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VERMONT'S PENSION LENDING LAW

By: Michelle Kirby, Senior Legislative Attorney

PENSION LOAN

A pension loan requires a retiree to sign over all or some of his or her monthly pension checks for a period of time, typically five to 10 years. In return, the retiree gets a lump sum payment, less than the pension payments signed over.

The loan often includes fees that can make the effective annual percentage rate very high. In addition, retirees are sometimes required to buy a life insurance policy, naming the pension advance company as the beneficiary, to ensure that the repayments continue.

Source: [Federal Trade Commission Consumer Information]

ISSUE

Provide a summary of Vermont's Pension Lending law.

SUMMARY

In 2014, Vermont enacted a law intended to prohibit unlawful and predatory lending practices that target retirement pension proceeds. The stated intent of the bill that became law "is to ensure that practices which unfairly disrupt or interfere with retirees' abilities to manage their pension income will be treated as unlawful lending and subject to applicable Vermont laws" (2014 Vt. Acts & Resolves 109 (S. 223)).

Under the law, which became effective July, 1 2014, anyone who engages in the business of offering consideration in exchange for a secured interest in the pension proceeds of a participant, beneficiary, or member of a pension plan, program, or system is deemed to be engaged in the business of making loans and is subject to state's banking and consumer protection laws (VT. STAT. ANN. tit. 8 § 2245). Specifically, the law requires anyone engaged in the business of making pension loans to first obtain a license from the Department of Financial Regulation (VT. STAT. ANN. tit. 8 §§ 2201(a)(1) & 2245).

This law does not prevent borrowing against future pension payouts. Instead, it regulates pension lending practice the same way other lending is regulated under Vermont law. It subjects violators to strict penalties, such as fines up to $10,000 per violation.

PENALTIES FOR VIOLATION OF THE PENSION LENDING LAW

Under Vermont law, each violation of the banking and consumer protection laws or failure to comply with any of the commissioner's directives or orders is a separate and distinct violation. The commissioner may impose a fine up to $10,000 for each violation and order the violator to make restitution to the victim.

Any loan made in violation of the law is void. If the violation was not done knowingly or willfully, the lender may not collect or receive any interest or charges but has a right to collect and receive the principal amount. If the violation was done knowingly and willfully, the lender has no right to collect or receive any principal, interest, or charges.

If a lender is ordered to stop issuing loans and is assessed penalties for violations but continues to issue loans or fails to resolve or satisfy the penalties, any loan made after receipt of the order is void and the lender has no right to collect or receive any principal, interest, or charges. Making such a loan is a criminal offense, punishable by a fine up to $100,000, up to one year in prison, or both (VT. STAT. ANN. tit. 8 § 2215).

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