INTERIM REPORT

OF THE

CONSUMER CREDIT STUDY COMMISSION

To

THE GOVERNOR

And

THE GENERAL ASSEMBLY OF VIRGINIA

SD 15

COMMONWEALTH OF VIRGINIA
Department of Purchases and Supply
Richmond
1972

**Mr. Kostel does not believe that the seven percent add-on rate for industrial loan companies and second mortgages should be extended.

MEMBERS OF COMMISSION

HERBERT H. BATEMAN, *Chairman*
EDGAR BACON
NICHOLAS R. BELTRANTE
GARRY G. DEBRUHL
M. PATTON ECHOLS, JR.
JERRY H. GEISLER
CHARLES GRIFFEN
HENRY E. HOWELL, JR.
AUBREY V. KIDD
GEORGE J. KOSTEL
MRS. ELEANOR P. SHEPPARD
ROBERT A. SLOAN
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MRS. EARL S. VEST
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G. WILLIAM WHITE, JR.
ROGER C. WILEY, JR.

Interim Report
of the
Consumer Credit Study Commission

to

The Governor and The General Assembly of Virginia

Richmond, Virginia

TO: HONORABLE LINWOOD HOLTON, *Governor of Virginia*

and

THE GENERAL ASSEMBLY OF VIRGINIA

The Consumer Credit Study Commission was created by Senate Joint Resolution No. 41 of the 1970 Session of the General Assembly. A conviction that the entire law governing consumer credit should be examined closely by a commission created for the purpose had developed due to several circumstances, among them a rising public interest in the plight of the consumer, especially in credit transactions, the availability of the Uniform Consumer Credit Code, a comprehensive scheme for regulation of consumer credit sponsored by the National Conference of Commissioners of Uniform State Laws, and interest on the part of creditors and merchants who were concerned about the lack of clarity and consistency in the law governing consumer credit. The following resolution was adopted.

SENATE JOINT RESOLUTION NO. 41

To create the Consumer Credit Study Commission

Whereas, in the recent past, there has been a tremendous growth in the amount of consumer credit extended in the Commonwealth; and

Whereas, the growth of consumer credit has been accompanied by an increase in the types of consumer credit charges and in the complexity of the laws and regulations relating to such charges; and

Whereas at the present time, deferred payment charges, various interest charges, time purchase plan charges, credit card plan charges and other related costs of consumer credit present a complex and confused picture to the ordinary consumer; now, therefore, be it

Resolved by the Senate, the House of Delegates concurring, That there is hereby created the Virginia Consumer Credit Study Commission to investigate The Uniform Consumer Credit Code and the laws and provisions relating to various types of consumer credit in the Commonwealth, to develop recommendations with respect to the simplification of provisions regulating consumer credit, and with respect to the Uniform Consumer Credit Code, and to suggest improvements in such laws to assure the fair and adequate protection of consumers with respect to consumer credit transactions.

The Commission shall consist of fifteen members to be appointed as follows: five to be appointed by the Speaker of the House of Delegates from the membership thereof; three to be appointed by the President of the Senate from the membership thereof; and seven to be appointed by the Governor.

Members of the Commission shall be reimbursed for their expenses, but shall receive no other compensation. For the expenses of the Commission and for expenses incidental to the conduct of its study, there is hereby appropriated from the contingent fund of the General Assembly the sum of ten thousand dollars.

All agencies of the State shall cooperate with the Commission in its investigations.

The Commission shall complete its report and submit its recommendations to the Governor and the General Assembly on or before December one, nineteen hundred seventy-one.

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Pursuant to his authority under the resolution, the Speaker of the House appointed Delegates Edgar Bacon of Jonesville, Gary G. DeBruhl of Critz, Jerry H. Geisler of Hillsville, George J. Kostel of Clifton Forge, and Eleanor P. Sheppard of Richmond. The Lieutenant Governor appointed State Senators Herbert H. Bateman of Newport News, M. Patton Echols, Jr. of Arlington, and Henry E. Howell, Jr. of Norfolk. The Governor appointed Nicholas R. Beltrante of Alexandria; Charles Griffen of Roanoke, Aubrey V. Kidd of Richmond, Robert A. Sloan of Springfield, Jeff D. Smith of Richmond, Mamie Vest of Roanoke, and Delegate Benjamin H. Woodbridge, Jr. of Fredericksburg.

Senator Bateman was elected Chairman of the Commission. Mr. DeBruhl was elected Vice-Chairman. The Division of Statutory Research, represented by Sally T. Warthen, provided staff support and assistance.

In accordance with its directive, the Commission first made an indepth study of the Uniform Consumer Credit Code (UCCC) both as an independent statutory scheme and in comparison with current Virginia law. In doing so the Commission, in cooperation with a subcommittee of the Code Commission studying the UCCC, conducted public hearings at which lending industry and consumer representatives were invited to speak. Representatives of consumer groups proposed another overall statutory scheme, called the National Consumer Act, as well as substantial amendments to the UCCC. In addition to the excellent testimony presented by experts in the field of consumer credit, the Commission had at its disposal a wealth of information which has been written about the problems of consumer credit and the provisions of the Uniform Consumer Credit Code. The Commission has carefully considered both the UCCC and the National Consumer Act, and has also addressed itself to specific problems in the law governing consumer credit and possible methods of correcting them. After much deliberation, the Commission makes the following report.

RECOMMENDATIONS

I. THE AMOUNT OF PREMIUM CHARGED FOR CREDIT LIFE AND ACCIDENT AND SICKNESS INSURANCE SHOULD BE REGULATED BY THE STATE CORPORATION COMMISSION. IN ADDITION THE REGULATING BODY SHOULD REQUIRE INSURANCE COMPANIES AND CREDITORS MARKETING SUCH INSURANCE TO REPORT TO IT SUCH INFORMATION AS IT MAY PRESCRIBE WITH RESPECT TO INCOME FROM AND EXPENSES INCIDENT TO PROVIDING SUCH INSURANCE IN ORDER TO PERMIT THE SOUND REGULATION OF THOSE COVERAGES.

The Commission's work has disclosed that large quantities of insurance, particularly credit life and accident and sickness insurance, are marketed by creditors, including banks, loan companies, and retail merchants, at the time loans or purchases are made. Some creditors act as agents of the insurers; others are holders of group policies covering all electing creditors who qualify. In most cases, the cost of premiums is borne by the borrower who elects coverage. Although it has not been possible to obtain definitive statistics on the point, there is substantial evidence that, through a dividend, rate credit or commission procedure, the creditor receives considerably greater compensation from the sale of insurance than his cost in processing it. The profit of insurance companies writing in this field does not appear to be excessive, as any excess above an acceptable profit is generally passed to the creditor. In some cases, insurance or reinsurance is handled, and profits accumulated, by a company affiliated with the creditor.

