loan.

(e) If life or disability insurance is provided, and if the insured borrower dies or becomes disabled during the term of the loan contract, the insurance must be sufficient to pay the total amount due on the loan, excluding unearned charges, outstanding on the date of death, or all amounts that become due on the loan during the period of disability, as the case may be, without any exception, reservation, or limitation, subject, however, to the provisions of section 850.

(f) Any credit insurance provided must be in force as soon as the loan is made. A licensee may not require credit insurance as a condition of making a loan.

(g) If a borrower procures credit insurance by or through a licensee, the statement required by section 877 must disclose the cost of the credit insurance to the borrower, and the licensee shall deliver or cause to be delivered to the borrower a copy of the policy, certificate, or other evidence thereof, within a reasonable time. If a licensee provides credit disability or loss-of-income insurance pursuant to this chapter, the licensee shall also deliver an understandable written statement to the borrower detailing the conditions under which the borrower will be entitled to make a claim under the insurance policy and the procedure to be followed in making the claim. This statement must be first approved by the Commissioner of Insurance.

(h) The amount charged to the borrower for credit life or disability insurance may not exceed the amount established by the Virgin Islands Insurance Code and regulations.

(i) Nothing in this chapter prevents a licensee from selling insurance as other business if authorized by section 794.

(j) This section does not apply to any loan of a bona fide principal amount of \$50,000 or more, or to a duly licensed finance lender in connection with the loan or loans as determined in accordance with section 885.

850. Credit disability insurance

(a) Credit disability insurance written pursuant to section 849 may not provide indemnity against the risk that the borrower will become disabled for a period of less than 14 days. The insurance may provide indemnity for any single period of continuous disability of 14 days or longer, after which the risk may become compensable. The insurance may be offered with retroactive coverage to an earlier date based upon the disability having continued for a period stated in the policy, but if insurance with retroactive coverage is offered, it must also be offered without retroactive coverage, and the premium rate for each coverage must be separately stated in writing to the borrower.

(b) If insurance with retroactive coverage is provided, the coverage must provide for a prorated payment based upon the fraction of the month during which the insured is disabled, if the insured is continuously disabled during the waiting period set forth in the policy. If insurance without retroactive coverage is provided, the coverage must provide for a prorated payment based upon the fraction of the month during which the insured is disabled, after first excluding the elimination period set forth in the policy. For the purpose of this subsection, a month is any period of 30 consecutive days.

(c) Credit disability insurance, if made available by a licensee, must be available on a monthly or annual premium basis, and the premium by the month may not exceed a pro rata relationship to the annual premium. Credit disability insurance need not be offered for a period less than the term of the loan to which it is applicable, and no credit disability insurance may be written for a period in excess of the term of the loan to which it is applicable.

(d) The monthly disability benefit payable with respect to an open-end loan may not exceed the monthly payment computed pursuant to section 892 on the outstanding balance at the time disability is incurred.

(e) This section does not apply to any loan of a bona fide principal amount of \$50,000 or more, as determined in accordance with section 885.

§851. Cost of a lot book report

A licensee may collect the cost of a lot book report purchased in lieu of the title insurance provided for in section 848. The cost is not included in charges as defined in this chapter or in determining the maximum charges that may be made under this chapter.

§852. Appraisal

On any loan made that is secured by real property, an appraisal fee not to exceed the actual cost of the appraisal may be charged by the licensee if a written appraisal is provided to the licensee by a qualified appraiser. Only one fee for appraising the same real property may be collected unless the borrower has obtained a new or additional loan and more than one year has elapsed since the prior appraisal. The fee is not included in charges as defined in this chapter or in determining the maximum charges that may be made under this chapter.

§853. Automated valuation model fee

(a) A licensee may collect a fee for use of an automated valuation model result prepared by a third party not to exceed the actual cost paid to the third party for a written automated valuation model result in lieu of the appraisal provided for in section 852. The borrower may not be charged for both an automated valuation model result and an appraisal as defined in section 852 for the same property in a single transaction. Only one fee for providing an automated valuation model result or an appraisal for the same real property may be collected unless the borrower has obtained a new or additional loan and more than one year has elapsed since the prior delivery of an automated valuation model result or an appraisal. However, if a fee for an automated valuation model result has been paid, an appraisal fee minus the amount that has been paid by the borrower for the automated valuation model result may be charged for an appraisal for the same real property within one year if the borrower has obtained a new or additional loan. The fee is not included in charges as defined in this chapter or in determining the maximum charges that may be made under this chapter.

(b) A licensee in a loan transaction secured by real property must provide notice as described in this section to a borrower of the borrower's right to receive a copy of the automated valuation model result, if the borrower has paid the fee for the automated valuation model result. A borrower's written request for a copy of an automated valuation model result must be received by the licensee no later than 90 days after the licensee has provided notice of the action taken on the application, including a notice of incompleteness, or the application has been withdrawn.

(c) The licensee shall mail or deliver a copy of an automated valuation model result no later than 15 days after receiving a written request from the borrower, or no later than 15 days after receiving the automated valuation model result, whichever occurs later.

(d) If the loan is proposed to be secured by real property, the notice of the borrower's right to a copy of the automated valuation model result must be given in at least 10-point boldface type, as a separate document in a form that the borrower may retain, and not later than 15 days after the licensee receives the written application. The notice must include an address to which the request must be sent and specify that the borrower's request for the automated valuation model result must be in writing and must be received by the licensee not later than 90 days after the licensee provides notice of the action taken on the application or a notice of incompleteness, or in the case of a withdrawn application, 90 days after the withdrawal. The notice must also include the following statement: "An automated valuation model is not an appraisal. It is a computerized property valuation system that is used to derive a property value." Release of the automated valuation model result to the borrower may be conditioned upon payment of the fee.

(e) This section does not apply to automated valuation model results obtained by licensees on property owned by the licensee, nor to automated valuation model results obtained by the licensee in anticipation of modifying any existing loan agreement if the licensee does not charge for the use of the automated valuation model result.

(f) For purposes of this section, an "automated valuation model" is a computerized property valuation system that is used to derive a real property value.

(g) Nothing in this section authorizes the use of an automated valuation model result instead of an appraisal that is required under territorial or federal law.

§854. Loan secured by real property

On any loan secured by real property, a licensee may not do either of the following:

- (1) Fail to disburse funds in accordance with a commitment to make a loan that is accepted by the applicant; or
- (2) Intentionally delay the closing of a loan for the sole purpose of increasing interest, costs, fees, or charges payable by the borrower.

§855. Escrow fee disallowed

Escrow fee are disallowed under this chapter.

§856. Fee for trustee

On any loan that is secured by real property, the fee to be paid to the trustee for reconveyance of the trust deed may be collected by the licensee for transmittal to the trustee. The fee is not included in charges defined in this chapter or in determining the applicable maximum charges that may be made under this chapter

§857. Fee for dishonored check

With respect to a loan under this chapter, a fee not to exceed \$40 for the return by a depository institution of a dishonored check, negotiable order of withdrawal, or share draft may be charged and collected by the licensee. The fee is not included in charges defined in this chapter or in determining the applicable maximum charges that may be made under this chapter.

§858. Delinquency fee

(a) A licensee may contract for and receive a delinquency fee not in excess of one of the following amounts:

- (1) For a period in default of not less than 10 days, an amount not in excess of \$25.
- (2) For a period in default of not less than 15 days, an amount not in excess of \$35.

(b) The delinquency fee may not be collected more than once for the same default and may be collected at the time of the default or at any time after the default. If the delinquency fee is deducted from any payment received after default occurs, and the deduction results in the default of a subsequent installment, no fee may be collected for the resulting default. The delinquency fee under this section is not included in charges defined in this chapter or in determining applicable maximum charges that may be made under this chapter.

(c) For open-end loans made under subchapter 8, a licensee may not collect or receive the delinquency fee set forth in subsection (a) unless there is a minimum of 20 days, inclusive, between the monthly billing date and the date upon which the minimum payment is due, exclusive of the applicable grace period provided in subsection (a).

- (d) This section does not apply to precomputed loans as described in section 886.

§859. Credit loss of income insurance

Credit loss-of-income insurance provided pursuant to this subchapter is subject to the following conditions:

(a) The insurance must provide indemnity in accordance with the terms of the policy after any single period of continuous unemployment of 45 days or less as determined by the policy, after which benefits must commence. The insurance may be offered with retroactive coverage to an earlier date based upon unemployment having continued for the period stated in the policy.

(b) The statement required by section 876 must include disclosure of the term of the coverage, the conditions of coverage, the benefits to be paid, and the exclusions from coverage.