Because the only way these kinds of insurance can be obtained is through the creditors, no meaningful competition exists which would tend to hold rates down. In fact, since the excess of the premium over the cost, losses and reasonable profit is usually returned to the creditor, a type of reverse competition exists; the creditor prefers, and therefore offers, insurance with high rates, as the higher the premium, the higher the rate credit to the creditor. In Virginia, where rates are not regulated, the most frequent charge per annum for credit life insurance appears to be $1.00 per $100 of decreasing term coverage per year, considerably higher than the average rate set in states in which rates are regulated.

The following table is derived from the National Association of Insurance Commissioners' Report on Credit Life and Disability Insurance (1970), and shows the rates set for credit life insurance, per $100 of coverage in regulated states.

State	1. Loss Ratio	2. Prima Facie Rate (Life)
Alabama	—	—
Alaska	—	—
Arizona	50%	75c
Arkansas	50%	75c
California	50%	50-65c
Colorado	66⅔%	75c
Connecticut	—	50c
Delaware	50%	75c
District of Columbia	—	—
Florida	50%	75c
Georgia	—	—
Hawaii	50%	75c
Idaho	50%	60c
Illinois	50%	65c
Indiana	50%	75c
Iowa	—	65c
Kansas	—	—
Kentucky	—	75c
Louisiana	—	—
Maine	—	50c
Maryland	—	70c
Massachusetts	—	50c
Michigan	—	60c
Minnesota	50%	75c
Mississippi	—	—
Missouri	—	—
Montana	—	75c
Nebraska	50%	64c
Nevada	50%	75c
New Hampshire	50%	50c
New Jersey	—	44-64c
New Mexico	50%	65c
New York	—	44-64c
North Carolina	—	—
North Dakota	—	75c
Ohio	50%	75c
Oklahoma	50%	85c
Oregon	50%	60c
Pennsylvania	—	50c
Puerto Rico	—	75c
Rhode Island	—	50c
South Carolina	—	—
South Dakota	50%	75c
Tennessee	50%	75c
Texas	50%	75c°
Utah	50%	75c
Vermont	—	44-70c
Virginia	—	—
Virgin Islands	—	—
Washington	50%	60c
West Virginia	50%	65c
Wisconsin	50%	75c
Wyoming	50%	60c

° 75¢ (single premium) and 65¢ (monthly outstanding balance).

1. "Loss ratio" means the percentage of the premium which is represented by claims. At the national average claims cost of about $.30 per one hundred dollars of coverage, a 50% loss ratio allows a premium of $.60 per one hundred dollars of coverage per year.
2. "Prima facie rate" is the rate permitted unless set differently by administrative procedure.

For the reasons given above, the Commission recommends that the rates charged for credit life and accident and sickness insurance be regulated. The State Corporation Commission should be directed to require both creditors and insurers to report data as to cost and profit. On the basis of the data collected the Corporation Commission would set rates for these coverages which allow a fair but not excessive return to the insurer and to the issuing creditor. From the statistics given above as to the rates of coverage in regulated states, it appears that the rate set by the Commission for credit life insurance should be $.75 or less per one hundred dollars of coverage.

II. NON-PROFIT DEBT COUNSELING BY NON-LAWYERS SHOULD BE PERMITTED, LICENSED AND REGULATED.

In the past two decades, the public attitude toward borrowing has changed drastically. Instead of a last resort, it is now a way of life. Advertisements and merchandising techniques encourage borrowing and buying on credit. Partly because of the almost universal availability of credit, consumers frequently find themselves so deeply in debt that they cannot keep up their payments. Often their attempts to extricate themselves only worsen their positions. The results are repossessions, judgments, garnishments and bankruptcies.

In many communities in other states credit counseling offices, operated on a non-profit basis, have been created to help people deal with their credit problems before they are so serious as to be irreparable. Often the offices are sponsored by lenders, merchants or community agencies.

Counselors advise debtors on how to handle their credit problems, and if necessary gain the creditors' cooperation and devise debt liquidation plans. In any case where the services of a lawyer are required, the credit counselor refers his customer to a lawyer of the customer's choice.

In Virginia such credit counseling service has been impossible because of a provision in the Code (§ 54-44.1) to the effect that it constitutes the unauthorized practice of law. The Commission proposes that legislation be enacted permitting debt counseling by qualified people who are not licensed to practice law. Because debt adjusting for profit has, in the past, been a source of difficulty, the Commission proposes that such counseling be permitted on a non-profit basis only, be licensed by and subject to regulation by the State Corporation Commission, and be subject to rules to prevent conflicts of interest.

III. ASSIGNEES OF CONSUMER PAPER SHOULD BE SUBJECT TO THE CONSUMER'S DEFENSES FOR SIXTY DAYS FOLLOWING TRANSFER OF THE PAPER.

One of the subjects most prominently discussed among consumer protectionists is the application of the holder in due course doctrine in consumer credit sales. The buyer of a consumer product will often sign a negotiable instrument for the amount of credit extended. The merchant will discount the note with a bank or finance company (the assignee) which usually assumes the status of a holder in due course. If the product is never delivered and the merchant leaves town, to cite an extreme example, the buyer must continue to pay the assignee, as his defense against the seller is not available against an assignee who is a holder in due course. If negotiable paper is prohibited in consumer transactions, a clause in the buyer's contract waiving all defenses serves the same purpose.

In a few states, the use of negotiable instruments and waiver of defense clauses in consumer transactions has been prohibited. Consumer protection advocates urge that such a prohibition should be enacted in all jurisdictions. The Commission is concerned that such drastic action would be harmful to small merchants, and to those who are going into business for the first time. If the protection of the holder in due course doctrine were eliminated completely, banks and finance companies might be unwilling to discount the commercial paper of any but large well-established merchants, leaving newer and smaller merchants with the necessity for financing their own sales or unable to compete at all. The interest of consumers would not be served, for competition among merchants and lenders would be reduced.

As a measure which will alleviate at least the most glaring injustices of the present practice, but which avoids the dangers of totally abolishing waivers of defenses, the Commission recommends legislation providing that defenses are available against any assignee of consumer paper until sixty days after notice of assignment has been sent to the consumer.

IV. THE EXPIRATION DATE ON § 6.1-319.1, WHICH REMOVED THE INTEREST CEILING ON FIRST MORTGAGES, SHOULD BE DELETED.

In the latter portion of 1969, prevailing interest rates across the country for first mortgages rose above 8 percent. The federally authorized rate on FHA and VA insured mortgages was raised to 8.5 percent effective in January, 1970. As the highest permissible interest rate on first mortgages in Virginia was 8 percent, lenders could not lawfully make first mortgage loans in Virginia at more than that rate and were unwilling, for the most part, to make loans at 8 percent or lower. For this reason lenders diverted any funds they had available for mortgage investment to other states whose usury limitations were not so restrictive. By November of 1969 the value of residential construction contracts in Virginia had decreased by 32.4 percent from the 1968 levels, as contrasted to a decrease of 11.8 percent in the balance of the United States.[3]

Disturbed that the monetary situation was contributing to a crisis in housing, the 1970 Session of the General Assembly enacted § 6.1-319.1, as emergency legislation which removed for a two year period all ceilings on interest rates for first mortgages. This section expires July 1, 1972. Ceilings were removed rather than raised for three reasons: first, the patrons of the measure believed that first mortgages constitute an identifiable market in which supply and demand play a significant part and thus that a usury rate is not necessary to insure that prevailing rates do not climb above a reasonable level in relation to those charged for other types of credit. Second, the ceiling had been raised only two years before from 6 to 8 percent, an amount which had not proved sufficient. Third, they believed an artificial ceiling is useless as a means of restricting the rate of interest.

If no action is taken § 6.1-319.1 by its terms will expire on July 1, 1972 and Virginia will revert to the 8 percent ceiling on first mortgage loans, except that corporations, professional associations, partnerships, and real estate investment trusts are precluded from the defense of usury by § 6.1-327, and borrowers with FHA and VA insured loans are precluded from the defense of usury by § 6.1-328 as amended at the 1970 session. An alternative to taking no action would be to enact amendments

3. See figures from Wenzlick, *Observations on the Usury Provisions in the Commonwealth of Virginia* (1970) based on F. W. Dodge Figures.

to § 6.1-319 to increase the contract interest rate ceiling to a level high enough to insure availability of first mortgage loans in Virginia. The Commission strongly recommends against either of these alternatives. To do nothing risks recurrence of the conditions existing in late 1969 and early 1970. We fear that raising the contract interest rate ceiling above 8 percent would tend to produce a psychological climate which would result in pushing interest rates up to the higher ceiling, when they might otherwise remain lower.

Having studied the problem carefully, the Commission has found that removal of the ceiling on first mortgage loans has accomplished the purpose of making significantly more mortgage money available without resulting in unduly high rates. Statistics fully illustrate that overall mortgage investment in the State has risen significantly since the enactment of the section in February 1970. Although rates went as high as 9 percent in early 1970 on Virginia first mortgage loans the rate remained comparable to that prevailing in the nation though there was no statutory ceiling in Virginia. Interest rates in Virginia have fluctuated consistently with the cost of money in other markets, and in fact have dropped in recent months below the former interest ceiling of 8 percent. The following sample statistics, supplied by the Federal Home Loan Bank Board's Monthly Release and Federal Reserve Bulletins, are of interest: [4]

	Most Frequent Virginia Savings and Loan New Home Rate	U.S. Average S&L New Home Rate	U.S. Average Long Term Govt. Securities	U.S. Average Long Term Corporate Rate
March-June 1970	8.5-8.75	8.53	6.66	8.08
October-December 1970	8.5	8.5	6.13	7.9
April-June 1971	7.25-7.75	7.38	5.88	7.47

It is imperative that the General Assembly prevent the unfortunate conditions in the housing market and the general economy of Virginia which would recur if the 8 percent ceiling were reimposed and interest rates should rise again. Because it has been demonstrated that interest rate ceilings are not necessary in the first mortgage market for the protection of the public, the Commission recommends that the expiration date in § 6.1-319.1 be removed. If § 6.1-319.1 is not amended to delete the July 1, 1972 expiration date, FHA and VA loans can be made after that date at rates in excess of 8 percent, while conventional lenders will be precluded from doing so even if the prevailing interest rate in the national market should rise above 8 percent. The absence of competition from conventional lenders would tend to produce higher rates of interest on FHA and VA loans in Virginia than might otherwise be charged or necessary.

Experience has shown that a statutory ceiling on first mortgage loans does not control or substantially affect the rate charged by lenders. Whenever a statutory ceiling is lower than the going rate of interest in the national money market, it merely prevents loans from being made and diverts capital otherwise available to Virginia to other jurisdictions where loans can legally be made at the prevailing rate. In summary, an arbitrary ceiling on first mortgage loans in Virginia would not reduce interest rates;

4. A more complete set of tables is included in Appendix A.

it merely would prohibit the making of loans, thus stifling the economic growth of Virginia by producing again a severe crisis in the homebuilding industry in Virginia.

V. THE SEVEN PERCENT ADD-ON INTEREST CEILING ON SECOND MORTGAGES AND INDUSTRIAL LOAN COMPANIES SHOULD BE EXTENDED TWO YEARS.

In 1970, largely for the reasons outlined above, the General Assembly added § 6.1-234.1 to the Code, which in effect raised the permissible rate for industrial loan companies, and by reference for all mortgage loans made by unregulated lenders, except first mortgages, from six to seven percent charged in advance ("7 percent add-on," an effective rate of approximately 13 percent). A July 1, 1972 expiration date was set for the measure.

It is the recommendation of the Commission that this expiration date be changed to July 1, 1974. The second mortgage has often been used as a last resort method of raising money, and as it is uncertain that competition for this kind of loan would keep rates low, the Commission believes the interest ceiling should not be removed entirely. Increasingly, however, the second mortgage is being used by purchasers who are able to assume from the seller a partially paid first mortgage having an interest rate below the rate being charged for new first mortgage loans. It is often cheaper for such a buyer to assume the existing first mortgage and raise the needed additional funds through a second mortgage loan at higher rates than to borrow the full amount to be financed at current first mortgage rates. The 7 percent add-on rate appears to be realistic in terms of being at or slightly higher than the rate necessary to induce lenders to make second mortgage loans available. It would be unfortunate if an unrealistically low interest ceiling diverted funds from this necessary money market in which many prudent and sophisticated borrowers have good reason to participate. It is possible that interest rates may rise. The Commission therefore recommends another two year extension of the present ceiling.

VI. TECHNICAL AMENDMENTS TO INTEREST STATUTES.

Section 6.1-319.1 now leaves some doubt whether a variable interest rate, set in conformity with the prime rate or some other exterior standard, can be used. As the law currently stands, it appears that a variable rate not to exceed 8 percent could be used under § 6.1-319, but that the words "interest rate stated therein" contained in § 6.1-319.1 preclude such variable rates if that section is the legal basis of a first mortgage loan made at a rate in excess of 8 percent. To make it abundantly clear that variable rate loans are not permissible where the first mortgage loan is made at a rate in excess of 8 percent by authority of § 6.1-319.1, the Commission recommends an amendment to § 6.1-319.1 defining "rate stated therein" so as expressly to preclude interest rates which may vary according to exterior circumstances.

Section 6.1-327, which prohibits a plea of usury to corporations, partnerships, and other artificial business entities, refers to a "partnership which has filed a certificate pursuant to Chapter 3 of Title 50 of this Code." This language has proved confusing for some, as filing requirements for limited partnerships appear in Chapter 2 as well as in Chapter 3 of Title 50. It appears that most persons affected have taken the precaution to file under both chapters, in order to be certain they are covered. To rid the section of any chance of ambiguity, however, the Commission recommends adding a reference to Chapter 2 of Title 50.