(c) The borrower shall sign a certificate of voluntary acceptance of any credit loss-of-income insurance purchased. The certificate must state in boldface type that is larger than the type used in the loan contract that purchase of the insurance is not a necessary condition of receiving the loan, and that the insurance may be canceled by the borrower at any time within 15 days after it goes into effect. If the borrower cancels the insurance within 15 days, a full refund must be made of the premium paid.

(d) The minimum benefit must be payment up to the agreed amount on not less than four benefit payments, as stated in the policy which accrue during a covered period of unemployment, but during the first 60 days after inception of the policy, the minimum benefit may be payment up to the agreed amount of one-half the number of benefit payments, as stated in the policy, which accrue during a covered period of unemployment. The maximum benefits must be established in the contract of insurance.

(e) If combination credit disability and credit loss-of-income coverage is offered, credit disability and credit loss-of-income coverage must also be offered separately.

(f) Benefits may not be denied because the insured cannot establish a valid claim for unemployment compensation benefits solely because the former employer was not required to contribute to the Virgin Islands Unemployment Fund.

(g) If insurance with retroactive coverage is provided, the coverage must provide for a prorated payment based upon the fraction of the month during which the insured is unemployed, provided that the insured is continuously unemployed during the waiting period set forth in the policy. If insurance without retroactive coverage is provided, the coverage must provide for a prorated payment based upon the fraction of the month during which the insured is unemployed, after first excluding the elimination period set forth in the policy. For the purpose of this subchapter, a month is any period of 30 consecutive days.

(h) When unemployment continues for a number of months equal to or greater than the maximum number of benefit payments stated in the policy, the final payment must be equal to the difference between a benefit payment and the initial prorated payment.

(i) As used in this section, "benefit payment" means payment of an amount equal to a loan repayment installment or a maximum amount established in the contract of insurance, whichever is less.

(j) The minimum benefit payment offered may not be less than the amount of a loan repayment installment unless the borrower or borrowers have two or more sources of income. If the maximum benefit payment offered is less than the amount of a loan repayment installment, the borrower must also be offered coverage in which the maximum benefit payment is equal to the amount of a loan repayment installment.

(k) This section does not apply to any loan of a bona fide principal amount of \$50,000 or more, or to a duly licensed finance lender in connection with the loan or loans as determined in accordance with section 885.

§860. Loan made outside the territory

A loan lawfully made outside the Virgin Islands may be enforced in the Virgin Islands as to the unpaid principal balance of the loan together with the interest, consideration, brokerage, and all other charges, to the extent of but not to exceed the unpaid principal balance and the aggregate amount of interest, consideration, brokerage, and all other charges permitted by this chapter in connection with a loan of the same amount made within the Virgin Islands.

§861. Collection in the territory balance on loan made outside the Territory

Any person who collects or attempts to collect in the Virgin Islands the unpaid principal balance of a loan made outside the Virgin Islands and a greater aggregate amount of interest, consideration, brokerage, and all other charges in connection with the loan than is permitted by this chapter in connection with a loan of the same amount made within the Virgin Islands is subject to the provisions of this chapter.

§862. Contracting and negotiating a loan in the Territory

Any person who contracts for or negotiates in the Virgin Islands a loan to be made outside the Virgin Islands for the purpose of evading or avoiding the provisions of this chapter is subject to the provisions of this chapter.

§863. Display of License schedule and methods of computing charges

Every licensee shall display prominently in each licensed place of business a full and accurate schedule of the charges to be made and the method of computing the charges. The schedule is subject to the approval of the Board.

§864. Charges by authorized person only

No person, except as authorized by this chapter, may directly or indirectly charge, contract for, or receive any interest, discount, or consideration greater than the lender would be permitted by law to charge if the person were not a licensee under this chapter, upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit. This section applies to any person, who by any device, subterfuge, or pretense charges, contracts for, or

receives greater interest, consideration, or charges than is authorized by this chapter for any loan, use, or forbearance of money, goods, or things in action or for any loan, use, or sale of credit.

§865. Inducement

(a) It is unlawful for any licensee:

(1) to knowingly induce any borrower to split up or divide any loan with any other licensee ;or

(2) to induce or permit any borrower to be or to become obligated directly or indirectly, or both, under more than one contract of loan at the same time with the same licensee for the purpose, or with the result of, obtaining a higher rate of charge than would otherwise be permitted by this chapter, except as otherwise required by the Federal Equal Credit Opportunity Act (15 U.S.C. Sec. 1691 et seq.; P.L. 93-495 and Regulation B promulgated by the Board of Governors of the Federal Reserve System 12 C.F.R. 202 et seq.

(b) For the purpose of this section, "borrower" includes any husband and wife, whether jointly or severally obligated.

§866. Loan secured by a lien on a motor vehicle -disposition of repossessed or surrendered vehicle

(a) This section applies to a loan secured in whole or in part by a lien on a motor vehicle.

(b) Any provision in any loan contract to the contrary notwithstanding, at least 15 days' written notice of intent to dispose of a repossessed or surrendered motor vehicle must be given to all persons liable on the loan. The notice must be personally served or must be sent by certified mail, return receipt requested, or first-class mail, postage prepaid, directed to the last known address of the persons liable on the loan. Except as provided otherwise, a person is liable for any deficiency after disposition of the repossessed or surrendered motor vehicle only if the notice prescribed by this section is given not later than 60 days after repossession or surrender and does all of the following:

(1) States that those persons shall have a right to redeem the motor vehicle by paying in full the indebtedness evidenced by the loan note until the expiration of 15 days from the date of giving or mailing the notice, provides an itemization of the loan balance and of any costs and fees authorized by this chapter, and states the computation or estimate of the amount of any credit for unearned finance charges or canceled insurance as of the date of the notice.

(2) States either that there is a conditional right to reinstate the loan until the expiration of 15 days from the date of giving or mailing the notice and all the conditions precedent thereto or that there is no right of reinstatement and provides a statement of reasons therefor.

(3) States that, upon written request, the licensee shall extend for an additional 10 days the redemption period or, if entitled to the conditional right of reinstatement, both the redemption and reinstatement periods. The licensee shall provide the proper form for

applying for these extensions with the substance of the form being limited to the extension request, spaces for the requesting party to sign and date the form, and instructions that it must be personally served or sent by certified or registered mail, return receipt requested, to a person or office and address designated by the licensee and received before the expiration of the initial redemption and reinstatement periods.

(4) Discloses the place at which the motor vehicle will be returned to the persons liable on the loan upon redemption or reinstatement.

(5) Designates the name and address of the person or office to whom payment must be made.

(6) States the licensee's intent to dispose of the motor vehicle upon the expiration of 15 days from the date of giving or mailing the notice, or if by mail and either the place of deposit in the mail or the place of address is outside the Virgin Islands, the period must be 20 days instead of 15 days, and further, that upon written request to extend the redemption period and any applicable reinstatement period for 10 days, the licensee shall, without further notice, extend the period accordingly.

(7) Informs the persons liable on the loan that, upon written request, the licensee shall furnish a written accounting regarding the disposition of the motor vehicle as provided for in this subchapter. Advises them that the request must be personally served or sent by first-class mail, postage prepaid, or certified mail, return receipt requested, to a person or office and address designated by the licensee.

(8) Includes a notice, in at least 10-point bold type if the notice is printed, reading as follows:

"NOTICE: YOU MAY BE SUBJECT TO SUIT AND LIABILITY IF THE AMOUNT OBTAINED UPON DISPOSITION OF THE VEHICLE IS INSUFFICIENT TO PAY THE LOAN BALANCE AND ANY OTHER AMOUNTS DUE."

(c) Unless automatically provided to the borrower within 45 days after the disposition of the motor vehicle, the licensee shall provide a written accounting regarding the disposition to any person liable on the loan within 45 days after their written request, if the request is made within one year after the disposition. The accounting must itemize:

(1) The gross proceeds of the disposition.

(2) The reasonable and necessary costs and fees authorized by this chapter incurred in repossessing the motor vehicle.

(3) The satisfaction of indebtedness secured by any subordinate lien or encumbrance on the motor vehicle if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the licensee, the holder of a subordinate lien or encumbrance shall seasonably furnish reasonable proof of its interest, and unless it does so, the seller or holder need not comply with its demand.

(d) In all sales that result in a surplus, the licensee shall furnish an accounting as provided in subsection (c) whether or not requested by the borrower. The surplus must be returned to the borrower no later than 45 days after the sale is conducted.

§867. Loan secured by a lien on a motor vehicle - acceleration of the amount due

(a) This section applies to a loan secured in whole or in part by a lien on a motor vehicle.