In addition, the Commission recommends enactment of a technical amendment to § 6.1-328 to make the references to federal agencies more accurate.

VII. THE UNIFORM CONSUMER CREDIT CODE SHOULD NOT BE ADOPTED AT THIS TIME. THE LIFE OF THE COMMISSION SHOULD BE CONTINUED TO STUDY THE UCCC AND OTHER PROBLEMS IN THE LAW OF CONSUMER CREDIT, IN RELATION TO DEVELOPMENTS EXPECTED IN THE NEAR FUTURE AT STATE AND FEDERAL LEVELS. AN APPROPRIATION SUFFICIENT TO OBTAIN INFORMATION AS TO THE PROBABLE ECONOMIC IMPACT OF THE PROVISIONS OF THE UCCC AND VARIOUS OTHER PROPOSALS SHOULD BE INCLUDED IN THE RESOLUTION CONTINUING THE STUDY.

The Uniform Consumer Credit Code is designed as a complete statutory scheme governing all aspects of consumer credit. Its provisions would supersede the Small Loan Act, all usury statutes, and most provisions of our law which speak to credit transactions with individuals. Changes in current law would be substantial. For instance, one of the major premises of the UCCC is that with full disclosure of credit terms and free entry of lenders into the credit market, interest rates would fluctuate with the availability of money and usury rates would be unimportant. The Code thus sets a procedure for easy entry into consumer lending by licensure, full disclosure, and high authorized interest ceilings which would be equally applicable to all consumer lenders including merchants. The underlying theory of the UCCC approach is that competition will keep rates low. This approach is interesting and innovative, but has yet to be proved workable. Especially as to small loans and time sales, there has been no opportunity for collection of empirical data, as the experiment has been made in only a few states and there only very recently.

Other new material in the UCCC includes the abolition of deficiency judgments and limitation of the holder-in-due-course doctrine in consumer transactions, both of which are explained below; limitations on the types of collateral which can be taken; and prohibition of assignments of wages and confessions of judgment.

The Commission is hesitant to recommend such sweeping changes as those embodied in the UCCC before extensive additional research can be done as to their practical impact. The UCCC is being studied by the New York Law Revision Commission—the same Commission which influenced substantial changes in the Uniform Commercial Code—and many other state bodies, whose contributions may be valuable. The experience of the states which have adopted a version of the UCCC (to date Oklahoma, Utah, Indiana, Colorado, Wyoming and Idaho) may be documented and available in the near future. Finally, there are numerous proposals pending in Congress the ultimate disposition of which would have a significant impact upon the course of consumer legislation in Virginia.

For these reasons, the Commission asks that its life be extended for further study of the UCCC, and that sufficient funds be allocated to it in order that reliable statistics and analysis relative to impact may be collected. In addition, the Commission should be directed to continue its study of other consumer credit problems, some of which are outlined below.

It has been recently suggested that the maximum amount which small loan companies are authorized to lend should be increased. Some consumer groups have urged that the law as to deficiency judgments be changed so as to require a consumer lender to make a choice between repossessing his collateral and suing the borrower for the amount of the loan. Both of these topics should be explored further.

Garnishment of a working person's wages by creditors, while a useful tool of collection, has always presented problems. Some creditors will extend credit merely on the basis of employment without regard to the debtor's general creditworthiness, knowing that the garnishment remedy is available. In order to ensure that the debtor is not deprived of all means of livelihood, the law has traditionally restricted the amount which may be removed from his wages. Recent federal and State statutes have raised this exemption to an effective level, but the amount of the exemption from garnishment does not reflect the number of dependents or other responsibilities of the debtor. In addition, because the employer is burdened with much of the expense of administering a garnishment, repeated garnishments typically lead to loss of employment—exactly what the debtor needs least. This possibility generates pressure to file bankruptcy petitions which would not be necessary except to protect the debtor's job.

The commission has sought without success ways of regulating garnishment of wages which would limit the abusive aspects without abolishing it altogether. We are not prepared to recommend its abolition as it can be and often is used as a legitimate tool of collection. Because of the difficulty of the subject, we recommend that the continued Commission study it further.

Another problem which has generated interest is the one and one half percent per month maximum interest rate for credit cards and open-end credit plans. Complaints have been heard that the ceiling, imposed on sellers for the first time in 1970, is unreasonably high. However, all revolving credit plans allow a twenty-five day period of interest-free credit, which makes the actual effective rate for most borrowers or buyers substantially lower. A study made by the accounting firm of Peat, Marwick, Mitchell & Co. for the Virginia Bankers Association indicates that 15.24 percent of average outstanding balances was due in 1970 as interest from credit card holders to Virginia banks. Total direct cost to banks of operating credit card plans excluding overhead and cost of funds was 18.14 percent of average outstanding balances in the same year. Projected costs for the year 1971 are substantially lower, but still slightly above revenues. Figures compiled by the firm of Touche, Ross, Bailey and Smart for a national sampling of retail merchants indicate that in 1968 service charge revenue was 4.36 percent of net credit sales, whereas credit processing costs were 7.77 percent. At a public hearing held by a subcommittee on credit cards, both merchants and bankers stressed the fact that despite the one and one half percent rate, credit department revenue has been less than cost.

The merchants of course, are operating credit departments because the availability of credit increases sales. However, the excess cost of operating a credit department is typically passed on to the consumer in higher cash prices or higher prices for services, thus prejudicing the cash customer in favor of the credit customer. The unfortunate effects of setting an unrealistically low service charge for revolving accounts were documented by the Graduate School of Business Administration of the University of Washington in a study made soon after a voter initiative lowered the rate ceiling for retail credit from one and one half percent per month to one percent per month.[5] Among the effects were higher cash prices, institution of charges for such services as check cashing, packaging and delivery, higher down payments, and denial of credit to the less creditworthy, forcing them to obtain higher priced credit from small loan companies or illegal lenders.

Revolving credit is a new area for banks and a relatively new field for many merchants. As experience is gained, we expect to obtain a clearer picture which should establish a basis for determination whether the present maximum charge is proper. For these reasons, the Commission strongly recommends that any action with respect to the service charge or credit card accounts be deferred pending study and accumulation of additional data.

A related subject which has received widespread notice is billing of interest on open end credit plans. Such plans allow one billing period of free credit, after which a finance charge is assessed. The controversy exists as to what balance should be used to compute the finance charge. For instance: A buyer makes a purchase of $100 on July 10. If the billing date is August 1, he will have no interest charge on that purchase on the August 1 statement. Thus, if he pays the full amount on August 31 (before his September 1 billing date) he will have 51 days of free credit. If he does not pay before the September 1 billing date, his September 1 statement will contain an interest charge for the entire month of August. If he pays $50 on August 15, his interest charge depends upon which of several billing methods is used:

A. Previous balance method: interest is charged for the entire amount, based on the balance outstanding on August 1, in this instance $100.

B. Average daily balance method: interest is charged on an amount reached by averaging the balance outstanding on each day during the period. On the facts given the interest would be assessed on approximately $75.

C. Closing balance method: interest is assessed on the amount outstanding on September 1, in this instance $50.

In none of these basic methods are additional extensions of credit made during the month of August usually included. Many variations of these billing methods are used.

Of the three methods outlined, it appears that the average daily balance method is the fairest to both consumer and creditor. The debtor is assessed interest for the amount he has paid only for the period before he paid it. The closing balance method is unfavorable to the creditor, as the consumer may receive interest-free credit for almost two months. The previous balance method is unfavorable to the consumer, as he receives no credit for payments unless payment is made in full. Unfortunately, the calculations required to reach the average daily balance are so cumbersome as to be impracticable except by computer. Merchants whose business size does not justify computerized billing would be prejudiced by any remedial legislation prohibiting the use of the previous balance as a basis for interest charges.

The method of assessing charges must be disclosed to the consumer pursuant to federal law. Thus the borrower or purchaser has full knowl-

5. *Washington State: Initiative 245, The Impact of A Consumer Credit Interest Limitation Law (1970).*

edge of the charge being made and the method of computation. He can control to a great degree the dollar amount of charges by altering his payment date, and even receive a considerable amount of credit with no charge at all or a charge far below the stated maximum rate. Because the current law allows this flexibility, and because we believe the detrimental effects of suggested changes would outweigh the benefits, the Commission makes no recommendations for legislative changes regarding billing methods and interest rates for open-end credit plans. We do feel that additional study should be given to the problems involved, in the hope that solutions which do not create additional problems or injustices may be discovered.

One further subject which has been suggested for study is the confession of judgment. In a few states, a confession of judgment can be used as an unconscionable collection practice. A lender will file the confessed judgment the day a loan is made, in whatever court is most convenient for him. If the loan is paid, presumably the lender takes no steps to enforce his lien, but often neglects to have it removed from the court records. Thus a consumer can have judgments of which he knows nothing outstanding against him in distant courts. In Virginia, the procedure called confession of judgment now contains so many safeguards that it would be more accurate to call it appointment of an agent for service of process. Judgment must be confessed by the agent named in the instrument, in the specific court named in the instrument. The debtor must be notified, and has 21 days thereafter in which to assert a defense and have the judgment set aside and a full trial held. Because of these safeguards, the Commission believes that abuse is rare if it exists at all. As the procedure is a useful tool in areas where interstate lending, particularly among businessmen, is widespread, the Commission feels that no action is needed.

Respectfully submitted,

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* Mr. Howell participated in the deliberations of the Commission but resigned, before the final report was conceived, on becoming Lieutenant Governor.

Appendix A

VARIATIONS OF FIRST MORTGAGE INTEREST RATES
CHARGED BY VIRGINIA SAVINGS & LOAN ASSOCIATIONS
FOR NEW HOME LOANS
JANUARY 1, 1970 THROUGH SEPTEMBER 31, 1971

1970	HIGH	LOW	MOST FREQUENT	(U. S. AVERAGE)*1
January-February *2				
Entire State	8	8	8	8.45
March-June				8.53
Northern Virginia	9	8	8-1/2	
Tidewater/Peninsula	9	8	8-3/4	
Central	9	8	8-3/4	
Lynchburg	9	8-1/2	8-3/4	
Roanoke	9	8	8-1/2	
Other	9	8	8-1/2	
July-September				8.57
Northern Virginia	9	8	8-1/2	
Tidewater/Peninsula	9	8	8-1/2	
Central	9	8	8-1/2	
Lynchburg	9	8-1/2	8-3/4	
Roanoke	8-1/2	8	8-1/2	
Other	9	8-1/2	8-1/2	
October-December				8.50
Northern Virginia	9	7-1/2	8-1/2	
Tidewater/Peninsula	9	8	8-1/2	
Central	9	8	8-1/2	
Lynchburg	9	8-1/2	8-1/2	
Roanoke	9	8	8-1/2	
Other	9	8	8	
1971				
January-March				7.52
Northern Virginia (6)	8	7	7	
Tidewater/Peninsula (6)	7 3/4	7	7-1/4	
Central (6)	8	7	7-1/2	
Lynchburg (5)	8-1/2	7-1/4	7-1/2	
Roanoke (5)	8	7	7-1/2	
Danville (4)	8	7-1/4	7-3/4	
Other (4)	8-1/2	7	7-3/4	

1971	HIGH	LOW	FREQUENT	(U. S. AVERAGE)*1
April-June				7.38
Northern Virginia (6)	8	7	7-1/2	
Tidewater/Peninsula (9)	8	7	7-1/4 - 7-1/2	
Central (10)	8-1/2	7	7-1/2 - 7-3/4	
Lynchburg (4)	8-1/4	7-1/2	7-1/2	
Roanoke (4)	8	7-1/2	7-1/2	
Danville (3)	8	7-1/2	7-3/4	
Other (5)	8-1/2	7-1/4	7-1/2	
July-September				7.66
Northern Virginia (9)	8-1/4	7-1/2	7-3/4	
Tidewater/Peninsula (8)	7-3/4	7	7-1/2	
Central Virginia (9)	8-1/4	7	7-1/2	
Lynchburg (4)	8	7-1/2	7-1/2	
Roanoke (6)	8	7-1/2	7-1/2 - 7-3/4	
Danville (4)	8	6	7-1/2	
Other (6)	9	7	7-1/2 - 8-1/2	

*1 Savings & Loan Associations only.
*2 Assumption
* Source: Federal Home Loan Bank Board's Monthly Release

Note: Number of associations reporting appears in ( ).

Based on data collected by the Virginia Savings and Loan League. Furnished by request of the Commission.

VARIATIONS IN FIRST MORTGAGE INTEREST RATES
CHARGED BY REPRESENTATIVE VIRGINIA BANKS
FOR NEW HOME LOANS
March 1, 1970 through September 30, 1971
by quarters

1970	High	Low
March - June		
Tidewater	9	8¼
Richmond	8-3/4	8½
Northern Virginia	9	8½
Piedmont/Valley	8½	8
Central/Southwest	9	8
July - September		
Tidewater	9	8¼
Richmond	8-3/4	8½
Northern Virginia	9	8½
Piedmont/Valley	9	8½
Central/Southwest	9	8
October-December		
Tidewater	8½	8
Richmond	8½	8
Northern Virginia	8½	8½
Piedmont/Valley	9	8
Central/Southwest	8-3/4	8
1971		
January - March		
Tidewater	8	7
Richmond	8	7½
Northern Virginia	7½	7
Piedmont/Valley	8½	8
Central/Southwest	8½	7½
April-June		
Tidewater	7¼	6.9
Richmond	7½	7
Northern Virginia	7½	7½
Piedmont/Valley	8½	7½
Central/Southwest	8	7¼
July - September		
Tidewater	7½	7¼
Richmond	7½	7½
Northern Virginia	7-3/4	7½
Piedmont/Valley	8½	7-3/4
Central/Southwest	7-3/4	7½

Supplied by Virginia Bankers Association on request of the Commission.