(b) In the absence of default in the performance of any of the borrower's obligations under the loan, the licensee may not accelerate the maturity of any part or all of the amount due thereunder or repossess the motor vehicle.

(c) If, after default by the borrower, the licensee repossesses or voluntarily accepts surrender of the motor vehicle, any person liable on the loan shall have a right to reinstate the loan and the licensee may not accelerate the maturity of any part or all of the loan prior to the expiration of the right to reinstate, unless the licensee reasonably and in good faith determines that:

(1) The borrower or any other person liable on the loan by omission or commission intentionally provided false or misleading information of material importance on the credit application.

(2) The borrower or any other person liable on the loan has concealed the motor vehicle or removed it from the Territory in order to avoid repossession.

(3) The borrower or any other person liable on the loan has committed or threatens to commit acts of destruction or has failed to take care of the motor vehicle in a reasonable manner, so that the motor vehicle has or may become substantially impaired in value.

(d) Exercise of the right to reinstate the loan is limited to once in any 12-month period and twice during the term of the loan.

(e) This subsection governs the method by which a loan is reinstated with respect to curing events of default which were grounds for repossession or that occurred subsequent to repossession:

(1) If the default is the result of the borrower's failure to make any payment due under the loan, the borrower or any other person liable on the loan shall make the defaulted payments and pay any applicable delinquency charges.

(2) If the default is the result of the borrower's failure to keep and maintain the motor vehicle free from all encumbrances and liens of every kind, the borrower or any person liable on the loan shall either satisfy all the encumbrances and liens or, if the licensee satisfies the encumbrances and liens, the borrower or any other person liable on the loan shall the licensee for all reasonable costs and expenses incurred therefor.

(3) If the default is the result of the borrower's failure to keep and maintain insurance on the motor vehicle, the borrower or any other person liable on the loan shall either obtain the insurance or, if the licensee has obtained the insurance, the borrower or any other person liable on the loan shall reimburse the licensee for premiums paid and all reasonable costs and expenses incurred therefor.

(4) If the default is the result of the borrower's failure to perform any other obligation under the loan, unless the licensee has made a good faith determination that the default is so substantial as to be incurable, the borrower or any other person liable on the loan shall reimburse the licensee for all reasonable costs and expenses incurred therefor.

(5) Additionally, the borrower or any other person liable on the loan shall reimburse the licensee for actual and necessary fees in an amount not exceeding the amount specified in subsection (a), paragraph (3), subparagraph (F) of section 833 paid in connection with the repossession of a motor vehicle to a repossession agency, and actual fees.

(f) If the licensee denies the right to reinstatement under subsection (c) or paragraph (4) of subsection (e), the licensee shall have the burden of proof that the denial was justified in that it was reasonable and made in good faith. If the licensee fails to sustain the burden of proof, the licensee is not entitled to a deficiency.

§868. Notice to licensee or agent

A licensee, or the agent of a licensee, that has received a notice of agent, may not make a subsequent assignment to skip trace, locate, or repossess the vehicle without simultaneously, and in the same manner by which the assignment is given, advising the assignee of the assignment of the information contained in the notice.

§869. Deed of trust, mortgage or lien on real property

No licensee may take a deed of trust, mortgage, or lien upon real property as security for any loan made under this chapter, except any lien as is created by law upon the recording of an abstract of judgment. This section does not apply to any loan of a bona fide principal amount of \$5,000 or more as determined in accordance with section 885.

§870. Confession of judgment or power of attorney

No licensee may take any confession of judgment or any power of attorney, except a power of attorney taken to effectuate the transfer of the ownership of any motor vehicle or mobile home at the time of making the loan.

§871. Note or promise to pay

No licensee may take any note or promise to pay that does not accurately disclose the actual amount of the loan, the time for which it is made, and the agreed rate of charge or the annual percentage rate pursuant to Regulation Z promulgated by the Board of Governors of the Federal Reserve System.

§872. Blank spaces in instrument

No licensee may take any instrument in which blanks are left to be filled in after execution.

§873. Repayment of principal more than maximum terms

(a) No licensee may contract for a loan that provides for a scheduled repayment of principal over more than the maximum terms set forth in this section opposite the respective size of loans.

Principal amount of loan	Maximum term
Less than \$500	24 months and 15 days
\$500 but less than \$1,500	36 months and 15 days
\$1,500 but less than \$3,000	48 months and 15 days
\$3,000 but less than \$5,000	60 months and 15 days

(b) This section does not apply to open-end loans, or to a student loan made by an eligible lender under the Higher Education Act of 1965, as amended, 20 U.S.C. § 1070 et seq., or to a student loan made pursuant to the Public Health Service Act, as amended 42 U.S.C. § 294 et seq.

§874. A loan secured by assignment

The payment by any person in money, credit, goods, or things in action as consideration for any sale or assignment of, or order for, the payment of wages, salary, commissions, or other compensation for services, whether earned or to be earned, is, for the purposes of regulation under this chapter, a loan secured by the assignment. The amount by which the assigned compensation exceeds the amount of the consideration actually paid is interest and charges upon or for the loan, calculated from the date of payment to the date the compensation is payable.

This section may not be construed as modifying or affecting existing statutes governing wage assignments in the Territory, or as authorizing those assignments.

§875. No prohibition on statutory fee and premiums

(a) This chapter does not prohibit any licensee from contracting for, collecting, or receiving the following:

(1) The statutory fee paid by the licensee to any public officer for acknowledging, filing, recording, or releasing in any public office any instrument securing the loan or executed in connection with the loan.

(2) Premiums paid by the licensee of the kind and to the extent described in paragraph (2) of subsection (e) of Section 226.4 of Regulation Z promulgated by the Board of Governors of the Federal Reserve System, 12 C.F.R. 226.

(b) These amounts are not included in determining the maximum charges which may be made under this subchapter.

§876. Finance lender

(a) A finance lender shall deliver or cause to be delivered to the borrower, or any one thereof, at the time the loan is made, a statement showing in clear and distinct terms the name,

address, and license number of the finance lender and the broker, if any. The statement must show the date, amount, and maturity of the loan contract, how and when repayable, the nature of the security for the loan, if any, and the agreed rate of charge or the annual percentage rate pursuant to Regulation Z promulgated by the Board of Governors of the Federal Reserve System 12 C.F.R. 226.

(b) A finance lender shall obtain from the borrower a signed statement as to whether any person has performed any act as a broker in connection with the making of the loan. If the statement discloses that a broker or other person has participated, then the finance lender shall obtain a full statement of all sums paid or payable to the broker or other person. The finance lender shall keep these statements for a period of three years from and after the date the loan has been paid in full, or has matured according to its terms, or has been charged off.

(c) A finance lender shall permit payment to be made in advance in any amount on any contract of loan at any time. The licensee may apply the payment first to any agreed prepayment penalty, then to all charges due, including charges at the agreed rate or rates up to the date of payment, not to exceed the applicable maximum rate permitted by this chapter.

(d) A finance lender shall deliver or cause to be delivered to the person making any cash payment, or to the person who requests a receipt at the time of making any payment, at the time payment is made on account of any loan, a plain and complete receipt showing the total amount received and identifying the loan contract upon which the payment is applied.

(e) Upon repayment of any loan in full, a finance lender shall release all security for the loan, endorse and return any certificate of ownership, and cancel or plainly mark "paid" and return to the borrower or person making final payment, any note, mortgage, security agreement, trust deed, assignment, or order signed by the borrower, or an optical image reproduction thereof, except those documents that are a part of the court record in any action, or that have been delivered to a third person for the purpose of carrying out their terms, or a security agreement that secures any other indebtedness of a borrower to the licensee, or original documents otherwise required by law. When a trust deed on real property has been taken as security for a loan that has been subsequently paid in full, a duly executed request for reconveyance must be delivered to the trustor or trustee for the purpose of recording a reconveyance. A termination statement, furnished to the borrower must be deemed a release of the security when a financing statement has been filed pursuant to the Uniform Commercial Code, 11 A V.I.C. §9 -501et seq. For purposes of this subsection, an optical image reproduction shall meet all of the following requirements:

(1) The optical image storage media used to store the document must be nonerasable write once, read many (WORM) optical image media that does not allow changes to the stored document.

(2) The optical image reproduction must be made consistent with the minimum standards of quality approved by either the National Institute of Standards and Technology or the Association for Information and Image Management.

(3) Written authentication identifying the optical image reproduction as an exact unaltered copy of the note, trust deed, mortgage, security agreement, assignment or order must be stamped or printed on the optical image reproduction.

(f) A finance lender shall deliver or cause to be delivered to the potential borrower, or any one thereof, at the time the licensee first requires or accepts any signed instrument or the payment of any fee, a statement showing in clear and distinct terms the name, address, and license number of the finance lender and the broker, if any.

§877. Licensed broker

(a) A finance broker shall deliver to the borrower, or any one thereof, at the time the final negotiation or arrangement is made, a statement showing in clear and distinct terms the name, address, and license number of the broker and the finance lender. The statement must show the date, amount, and terms of the agreement with the broker, and all amounts paid or to be paid to the broker and to any person other than the finance lender.

(b) A finance broker shall deliver to the finance lender making the loan a copy of the statement referred to and described in subsection (a).

(c) A finance broker shall deliver to the person making any payment to the broker to be retained by the broker, a plain and complete receipt for each payment made, at the time it is made, showing the total amount received, and identifying the brokerage agreement and the loan contract upon which the payment is applied. If the payment is made by a person other than the finance lender, a copy of the receipt must be delivered to the finance lender.

(d) When the borrower pays the loan in full, the finance lender shall ensure that the finance lender fully complies with subsection (e) of section 876.

(e) A finance broker shall deliver to the potential borrower or borrowers, at the time the licensee first requires or accepts any signed instrument or the payment of any fee, a statement showing in clear and distinct terms the name, address, and license number of the broker and finance lender.

§878. A right of taking and using a security agreement

Nothing contained in this chapter may be construed to deny to any licensee under this chapter the right of taking and using a security agreement that, in addition to securing an original obligation, may secure the repayment of sums that may be advanced to, or expenditures that may be made at the direction of, the borrower subsequent to the execution of the security agreement and prior to the satisfaction thereof.

§879. Sell promissory notes

(a) A licensee may sell promissory notes evidencing the obligation to repay loans made by the licensee pursuant to this chapter or evidencing the obligation to repay loans purchased from and made by another licensee pursuant to this chapter to institutional investors and may make agreements with institutional investors for the collection of payments or the performance of services with respect to those notes.

(b) For the purpose of this section, "institutional investor" means the following:

(1) The United States or any state, district, territory, or commonwealth of the United States or any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state, district, territory, or commonwealth of the United States, or any agency or other instrumentality of any one or more of the foregoing.

(2) A bank, trust company, savings bank or savings and loan association, federal credit union, industrial bank or industrial loan company, finance lender, residential mortgage lender, or insurance company doing business under the authority of and in accordance with a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States.

(3) Trustees of pension, profit sharing, or welfare funds, if the pension, profit sharing, or welfare fund has a net worth of not less than \$15,000,000, except pension, profit sharing, or welfare funds of a licensee or its affiliate, self-employed individual retirement plans, or individual retirement accounts.

(4) A corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934, or any wholly-owned subsidiary of that corporation, if the purchaser represents that it is purchasing for its own account for investment and not with a view to, or for sale in connection with any distribution of the promissory note.

(5) A syndication or other combination of any of the foregoing that is organized to purchase the promissory note.

(6) A trust or other business entity established by an institutional investor for the purpose of issuing or facilitating the issuance of undivided interests in, the right to receive payments from, or that are payable primarily from, a pool of financial assets held by the trust or business entity if all of the following apply:

(A) The business entity is not a sole proprietorship.

(B) The pool of assets consists of one or more of the following:

(i) Interest bearing obligations.

(ii) Other contractual obligations representing the right to receive payments from the assets.

(iii) Surety bonds, insurance policies, letters of credit, or other instruments providing credit enhancements for these assets.

(C) The interests will be either of the following:

(i) Rated investment grade by Standard & Poor's Corporation or Moody's Investors Service, Inc. "Investment grade" means that the securities will be rated by Standard & Poor's Corporation as AAA, AA, A, or BBB, or by Moody's Investor Service, Inc., as Aaa, Aa, A, or Baa, including a rating with a "+" or "-" designation or other variations that occur within these ratings.

(ii) Sold to an institutional investor as otherwise defined in this section.

(D) The offer and sale of the securities is qualified under the Corporate Securities Law of 1968 or is registered under federal securities laws or is exempt from qualification or registration.

(c) In the absence of agreement to the contrary by the licensee and the institutional investor, all payments received from the collection of payments must be deposited and maintained in a trust account and must be disbursed from the trust account only in accordance with the instructions of the owner of the promissory note.

§880. Institutional lender and institutional investor

(a) A licensee that is a finance lender may sell to an institutional lender, or an institutional investor described in section 879 (b) (6), promissory notes evidencing the obligation to repay federally related mortgage loans, as defined in 24 C.F.R. 3500.2 purchased from and made by an institutional lender and may make agreements for the collection of payments and performance of services with respect to those notes. For purposes of this section, "institutional lender" means any bank, trust company, savings bank or savings and loan association, federal credit union, industrial loan company or residential mortgage lender doing business under the authority of and in accordance with a license, certificate or charter issued by the United States or this Territory.

(b) In the absence of agreement to the contrary by the licensee and the institutional investor or institutional lender, all payments received from the collection of payments must be deposited and maintained in a trust account and must be disbursed from the trust account only in accordance with the instructions of the owner of the promissory note.

§881. Retail Installment Contract

(a) No licensee may make a loan to refinance a retail installment contract, that is held by the licensee, its subsidiaries, or affiliates, unless all of the following conditions are met:

(1) The buyer has been making installment payments required by the retail installment contract for a period of not less than 90 days. The retail installment contract has a term of not less than 180 days and does not provide for any scheduled installment that is more than twice the amount of any other scheduled installment.

(2) The loan provides for additional proceeds other than for insurance in an amount not less than the outstanding principal balance of the retail installment contract and provides for payment in full of the retail installment contract.

(3) The licensee may not take a security interest in real property that is the principal residence of the borrower unless the loan has a principal amount of \$5,000 or more and the following notice written in the same language, for example, Spanish, as used in the loan documents, is incorporated into the statement used to comply with section 877:

"WARNING TO BORROWER: IF YOU ACCEPT THIS LOAN YOU WILL BE PUTTING UP YOUR HOME AS SECURITY. THIS MEANS THAT YOUR HOME

COULD BE SOLD WITHOUT YOUR PERMISSION AND WITHOUT ANY COURT ACTION IF YOU MISS ANY PAYMENT AS REQUIRED BY THIS LOAN."

This notice must be printed in not less than 14-point bold type, must be set apart from the rest of the statement by a border, and must appear directly above a signature block that must be signed by the borrower. A security interest described in this paragraph that is taken without prior notice and the borrower's signature, as required by this paragraph, is be void and unenforceable.

(4) The licensee may not sell, attempt to sell, or agree to sell any goods or services to the borrower, other than credit insurance as defined in section 849 and insurance required by the licensee to protect its security interest, until the loan has been in effect for at least 30 days. The amount of insurance required by the licensee to protect its security interest must not exceed the lesser of the principal amount of the loan or the replacement value of the security as determined by the insurer.

(5) A licensee that is an assignee of the retail installment contract shall continue to be subject under the loan to all equities and defenses of the borrower against the seller arising out of the sale, notwithstanding an agreement to the contrary.

(6) The loan must not provide for any scheduled installment that is more than twice the amount of any other scheduled installment. This paragraph does not apply to a loan of a bona fide principal amount of \$50,000 or more.

(7) If a loan of a bona fide principal amount of \$25,000 or more provides for any scheduled installment that is more than twice the amount of any other scheduled installment, the loan must contain the following provision:

"The payment schedule contained in this loan requires that you make a balloon payment of \$____ (amount of balloon payment) which is a payment of more than double the amount of the regular payments. You have an absolute right to obtain a new payment schedule if you default in the payment of any balloon payment."

(8) If the borrower defaults in the payment of any balloon payment, the borrower must be given an absolute right to obtain a new payment schedule. Unless agreed to by the borrower, the installment amounts under the new schedule may not be substantially greater than the average of the preceding installments.

(b) A loan made pursuant to this section is subject to this chapter.

(c) An action by any licensee or borrower on a loan made pursuant to this section must be tried in the judicial division in which the loan was signed by the borrower, in the judicial division in which the borrower resided at the time the loan was entered into, or in the judicial division in which the borrower resides at the commencement of the action.

(d) Paragraphs (6) and (7) of subsection (a) do not apply to open-end loans.

(e) A security interest provided by any retail installment contract serves as consideration in whole or in part for a loan made under this section.

§882. Instant loan check or live check

(a) As used in this section:

(1) "Instant loan check" or "live check" means any loan or extension of credit that is made available in the form of a check, draft, or any other negotiable instrument that can be deposited in a bank or used for third-party payments.