SELECTED INTEREST RATES

	90-day Treasuries	Long-term Governments	Long-term Municipals	Long-term Corporates	Conventional	FHA Guaranteed
1969						
Jan.	6.13	5.74	4.58	6.59	7.55	--
Feb.	6.12	5.86	4.74	6.66	7.60	7.99
Mar.	6.01	6.05	4.97	6.85	7.65	8.05
Apr.	6.11	5.84	5.00	6.89	7.76	8.06
May	6.03	5.85	5.19	6.79	7.75	8.06
June	6.43	6.06	5.58	6.98	8.00	8.35
July	6.98	6.07	5.61	7.08	8.10	8.36
Aug.	6.97	6.02	5.74	6.97	8.20	8.36
Sep.	7.08	6.32	5.83	7.14	8.25	8.40
Oct.	6.99	6.27	5.80	7.33	8.30	8.48
Nov.	7.24	6.51	5.88	7.35	8.35	8.48
Dec.	7.81	6.81	6.50	7.72	8.35	8.62
1970						
Jan.	7.87	6.86	6.38	7.91	8.55	--
Feb.	7.13	6.44	6.19	7.93	8.55	9.24
Mar.	6.63	6.39	5.81	7.84	8.55	9.20
Apr.	6.50	6.53	6.24	7.83	8.55	9.10
May	6.83	6.94	6.70	8.11	8.55	9.11
June	6.67	6.99	6.81	8.48	8.55	9.16
July	6.45	6.57	6.40	8.44	8.60	9.11
Aug.	6.41	6.75	5.96	8.13	8.60	9.07
Sep.	6.12	6.63	5.90	8.09	8.50	9.01
Oct.	5.90	6.59	6.07	8.03	8.50	8.97
Nov.	5.28	6.26	5.79	8.05	8.45	8.90
Dec.	4.87	5.97	5.21	7.64	8.30	8.40
1971						
Jan.	4.44	5.91	5.08	7.36	7.95	--
Feb.	3.69	5.84	4.92	7.08	7.75	--
Mar.	3.38	5.71	5.00	7.21	7.60	7.32
Apr.	3.85	5.75	5.22	7.25	7.55	7.37
May	4.13	5.96	5.71	7.53	7.65	7.75
June	4.74	5.94	5.65	7.64	7.70	7.89

Note: Missing data reflects periods of adjustment to changes in maximum permissible contract interest rates.

Source: Federal Reserve Bulletin, various issues, 1969, 1970, and 1971.

The two mortgage rate series are compiled by the FHA and printed in the Federal Reserve Bulletin.

A BILL

To amend and reenact §§ 38.1-482.7, 38.1-482.8, 38.1-482.9 and 38.1-482.13 of the Code of Virginia, relating to credit life and accident and sickness insurance.

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.1-482.7, 38.1-482.8, 38.1-482.9 and 38.1-482.13 of the Code of Virginia be amended and reenacted as follows:

§ **38.1-482.7. Forms of policies, etc., to be filed with Commission; approval or disapproval by Commission.**—(a) All forms of policies, certificates of insurance, statements of insurance, endorsements and riders intended for use in this State shall be filed with the Commission.

(b) The Commission shall within thirty days after the filing of any such policies, certificates of insurance, statements of insurance, endorsements and riders, disapprove any such form if it contains provisions which are contrary to, or not in accordance with, any provision of this article or of any rule or regulation promulgated thereunder, *or if it finds that the premium rates or charges are not reasonable in relation to the benefits provided.*

(c) If the Commission notifies the insurer that the form is disapproved, it is unlawful thereafter for such insurer to issue or use such form. In such notice, the Commission shall specify the reason for its disapproval and state that a hearing will be granted within twenty days after request in writing by the insurer. No such policy, certificate of insurance, statement of insurance, endorsement or rider, shall be issued or used until the expiration of thirty days after it has been so filed, unless the Commission shall give its prior written approval thereto.

(d) The Commission may, at any time after a hearing held not less than twenty days after written notice to the insurer, withdraw its approval of any such form on any ground set forth in subsection (b) above. The written notice of such hearing shall state the reason for the proposed withdrawal.

(e) No insurer shall issue such forms or use them after the effective date of such withdrawal.

§ **38.1-482.8. Schedule of premium rates to be filed; refund of premiums; payments by debtor.**—(a) Each insurer issuing credit life insurance or credit accident and sickness insurance shall file with the Commission *for its approval* its schedule of premium rates for use in connection with such insurance. Any insurer may revise such schedules from time to time, and shall file such revised schedules with the Commission *for its approval.* No insurer shall issue any credit life insurance policy or credit accident and sickness insurance policy for which the premium rate exceeds that shown by the schedules of such insurer as then on file with the Commission.

(b) Each individual policy, certificate or statement of insurance shall provide that in the event of termination of the insurance prior to the schedule maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the person entitled thereto, provided, however, that the Commission shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to be used in computing such refund shall be filed with and approved by the Commission.

(c) If a creditor requires a debtor to make any payment for credit life insurance or credit accident and sickness insurance and an individual policy or certificate or statement of insurance is not issued, the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account.

(d) The amount charged by the creditor to the debtor for any credit life or credit accident and sickness insurance shall not exceed the premium rate filed with the Commission for the coverage provided.

§ 38.1-482.9. **Portion of premium may be allowed to creditor; insurance may be provided and serviced at creditor's place of business.**—Credit life insurance and credit accident and sickness insurance is usually effected when the creditor deems it is essential to the making of the loan or other extension of credit giving rise to such insurance, and such insurance is necessarily arranged for simultaneously with the entering into such credit transaction. In recognition of the foregoing conditions, and notwithstanding the provisions of any other statutes of this State which expressly or by construction may provide otherwise:

(a) A portion of the premium of credit life insurance or credit accident and sickness insurance may be allowed by the insurer to a creditor, its affiliate or associate or subsidiary or a director, officer or employee of any of them for providing and servicing such insurance, and such portion of the premium so allowed shall not be deemed as a rebate of premium or as interest or charges or consideration or an amount in excess of permitted charges in connection with the loan or other credit transaction; and

(b) All of the acts necessary to provide and service credit life insurance and credit accident and sickness insurance may be performed within the same place of business in which is transacted the business giving rise to the loan or other credit transaction.

(c) Any creditor who receives or transmits any charge to the debtor for credit life or accident and sickness insurance shall submit annually to the State Corporation Commission such information as the Commission may prescribe in order to calculate the creditor's cost of handling such insurance transactions.