(2) "Instant loan check" or "live check" does not include a check, draft, or any other negotiable instrument provided in response to an application for credit or as a means of access to an existing loan or extension of credit, including a home equity or personal line of credit.

(b) No person may produce, advertise, offer, sell, distribute, or otherwise transfer for use in this Territory any live check unless the document bears the following phrase printed in 12-point type on the front of the document: "THIS IS A LOAN OR AN EXTENSION OF CREDIT. YOU WILL PAY CHARGES."

(c) Live checks are negotiable for only a period of 30 days after the date printed on the live check. Printed material accompanying the live check must advise the consumer to void and destroy the live check if it is not going to be negotiated.

(d) Loan solicitations must be mailed in envelopes with no indication that a negotiable instrument is contained in the mailing. Envelopes must be marked with "do not forward" instructions to the postal service if the intended addressee is no longer at the location.

(e) Any loan solicitation made through a live check must be honored in the full amount by the issuer unless the account on which the solicitation is made is closed by the consumer before the date the check is cashed.

(f) If a live check is stolen or incorrectly received by someone other than the intended payee, and the live check is cashed or otherwise negotiated based upon fraud or misrepresentation by someone other than the intended payee, the following safeguards for the consumer apply:

(1) The creditor, upon receipt of notification that the consumer did not negotiate the live check and is a victim of identity theft, shall provide, and the consumer may complete, a statement confirming that the consumer did not deposit, cash, or otherwise negotiate the live check.

(2) Upon completion of the confirmation statement by the consumer, the consumer who was the intended payee has no liability for the loan obligation, absent any fraud by that consumer.

(3) Upon receipt of notification that the consumer did not negotiate the live check and is a victim of identity theft, the creditor shall take appropriate actions.

(g) The Board may, after appropriate notice and opportunity for hearing, by order levy administrative penalties against a licensee who violates this section, and the licensee is liable for administrative penalties of no more than \$10,000 for each willful violation. Any hearing must be

held in accordance with this chapter and the regulations to be promulgated pursuant to this chapter, and the Board has all the powers granted under this chapter. The remedy available under this subsection is in addition to any other remedies available to the Board under this chapter that may be employed to enforce the provisions of this section.

(h) Nothing in this section precludes the application of any section or regulation under this chapter.

§883. John Warner National Defense Authorization Act for Fiscal Year 2007

(a) Any person who violates any provision of Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, (Public Law 109-364), or any provision of Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, violates this chapter.

(b) With respect to any consumer loans covered by Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, (Public Law 109-364), or by Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, a person that does not market consumer loans to, or does not extend those loans to, covered borrowers, as that term is defined under Section 232 of Title 32 of the Code of Federal Regulations, as published on August 31, 2007, in Volume 72 of the Federal Register, is not in violation of Section 394 of the Military and Veterans Code.

Subchapter 7. Exemptions- consumer loans

§884. Exemptions from bona fide principal amount of \$5,000 or more and \$50,000 or more

(a) The following sections do not apply to any loan of a bona fide principal amount of \$50,000 or more, or to a duly licensed finance lender in connection with the loan or loans, if the provisions of this section are not used for the purpose of evading: sections 794, 795, 842, 848, 849, 850, and 889, and the sections enumerated in subsection (b).

(b) The following sections do not apply to any loan of a bona fide principal amount of 5,000 or more, or to a duly licensed finance lender in connection with the loan or loans, if the provisions of this section are not used for the purpose of evading: sections 833, 835, 840, 841, 842 (a), and sections 844, 858, 860, 861, 863, 864, 865, 873, 880 and 909.

§885. General Exemptions

Any section that refers to this section does not apply to any loan of the bona fide principal amount specified in that section, or more, if that provision is not used for the purpose of evading this chapter. In determining under §§884, 838, or 839 or any section that refers to this section whether a loan is a loan of a bona fide principal amount of the amount specified in that section or more and whether the regulatory ceiling provision of that section is used for the purpose of evading this chapter, the following principles apply:

(a) If a borrower applies for a loan in a bona fide principal amount of less than the specified amount and a loan to that borrower of a bona fide principal amount of the specified amount or more if made by a licensed finance lender, no adequate economic reason for the increase

in the size of the loan exists, and by prearrangement or understanding between the borrower and the licensee a substantial payment is to be made upon the loan with the effect of reducing the bona fide principal amount of the loan to less than the specified amount within a short time after the making of the loan other than by reason of a requirement that the loan be paid in substantially equal periodical installments, then the loan may not be deemed to be a loan of the bona fide principal amount of the specified amount or more, and the regulatory ceiling provisions must be deemed used for the purpose of evading this chapter unless the loan complies with the other provisions of the section that includes the regulatory ceiling provisions.

(b) If a loan made by a licensed finance lender is in a bona fide principal amount of the specified amount or more, the fact that the transaction is in the form of a sale of accounts, chattel paper, goods, or instruments or a lease of goods, or in the form of an advance on the purchase price of any of the foregoing, may not be deemed to affect the loan or the bona fides of the amount thereof or to indicate that the regulatory ceiling provisions are used for the purpose of evading this chapter.

(c) For the purposes of determining whether the loan amount exceeds a regulatory ceiling, the "bona fide principal amount" must not be comprised of any charges or any other fees or recompense specified in section 833, including, but not limited to, amounts paid for insurance of the types specified in sections 848 and 849, 833, 840, 851, 852, 856, 857, 858 and 875. Nothing in this subsection may be construed to prevent those specified charges, fees, and recompense that have been earned and remain unpaid in an existing loan from being considered as part of the bona fide principal amount of a new loan to refinance that existing loan, if the new loan is not made for the purpose of circumventing a regulatory ceiling provision. This subsection is intended to define the meaning of "bona fide principal amount" as used in this chapter solely for the purposes of determining whether the loan amount exceeds a regulatory ceiling and is not intended to affect the meaning of "principal" for any other purpose.

Subchapter 8. Charges on Scheduled Balances to Consumer Loans

§886. Precompute charges

This subchapter applies only to loan contracts payable in substantially equal and consecutive monthly installments of principal and charges combined, the first of which is due not less than 15 days nor more than one month and 15 days from the date the loan is made. Instead of computing charges and applying payments as provided in section 842, a licensee may precompute charges and apply payments as follows:

(a) The total charges that would be earned if the contract were repaid exactly according to its terms, at the monthly rate stated in the contract, may be precomputed when the loan is made and added to the principal of the loan. For the purpose of computation, a month is that period of time from any date in one month to the corresponding date in the next month, and if there is no corresponding date, then to the last day of the next month. The principal amount of the loan is its face value as referred to in section 844. Every payment may be applied to the combined total of principal and precomputed charges until the contract is fully paid. The acceptance of payment of charges on loans made under this chapter may not be deemed to constitute payment deduction or receipt thereof in advance nor compounding under section 844. Precomputed charges are subject to the following adjustments:

(1) The portion of the precomputed charge applicable to any particular monthly installment period must bear the same ratio to the total precomputed charge, excluding any adjustment made for a first period of more than one month, as the balance scheduled to be outstanding during that monthly period bears to the sum of all monthly balances scheduled originally by the loan contract.

(2) If the loan contract is paid in full by cash, a new loan, refinancing, or otherwise, the borrower shall receive a rebate of that portion of the precomputed charge that is the difference between the total precomputed charge and the charges at the contract rate computed in accordance with section 842 or 843. The tender, by the borrower or at the borrower's request, of an amount equal to the unpaid balance, less the required rebate, must be accepted by the licensee in full payment of the contract.

(3) If three or more, but not all, installments are prepaid in full at any one time, all of the prior charges for the loan must be recalculated and all subsequent charges for the remaining term of the loan must be recalculated by applying each payment first to charges and the remainder to principal in accordance with section 842 or 843.

(4) If the payment date of all wholly unpaid installments on which no default charge has been collected is deferred one or more full months and the contract so provides, the licensee may charge and collect a deferment charge. The deferment charge may not exceed the portion of the precomputed charge applicable prior to deferment, to the first deferred monthly installment period multiplied by the number of months the maturity of the contract is deferred. The number of months may not exceed the number of full installments that are in default on the date of deferment or that may become due within 15 days of that date. When a deferment charge is made, no portion of the precomputed charge applies to the installment periods in which no installment payment is required by reason of the deferment. In computing any default charge or required rebate, the portion of the precomputed charge applicable to each deferred balance and installment period following the deferment period and before the deferred maturity must remain the same as that applicable to the balances and periods under the original loan contract. The charge may be collected at the time of deferment or at any time thereafter. Any payment received at the time of deferment may be applied first to the deferment charge and the remainder, if any, applied to the unpaid balance of the contract. However, if the payment is sufficient to pay, in addition to the appropriate deferment charge, any installment that is in default and the applicable default charge, it must be first so applied, and any the installment may not be deferred nor subject to the deferment charge.

(5) In the event of default of more than 10 days in the payment of one-half or more of any scheduled installment, the licensee may charge and collect a default charge not exceeding an amount equal to the portion of the precomputed charge applicable to the final installment period. The charge may not be collected more than once for the same default and may be collected at the time of the default or at any time thereafter. If the default charge is deducted from any payment received after default occurs, and the deduction results in the default of a subsequent installment, no charge may be made for the resulting default.

(6) A borrower and licensee may agree that the first installment due date may be not more than 15 days more than one month and the amount of the installment may be

increased by one-thirtieth of the portion of the precomputed charge applicable to a first installment of one month for each extra day.

(b) The statement to be given to the borrower as provided in subsection (a) of section 876 and the contract must disclose in addition to other required information the principal amount of the loan exclusive of charges and the basis for computing the refund of precomputed charges in case of prepayment in full or acceleration of maturity and for computing default and deferment charges. The delivery of a receipt of each payment showing the total amount of each payment complies with subsection (d) of section 876.

(c) If the maturity of the contract when the charges are precomputed is accelerated for any reason, the licensee shall make the same refund or credit as would be required if the contract was paid in full on the date of acceleration. The unpaid balance must be treated as the unpaid principal balance, and thereafter the unpaid balance of the contract must bear charges at the agreed rate of charge if the loan contract so provides.

§887. Precomputed loans

With respect to precomputed loans, licensees are subject to comply only with, and derive authority only from sections 886 and 888, notwithstanding any other provision of law that is not within this chapter.

§888 Charges on principal loan amount of \$5,000 or more

When charges on a loan of an original bona fide principal amount of \$5,000 or more have been precomputed in a manner similar to that provided in section 886, and the loan is prepaid in full by cash, a new loan, refinancing, or otherwise, or the maturity of the loan contract is accelerated for any reason, the borrower shall receive a rebate or credit of that portion of the precomputed charge that is the difference between the total precomputed charge and the charges at the contract rate computed in accordance section 842 or section 843, or on the basis of 12 equal months of 30 days each, on the assumption that all payments were received by the licensee on their respective due dates. This section does not apply to charges paid by the borrower to the lender or others, such as charges computed as a percentage of the loan, that are fully earned upon making the loan, or to charges agreed to be paid by the borrower upon prepayment of a loan secured by a lien upon real property.

Subchapter 9. Open-End Consumer Loan Programs

§889. Open-end credit program

As used in this subchapter, "open-end credit program" means a licensee's plan for making open-end loans pursuant to a loan agreement that sets forth the terms and conditions governing the use of the open-end credit program, expressly stating that the loan is made pursuant to this subchapter, and provides that:

(a) The borrower may use the open-end credit program to obtain money, goods, labor, or services on credit. The licensee makes open-end loans to the borrower for the purpose of paying money to or at the direction of the borrower or paying obligations that the borrower creates through use of the open-end credit program.

(b) The amount of each advance and the charges and other permitted costs are debited to an account.

(c) The charges are computed from time to time on the unpaid balances of the borrower's account, excluding from the computation any unpaid charges other than permitted fees, costs, and expenses.

(d) The borrower has the privilege of paying the account in full at any time.

§890. Purpose of open-end credit program

If an open-end credit program is not primarily for the purpose of purchasing or leasing goods or services from the licensee, then all credit extended through use of the program, including transactions that involve the purchase or lease of goods or services from the licensee, are subject to this chapter.

§891. Plan of business

(a) Subject to the written approval of the Board of the licensee's plan of business for making open-end loans as not being misleading or deceptive and subject to regulations the Board may adopt with respect to open-end loans under section 992, a licensee may make open-end loans pursuant to this subchapter and may contract for and receive thereon charges as set forth in sections 838, 839, and 843. These charges may be calculated on an amount not exceeding the greater of:

(1) The actual daily unpaid balances of the open-end account in the billing cycle for which the charge is made, in which case one-thirtieth of the monthly rate may be charged for each day the unpaid balance is outstanding.

(2) The average daily unpaid balance of the open-end account in the billing cycle for which the charge is made, which is the sum of the amount unpaid each day during that cycle divided by the number of days in that cycle. The amount unpaid on a day is determined by adding to any balance unpaid as of the beginning of that day all advances and other debits and deducting all payments and other credits made or received as of that day. The billing cycle must be monthly. A billing cycle is monthly if the closing date of the cycle is the same date each month or does not vary by more than four days from the regular date.

(b) This section does not apply to any open-end loan of a bona fide principal amount of \$5,000 or more as determined in accordance with section 906.

§892. Minimum monthly payment

(a) The minimum monthly payment is determined by any of the following:

(1) The amount calculated by multiplying the unpaid principal balance, after an advance and including the advance, by a percent agreed upon by the borrower and the licensee, which may not be less than $2\frac{1}{2}$ percent. The minimum payment must continue at the amount determined pursuant to this paragraph until a subsequent loan advance is made.

(2) The amount calculated by multiplying the unpaid balance at the end of each billing cycle by a percent agreed upon by the borrower and the licensee, which may not be less than 5 percent.

(3) Any other bona fide amount agreed upon by the borrower and the licensee which may be sufficient to pay all charges and some principal, originally scheduled to be due by the borrower as of each scheduled due date.

(b) This section does not apply to any open-end loan of a bona fide principal amount of \$5,000 or more as determined in accordance with section 906.

§893. Fees, costs and expenses

On open-end loans, the licensee may contract for and receive the fees, costs, and expenses permitted on other loans, including those permitted by subsection (a) paragraphs (1), (2), (3), and (4) of section 848 and subsection (d) of section 849, except that the charge for credit insurance under section 849 must be on a monthly basis and must be actuarially consistent with the premium rate for the same coverage.

This section does not apply to any open-end loan of a bona fide principal amount of \$5,000 or more as determined in accordance with section 906.

§894. Credit, life or disability insurance

(a) In lieu of subsections (b), (c), (d), (e), and (f) of section 849, with respect to open-end loans, a licensee may provide credit insurance with the borrower's consent, in a form to be approved by the Board, in an amount not in excess of the amount of the indebtedness. For credit life or disability insurance, the licensee may collect from the borrower any amount established by the Virgin Islands Insurance Code or regulations.

(b) If life insurance is provided, and if the insured borrower dies during the term of the loan contract, the insurance must be sufficient to pay the total amount due on the loan outstanding on the date of borrower's death, without any exception, reservation, or limitation.

(c) If disability insurance is provided, and if the insured borrower becomes disabled during the term of the loan contract, the insurance must be sufficient to pay all amounts attributable to the loan balance at the time of commencement of disability that subsequently become due on the loan thereafter during the period of disability, in accordance with subsection(d) of section 850, without any exception, reservation, or limitation.

(d) If loss-of-income insurance is provided, and if the insured borrower becomes unemployed during the term of the loan contract, the insurance must be sufficient to pay all amounts attributable to the loan balance at the time of commencement of unemployment in accordance with subsection (d) of section 859 without any exception, reservation, or limitation.

(e) Any credit insurance that is provided must be in force as soon as the loan is made, or coverage is agreed upon, whichever is later. No credit insurance written in connection with an open-end loan may be canceled by the lender because of delinquency of the borrower in the making of the minimum payments thereon unless one or more of the payments is past due for a period of

90 days or more, and the lender shall advance to the insurer the amounts required to keep the insurance in force during that period, which amounts may be debited to the borrower's account.

(f) This section does not apply to any open-end loan of a bona fide principal amount \$5,000 or more as determined in accordance with section 906.

§895. Open-end loan with variation

Section 844 applies to open-end loans with the following variations:

(a) To comply with section 844, in the case of open-end loan advances directly to the borrower, the licensee shall deliver to the borrower, at the time of each loan advance, an amount equal to the face value of the advance.

(b) To comply with section 844, in the case of an open-end loan advance in the form of a payment by the licensee to a person from whom a borrower obtained money, goods, labor, or services, the licensee shall deliver to that person the amounts necessary to fulfill the borrower's obligation to that person under the transaction.

(c) This section does not apply to any open-end loan of a bona fide principal amount of \$5,000 or more as determined in accordance with section 906.

§896. Required inclusion in open-end agreement

Instead of the requirements of section 871, the open-end loan agreement must contain the name, address, and license number of the finance lender and must disclose the nature of the security taken, the method of determining the minimum payments that will be required to repay the initial advance and any subsequent advances on the loan, and the agreed rate of charge.