§ 38.1-482.13. **Rules and regulations of Commission; order for compliance with article.**—(a) The Commission may, after notice and hearing, issue such rules and regulations consistent with the provisions of this article as it deems appropriate for the supervision of the regulatory provision of this article. *The Commission shall prior to December one, nineteen hundred seventy-two, promulgate regulations setting forth the prima facie rates which may be charged for credit life and accident and sickness insurance. Such rates shall be set so as to permit a fair return to creditor and insurer, and shall be subject to change by the Commission after reasonable notice and hearing. Such regulations* *shall set forth the principles upon which such rates are based, and the basis upon which variations from such rates will be permitted.* Every such regulation, every administrative ruling, and every requirement of general application shall be in writing and maintained as a public record in an indexed permanent book with date of each suitably indicated. A copy of each regulation and order promulgating it shall be mailed by the Commission to all insurers licensed to write insurance under this article.

(b) Whenever the Commission finds that there has been a violation of this article or any rules or regulations issued pursuant thereto, and after written notice thereof and hearing given to the insurer or other person authorized or licensed by the Commission, it shall set forth the details of its findings together with an order for compliance by a specified date. Such order shall be binding on the insurer and other person authorized or licensed by the Commission on the date specified unless sooner withdrawn by the Commission or a stay thereof has been ordered by the Supreme Court of Appeals.

2. The amendments to §§ 38.1-482.7 and 38.1-482.8 shall be effective January one, nineteen hundred seventy-three. The amendments to §§ 38.1-482.9 and 38.1-482.13 shall be effective in due course.

#

A BILL

To amend and reenact § 54-44.1 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 6.1-364, relating to debt counseling.

Be it enacted by the General Assembly of Virginia:
1. That § 54-44.1 of the Code of Virginia be amended and reenacted, and the Code of Virginia be amended by adding a section numbered 6.1-364, as follows:

§ 6.1-364. (a) Any person or organization licensed hereunder may operate a nonprofit debt counseling agency, subject to regulations of the State Corporation Commission. Services provided by such agency may include educational programs, advice as to budget management, negotiation with creditors on behalf of a debtor for the purpose of designing a debt liquidation plan which may involve postponement of payment or reduction of charges, administration of debt pooling plans and distribution of payments, and related advice and services. No agency licensed hereunder shall give legal guidance or perform legal services.

(b) No person or organization shall operate a debt counseling agency under the provisions of this section unless it qualifies under standards set by the State Corporation Commission and has obtained a license from the Commission. Such license shall be renewed annually. A fee not to exceed ten dollars may be charged for each license and renewal. Such license shall be subject to suspension or revocation by the Commission for violation of the provisions of this section or regulations promulgated hereunder.

(c) The State Corporation Commission shall, after reasonable notice and public hearing, promulgate regulations not inconsistent with the provisions of this section as to the licensure, powers

and operation of debt counseling agencies. In addition, such provisions shall include standards for licensure, including nonprofit status and the absence of substantial conflicts of interests. The Commission may inspect at any time an agency licensed hereunder for the purpose of determining whether such agency is in compliance with the provisions of this section and regulations promulgated pursuant hereto.

§ 54-44.1. **Furnishing advice and services for compensation in connection with certain debt pooling plans deemed practicing law.**—The furnishing of advice or services for compensation to a debtor in connection with a debt pooling plan pursuant to which the debtor deposits funds for the purpose of distributing them among his creditors, *except as authorized for nonprofit agencies pursuant to the provisions of* § *6.1-364*, shall be deemed to be the practice of law. Any person *other than an agency so authorized who* furnishes or offers to furnish such advice or service shall be guilty of a misdemeanor; provided, however, that the foregoing shall not apply to a member of the Virginia State Bar when such services are furnished pursuant to the practice of law.

#

A BILL

To amend the Code of Virginia by adding in Title 6.1 a chapter numbered 11 and sections numbered 6.1-364 through 6.1-366, relating to use of negotiable instruments and validity of waivers of defenses in consumer credit sales.

Be it enacted by the General Assembly of Virginia:
1. That the Code of Virginia be amended by adding in Title 6.1 a chapter numbered 11 and sections numbered 6.1-364 through 6.1-366, as follows:

Chapter 11

Consumer Credit Sales

§ 6.1-364. For purposes of this chapter: *A consumer credit sale* is a sale of goods, services, or an interest in real estate in which (a) credit is granted by a person who regularly engages as a seller in credit transactions of a similar kind; (b) the buyer is an individual; (c) the purchase is made for a personal, family or household purpose; (d) either the debt is payable in installments or a credit service charge is made, and (e) with respect to a sale of goods or services, the amount financed does not exceed twenty-five thousand dollars. For purposes of this chapter, "consumer credit sale" does not include a sale in which the seller allows the buyer to purchase goods or services pursuant to a lender credit card or similar arrangement, nor a sale of an interest in land if the credit service charges does not exceed ten percent per annum of the unpaid balances if the debt is paid over the agreed term.

Lender credit card or similar arrangement means an arrangement or loan agreement, pursuant to which a lender gives a debtor the privilege of using a credit card or other credit confirmation or identification in transactions out of which debt arises (a) by a lender's honoring a draft or similar order for payment of money drawn or accepted by the debtor; (b) by the lender's payment or agreement to pay the debtor's obligations; or (c) by the lender's purchase from the obligee of the debtor's obligations; but shall not include credit card or other arrangements contemplated to be used only for goods or services from the issuer and related entities.

§ 6.1-365. In a consumer credit sale the seller may not take a negotiable instrument other than a check as evidence of the obligation of the buyer. A holder is not in good faith if he takes a negotiable instrument with notice that it is issued in violation of this section.

§ 6.1-366. (1) With respect to a consumer credit sale, an agreement by the buyer not to assert against an assignee a claim or defense arising out of the sale is enforceable only by an assignee not related to the seller who acquires the buyer's contract in good faith and for value, who gives the buyer notice of the assignment as provided in this section and who, within two months after the mailing of the notice of assignment, receives no written notice of the facts giving rise to the buyer's claim or defense. The notice of assignment shall be in writing and addressed to the buyer at his address as stated in the contract, identify the contract, describe the goods or services, state the names of the seller and buyer, the name and address of the assignee, the amount payable by the buyer and the number, amounts and due dates of the installments, and contain in a conspicuous notice to the buyer that he has two months from the date the notice was mailed within which to notify the assignee in writing of any complaints, claims or defenses he may have against the seller and that if written notification of the complaints, claims or defenses is not received by the assignee within the two-month period, the assignee will have the right to enforce the contract free of any claims or defenses the buyer may have against the seller.