§897. Statement

Instead of the requirements of section 876 (a), with respect to open-end loans, except in the case of an account that the licensee considers uncollectible, or for which delinquency collection procedures have been instituted, the licensee shall deliver or cause to be delivered to the borrower, or any one thereof, for each billing cycle at the end of which there is an outstanding balance in the account, or to which a finance charge is imposed, a statement setting forth the outstanding balance in the account at the beginning of the billing cycle, the date and amount of any subsequent loan advance during the period, the amounts and dates of crediting to the account during the billing cycle that payments are credited, the amount of any finance charge debited to the account during the billing cycle, the annual percentage rate of finance charge determined under Regulation Z promulgated by the Board of Governors of the Federal Reserve System 12 C.F.R. 226, the balance on which the finance charge was computed, the closing date of the billing cycle, the outstanding balance on that date, and the minimum monthly payment required in the absence of any additional advance. If there is any change in the nature of the security for the loan since the next preceding advance, the statement must contain or be accompanied by a statement of the nature of the security for the loan after that change.

§898. Open-end loan with no balance

Subsection (e) of section 876 does not apply to an open-end loan that has no balance outstanding if the open-end loan agreement continues in effect.

899. Change in term

Section 872 does not apply to a change in terms of an open-end loan if notice is given to the borrower in accordance with 12 C.F.R. 226.9 (c).

§900. Change in terms

Sections 791(a), 794, 863, and 876(b) do not apply to a licensee with respect to advances made through an open-end credit program.

§901. Fees

The payment of fees for participation in an open-end credit program, the acceptance by a borrower of the form of the licensee's program, and the borrower's agreement to the licensee's program may not be deemed a collateral sale, purchase, or agreement within the terms of sections 833, 846, or 847.

§902. Advertising

(a) Nothing in this subchapter limits the authority of the Board to disapprove advertising with respect to open-end loans pursuant to section 804.

(b) This section does not apply to any open-end loan of a bona fide principal amount of \$5,000 or more as determined in accordance with section 906.

§903. Open-end loan

The subchapter does not apply to loans other than open-end loans.

This section does not apply to any open-end loan of a bona fide principal amount of \$5,000 or more as determined in accordance with section 906.

§904. Applicability to open-end loan under \$5,000

Section 886 does not apply to open-end loans.

§905. Principal amount required

An open-end loan is in compliance with section 869, if it is an open-end loan of a bona fide principal amount of \$5,000 or more as determined in accordance with section 906.

§906. Applicability to open-end loan

(a) Any section that refers to this section or that is subject to section 885 does not apply to any open-end loan of the bona fide principal amount specified in the regulatory ceiling provision of that section or more, or to a licensed finance lender in connection with the loan if that provision is not used for the purpose of evading this chapter.

(b) In determining whether an open-end loan is an open-end loan of a bona fide principal amount specified in any section in this subchapter or more and whether the regulatory ceiling provision of that section is used for the purpose of evading this chapter, the open-end loan must be deemed to be for that amount or more if both the following criteria are met:

(1) The line of credit is equal to or more than the bona fide principal amount of the specified amount.

(2) The initial advance was equal to or more than the bona fide principal amount of the specified amount.

(c) A subsequent advance of money of less than the specified amount pursuant to the open-end loan agreement between a borrower and a licensed finance lender must be deemed to be a loan of a bona fide principal amount of the specified amount if the criteria of paragraphs (1) and (2) of subsection (b) have been met, even though the actual unpaid balance after the advance or at any other time is less than the bona fide principal amount of the specified amount.

(d) Notwithstanding subsections (b) and (c), the amount of the line of credit of an unsecured open-end loan is the criterion to determine whether an unsecured open-end loan is of a bona fide principal amount or more specified in any section in this chapter.

(e) For the purposes of determining whether the loan amount exceeds a regulatory ceiling, section 885 (c) applies to open-end loans.

§907. Disclosure of Applications

(a) (1) Upon the request of a person who has obtained a police report to initiate an identity theft investigation, a finance lender engaged in the business of making consumer loans shall provide to the person, or to a law enforcement officer specified by the person, copies of all application forms or application information containing the person's name, address, or other identifying information pertaining to the application filed with the finance lender by an unauthorized person.

(2) Before providing copies pursuant to paragraph (1), the finance lender shall inform the requesting person of the categories of identifying information that the unauthorized person used to complete the application and shall require the requesting person to provide identifying information in those categories and a copy of the police report.

(3) The finance lender shall provide copies of all forms and information required by this section, without charge, no later than 10 business days after receipt of the person's request and submission of the required copy of the police report and identifying information.

(b) Before a finance lender provides copies to a law enforcement officer pursuant to paragraph (1) of subsection (a), the finance lender may require the requesting person to provide them with a signed and dated statement by which the person does all of the following:

- (1) Authorizes disclosure for a stated period.
- (2) Specifies the name of the agency or department to which the disclosure is authorized.
- (3) Identifies the type of records that the person authorizes to be disclosed.

(c) The finance lender shall include in the statement to be signed by the requesting person a notice that the person has the right at any time to revoke the authorization.

SUBCHAPTER 10. Consumer Loan Penalties

§908. Willful act of excessive charge

(a) If any amount other than, or in excess of, the charges permitted by this chapter is willfully charged, contracted for, or received, the contract of loan is void, and no person has any right to collect or receive any principal, charges, or recompense in connection with the transaction.

(b) If any provision of this chapter is willfully violated in the making or collection of a loan, whether by a licensee or by an unlicensed person subject to this chapter, the contract of loan is void, and no person has any right to collect or receive any principal, charges, or recompense in connection with the transaction.

§909. Unintentional Act of Excessive charge

(a) If any amount other than or in excess of the charges permitted by this chapter is charged or contracted for, or received, for any reason other than a willful act of the licensee, the licensee shall forfeit all interest and charges on the loan and may collect or receive only the principal amount of the loan.

(b) Subsection (a) does not apply to an error in computation if:

(1) the licensee shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error, and

(2) no later than 15 days after discovering the error the licensee notifies the borrower of the error and makes whatever adjustments in the account are necessary to correct the error.

§910. Unintentional violation in the making or collection of a consumer loan

(a) If any provision of this chapter is violated in the making or collection of a loan, for any reason other than a willful act of the licensee, the licensee shall forfeit all interest and charges on the loan and may collect or receive only the principal amount of the loan.

(b) Subsection (a) does not apply to a violation if

(1) the licensee shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error, and

(2) no later than 15 days after discovering the error the licensee notifies the borrower of the error and rectifies the error by making the appropriate changes in the documents or account and by taking other action necessary to correct the error.

§911. Fine and/or imprisonment for willful violation- consumer loans

Any person who willfully violates any provision of this chapter or who willfully violates any regulation or order adopted pursuant to this chapter, must upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than one year, or by both. However, no person may be imprisoned for the violation of any regulation or order unless the person had knowledge of the regulation or order. Conviction, under this section, does not preclude the Board from exercising the authority in section 827.

§912. Act done or omitted in good faith

No provision imposing liability under this chapter, including the provisions of sections 909 (a) and 910(a), apply to any act done or omitted in good faith in conformity with any written general rule, regulation, or specific ruling of the Board, notwithstanding that after the act or omission has occurred, the written general rule, regulation, or specific ruling is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

§913. Commission, fee or other compensation

A finance lender or broker licensed under this chapter may not pay any commission, fee, or other compensation to an unlicensed individual for conducting activities that require a license, unless that unlicensed individual is exempt from licensure pursuant to this chapter.

SUBCHAPTER 11. Commercial Loan

§914. Definitions

(a) "Charges" include the aggregate interest, fees, bonuses, commissions, brokerage, discounts, expenses, and other forms of costs charged, contracted for, or received by a licensee or any other person in connection with the investigating, arranging, negotiating, procuring, guaranteeing, making, servicing, collecting, and enforcing of a loan or forbearance of money, credit, goods, or things in action, or any other service rendered.

(b) "Charges" do not include commissions received as a licensed insurance agent or broker.

(c) "Commercial loan" means a loan of a principal amount \$5,000 or more, or any loan under an open-end credit program, whether secured by either real or personal property, or both, or

unsecured, the proceeds of which are intended by the borrower for use primarily for other than personal, family, or household purposes.

For purposes of determining whether a loan is a commercial loan, the lender may rely on any written statement of intended purposes signed by the borrower. The statement may be a separate statement signed by the borrower or may be contained in a loan application or other document signed by the borrower. The lender is not required to ascertain that the proceeds of the loan are used in accordance with the statement of intended purposes.

§915. Exemptions

Sections 792, 794, 795, 802, and 803 do not apply to any commercial loan of a bona fide principal amount of \$5,000 or more, or to a duly licensed finance lender in connection with any loan or loans, if the provisions of this section are not used for the purpose of evading this chapter.

§916. Commercial Loans of a bona fide principal amount

In determining whether a loan is a loan of a bona fide principal amount of the specified amount or more, the following principles apply:

(a) If a borrower applies for a loan in a bona fide principal amount of less than the specified amount and a loan to that borrower of a bona fide principal amount of the specified amount or more is made by a licensed finance lender, no adequate economic reason for the increase in the size of the loan exists, and by prearrangement or understanding between the borrower and the licensee a substantial payment is to be made upon the loan with the effect of reducing the bona fide principal amount of the loan to less than the specified amount within a short time after the making of the loan other than by reason of a requirement that the loan be paid in substantially equal periodical installments, then the loan may not be deemed to be a loan of the bona fide principal amount of the specified amount or more.

(b) A subsequent advance of money of less than a bona fide principal amount of the specified amount pursuant to a revolving or open-end loan agreement or similar agreement between a borrower and a licensed finance lender which gives the borrower the right to draw upon all or any part of the line of credit, or a loan agreement providing for the making of advances to the borrower from time to time up to an aggregate maximum amount which gives the borrower the right to draw all or any part of the total amount, must be considered a loan of a bona fide principal amount of the specified amount or more if the line of credit or the aggregate maximum amount is a bona fide principal amount of the specified amount or more and the initial advance was a bona fide principal amount of the specified amount or more even though the actual unpaid balance after the advance or at any other time is less than a bona fide principal amount of the specified amount.

(c) If a loan made by a licensed finance lender has a bona fide principal amount of the specified amount or more, the fact that the transaction is in the form of a sale of accounts, chattel paper, goods, or instruments, or a lease of goods, or in the form of an advance on the purchase price of any of the foregoing, may not be considered to affect the bona fides of the amount thereof.

(d) For the purposes of this section, "the specified amount" means \$5,000.

(e) For the purposes of determining whether the loan amount exceeds a regulatory ceiling, the “bona fide principal amount” may not be comprised of any charges or any other fees or recompense specified in sections 889 and 919. Nothing in this subsection may be construed to prevent those specified charges, fees, and recompense that have been earned and remain unpaid in an existing loan from being considered as part of the bona fide principal amount of a new loan to refinance that existing loan, provided the new loan is not made for the purpose of circumventing a regulatory ceiling provision. This subsection is intended to define the meaning of “bona fide principal amount” as used in this chapter solely for the purposes of determining whether the loan amount exceeds a regulatory ceiling and is not intended to affect the meaning of “principal” for any other purpose.

§917. Institutional Investor

(a) A licensee may sell promissory notes evidencing the obligation to repay loans made by the licensee pursuant to this subchapter or evidencing the obligation to repay loans purchased from and made by another licensee pursuant to this subchapter to institutional investors and may make agreements with institutional investors for the collection of payments or the performance of services with respect to those notes.

(b) For the purposes of this section, “institutional investor” means the following:

(1) The United States or any state, district, territory, or commonwealth thereof, or any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state, district, territory, or commonwealth of the United States, or any agency or other instrumentality of any one or more of the foregoing.

(2) Any bank, trust company, savings bank or savings and loan association, federal credit union, industrial bank or industrial loan company, finance lender, or insurance company doing business under the authority of and in accordance with a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States.

(3) Trustees of pension, profit sharing, or welfare funds, if the pension, profit sharing, or welfare fund has a net worth of not less than \$15,000,000, except pension, profit sharing, or welfare funds of a licensee or its affiliate, self-employed individual retirement plans, or individual retirement accounts.

(4) Any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of that corporation; provided, that the purchaser represents that it is purchasing for its own account for investment and not with a view to or for sale in connection with any distribution of the promissory note.

(5) Any syndication or other combination of any of the foregoing that is organized to purchase the promissory note.

(6) A trust or other business entity established by an institutional investor for the purpose of issuing or facilitating the issuance of undivided interests in, the right to receive

payments from, or that are payable primarily from, a pool of financial assets held by the trust or business entity if all of the following apply:

- (A) The business entity is not a sole proprietorship.
- (B) The pool of assets consists of one or more of the following:
 - (i) Interest bearing obligations.
 - (ii) Other contractual obligations representing the right to receive payments from the assets.
 - (iii) Surety bonds, insurance policies, letters of credit, or other instruments providing credit enhancements for these assets.
- (C) The interests will be either of the following:
 - (i) Rated investment grade by Standard & Poor's Corporation or Moody's Investors Service, Inc. "Investment grade" means that the securities will be rated by Standard & Poor's Corporation as AAA, AA, A, or BBB, or by Moody's Investor Service, Inc., as Aaa, Aa, A, or Baa, including a rating with a "+" or "-" designation or other variations that occur within these ratings.
 - (ii) Sold to an institutional investor as otherwise defined in this section.
- (D) The offer and sale of the securities is qualified under the Uniform Securities Act, chapter 23, section 60 et seq. of this title, or is registered under federal securities laws, or is exempt from qualification or registration.

(c) In the absence of agreement to the contrary by the licensee and the institutional investor, all payments received from the collection of payments must be deposited and maintained in a trust account and must be disbursed from the trust account only in accordance with the instructions of the owner of the promissory note.

§918. Institutional lender or investor

(a) A licensee that is a finance lender may sell to an institutional lender, or an institutional investor described in section 917 (b)(6), promissory notes evidencing the obligation to repay real estate secured business purpose loans, as defined in Section 24 CFR 3500.5, purchased from and made by an institutional lender, and may make agreements for the collection of payments and performance of services with respect to those notes. For purposes of this section, "institutional lender" means any bank, trust company, savings bank or savings and loan association, federal credit union, or industrial loan company doing business under the authority of and in accordance with a license, certificate or charter issued by the United States or a state or territory of the United States

(b) In the absence of agreement to the contrary by the licensee and the institutional investor or institutional lender, all payments received from the collection of payments must be

deposited and maintained in a trust account and must be disbursed from the trust account only in accordance with the instructions of the owner of the promissory note.

§919. Allowable fee for a dishonored check

With respect to a loan under this chapter, a fee not to exceed \$40 for the return by a depository institution of a dishonored check, negotiable order of withdrawal, or share draft may be charged and collected by the licensee. The fee is not included in charges as defined in this chapter.

§920. Open-End Credit Programs

As used in this chapter, "open-end credit program" means a licensee's plan for making open-end loans pursuant to a loan agreement that sets forth the terms and conditions governing the use of the open-end credit program, expressly stating that the loan is made pursuant to this subchapter, and provides that:

(a) The borrower may use the open-end credit program to obtain money, goods, labor, or services or credit, and the licensee makes open-end loans to the borrower for the purpose of paying money to, or at the direction of, the borrower or paying obligations that the borrower creates through use of the open-end credit program.

(b) The amount of each advance and the charges and other permitted costs are debited to an account.

(c) The charges are computed from time to time on the unpaid balances of the borrower's account excluding from the computation any unpaid charges other than permitted fees, costs, and expenses.

(d) The borrower has the privilege of paying the account in full at any time.

§921. Fine and/or imprisonment for willful violation-commercial loans

Any person who willfully violates any provision of this chapter relating to commercial loans, or who willfully violates any regulation or order adopted under this chapter relating to commercial loans, shall, upon conviction, be punished by a fine of not more than \$10,000, by imprisonment not more than one year, or by both fine and imprisonment. However, no person may be imprisoned for the violation of any regulation or order unless the person had knowledge of the regulation or order. Conviction under this section does not preclude the Board from exercising the authority provided in section 827.

SUBCHAPTER 12. REGULATIONS

§922. Authority of the Board to issue rules and regulations

The Board may promulgate regulations and specific rulings, demands, and findings for the enforcement of this chapter, in addition to, and within the general purposes of, this chapter.

Thus passed by the Legislature of the Virgin Islands on December 28, 2018.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 6th Day of January, A.D., 2019.



A large, stylized blue ink signature of Myton D. Jackson.

Myton D. Jackson
President

A blue ink signature of Jean A. Forde, consisting of two distinct loops.

Jean A. Forde
Legislative Secretary



Bill No. 32-0256 is hereby approved.

Witness my hand and the seal of the Government of the United States Virgin Islands at Charlotte Amalie, St. Thomas, this 17 day of January, 2019 A.D.

A blue ink signature of Albert Bryan, Jr., featuring a large, stylized 'A' and 'B'.

Albert Bryan, Jr.
Governor