(2) An assignee does not acquire a buyer's contract in good faith within the meaning of subsection (1) if the assignee has knowledge or, from his course of dealing with the seller or his records, notice of substantial complaints by other buyers of the seller's failure or refusal to perform his contracts with them and of the seller's failure to remedy his defaults within a reasonable time after the assignee notifies him of the complaints.

(3) To the extent that under this section an assignee is subject to claims or defenses of the buyer against the seller, the assignee's liability under this section may not exceed the amount owing to the assignee at the time the claim or defense is asserted against the assignee and rights of the buyer under this section can only be asserted as a matter of defense to or set-off against a claim by the assignee.

#

A BILL

To amend and reenact § 6.1-319.1 of the Code of Virginia, relating to certain contracts enforceable at interest rate stated therein.

Be it enacted by the General Assembly of Virginia:
1. That § 6.1-319.1 of the Code of Virginia be amended and reenacted as follows:

§ 6.1-319.1. (a) Notwithstanding the provisions of §§ 6.1-318, 6.1-319 and 6.1-320, unless otherwise regulated by the provisions of this title, contracts made for the loan or forbearance of money, secured or to be secured by a first deed of trust or first mortgage on real estate, may be lawfully enforced at the interest rate stated therein on the principal amount loaned or forborne or contracted to be lent or forborne. Every contract, not otherwise governmentally regulated as to prepayment privilege, made for the loan or forbearance of money as provided in this section, where the amount loaned or forborne is less than seventy-five thousand dollars, shall permit the prepayment of the unpaid principal at any time and no penalty in excess of one percentum of the unpaid principal balance shall be allowed. *For purposes of this section, an interest rate which varies in accordance with any exterior standard, or which cannot be ascertained from the contract without reference to any exterior circumstances or documents, shall not be deemed an "interest rate stated therein."*

Any lender subject to § 6.1-320 may make loans for agricultural purposes whether or not secured, at a rate not to exceed the maximum effective rate for installment loans made pursuant to § 6.1-320.

(b) ~~The provisions of this section shall cease to be of any force or effect on July one, nineteen hundred seventy-two, unless extended by the General Assembly of Virginia; provided, however, that any contract lawfully made prior to the expiration date hereof shall be and remain valid and enforceable according to the terms of such contract.~~

#

A BILL

To amend and reenact § 6.1-234.1 of the Code of Virginia, relating to interest rates of Industrial Loan Companies.

Be it enacted by the General Assembly of Virginia:
1. That § 6.1-234.1 of the Code of Virginia be amended and reenacted as follows:

§ 6.1-234.1. Maximum of seven percent interest chargeable in advance; section expires July 1, 1972.—Notwithstanding the provisions of § 6.1-234 allowing an industrial loan association to charge in advance the legal rate of interest, an industrial loan association may charge in advance a maximum of seven per centum per annum interest upon the entire balance of the loan. Nothing herein shall be construed as altering or amending any other provisions of § 6.1-234.

The provisions of this section shall cease to be of any force and effect on July one, nineteen hundred ~~seventy two~~ *seventy-four,* unless extended by the General Assembly of Virginia; provided, however, that any loan lawfully made hereunder, prior to the expiration date hereof, shall be and remain valid and enforceable according to the term of said loan.

#

A BILL

To amend and reenact § 6.1-327, as amended, of the Code of Virginia, relating to entities which may not plead usury.

Be it enacted by the General Assembly of Virginia:
1. That § 6.1-327, as amended, of the Code of Virginia, be amended and reenacted as follows:

§ 6.1-327. Corporations, partnerships, professional associations and real estate investment trusts now allowed to plead usury.—No corporation or partnership which has filed a certificate pursuant to *chapter 2 (§ 50-44 et seq.) or* chapter 3 (§ 50-74 et seq.) of Title 50 of this Code, professsional association, or real estate investment trust shall, by way of defense or otherwise, avail itself of any of the provisions of the preceding sections of this chapter, to avoid or defeat the payment of any interest which it has contracted to pay; nor shall anything contained in any of such sections be construed to prevent the recovery of such interest, though it be more than legal interest and though that fact appears on the face of the contract.

#

A BILL

To amend and reenact § 6.1-328, as amended, of the Code of Virginia, relating to pleas of usury to avoid payments of certain guaranteed loans.

Be it enacted by the General Assembly of Virginia:
1. That § 6.1-328, as amended, of the Code of Virginia, be amended and reenacted as follows:

§ 6.1-328. No person shall, by way of defense or otherwise, avail himself of any of the provisions of this chapter, to avoid or defeat the payment of any interest or fee which he shall have contracted to pay on any loan or forbearance of money insured by the Federal Housing Administration, or the Commissioner thereof, under or pursuant to the provisions of the National Housing Act, approved June twenty-seven, nineteen hundred thirty-four, and amendments thereto, or guaranteed by the Veterans Administration, or the Administrator thereof, under and pursuant to Title 38 of the United States Code, and amendments thereto, *or insured or guaranteed by any similar federal governmental agency or organization, including the Secretary of Housing and Urban Development or his designees or delegates;* nor shall anything contained in this chapter be construed to prevent the recovery of such interest or fee from any person who shall have contracted to pay the same.

#

SENATE JOINT RESOLUTION NO. ——

To continue the work of the Consumer Credit Study Commission.

Whereas, the tremendous growth of consumer credit, the increase in the complexity of laws relating to credit charges, and the complaints of many groups representing the consumer, led the General Assembly to create the Virginia Consumer Credit Study Commission, to study the state of consumer credit in the Commonwealth and the Uniform Consumer Credit Code and other proposed legislation; and

Whereas, although the Commission has spent considerable time and effort in this study and has made recommendations for improvements, there is much information still to be obtained, and much work still to be done; and

Whereas, the importance of consumer credit, the intricacy and complexity of the law, and the possibility of improvement are substantial reasons for continuing the Commission; now, therefore, be it

Resolved by the Senate, the House of Delegates concurring, That the Virginia Consumer Credit Study Commission be continued. The Commission shall be composed of fifteen members, five of whom shall be appointed by the Speaker of the House of Delegates from the membership thereof, three of whom shall be appointed by the President of the Senate from the membership thereof, and seven of whom shall be appointed by the Governor.

The Commission shall continue to investigate the Uniform Consumer Credit Code, and the present laws and provisions relating to various types of consumer credit in the Commonwealth, and make recommendations as to adoption of such Code, or of any improvements in present law which may be needed to ensure that consumers are adequately protected. Such study shall include, among other things, an examination of the loan ceiling for small loan companies.

Members of the Commission shall be reimbursed for their expenses, but shall receive no other compensation. For the expenses of the Commission and for such consultants or other assistants as the Commission shall deem necessary, there is hereby appropriated from the contingent fund of the General Assembly the sum of thirty thousand dollars.

All agencies of the State shall cooperate with the Commission in its investigations. The Commission shall complete its work and submit its recommendations to the Governor and the General Assembly no later than November one, nineteen hundred seventy-three.

#