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AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
AMENDING THE NEW MEXICO SMALL LOAN ACT OF 1955; PROVIDING FOR
DISCRETIONARY PENALTIES; CLARIFYING LICENSEE INFORMATION TO
BE REPORTED.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 58-15-10.1 NMSA 1978 (being Laws
2011, Chapter 105, Section 1) is amended to read:

"58-15-10.1. LICENSEE REPORTING REQUIREMENTS--
PENALTIES.--

A. Licensees shall file with the director each
year a report containing at least the following information
for the preceding calendar year in an aggregated,
nonidentifying consumer manner:

(1) a description of each loan product
offered by the licensee, including:

- (a) all fees;
- (b) the minimum, maximum and average
annual interest rate as disclosed pursuant to 12 C.F.R. 226,
known as "Regulation Z";
- (c) the frequency of periodic payments;
- (d) the term of the loan; and
- (e) any other standard conditions of
the loan product;

1 (2) the total number of transactions entered
2 into for each loan product in the following amounts:

3 (a) five hundred dollars (\$500) or
4 less;

5 (b) five hundred one dollars (\$501) to
6 one thousand dollars (\$1,000);

7 (c) one thousand one dollars (\$1,001)
8 to three thousand dollars (\$3,000);

9 (d) three thousand one dollars (\$3,001)
10 to five thousand dollars (\$5,000); and

11 (e) greater than five thousand dollars
12 (\$5,000);

13 (3) the total number of loans and the total
14 dollar amount of loan principal for each loan product;

15 (4) the average principal loan amount for
16 each loan product;

17 (5) the total number of loans for which the
18 loan principal and accrued interest was not paid in full;

19 (6) the total dollar amount of principal
20 loaned;

21 (7) the total dollar amount of loan
22 principal repaid;

23 (8) the total dollar amount of interest
24 received;

25 (9) the total dollar amount and description

1 of fees received;

2 (10) the total number of loans that were
3 secured by collateral of some type and the total number of
4 such loans in which the security was foreclosed upon or
5 repossessed;

6 (11) the total amount of loan principal and
7 the total amount of accrued interest written-off or
8 charged-off;

9 (12) the percent of consumers who were new
10 consumers;

11 (13) the number of loans that were renewed,
12 refinanced or extended prior to being repaid in full; and

13 (14) procedures the licensee follows as a
14 standard practice to establish each consumer's ability to
15 repay a loan.

16 B. The report required pursuant to Subsection A of
17 this section shall be submitted to the director on or before
18 the thirty-first day of March each year.

19 C. The report required pursuant to Subsection A of
20 this section shall be accompanied by a sworn statement by the
21 licensee under penalty of perjury that the report is complete
22 and accurate.

23 D. A licensee that fails to timely submit a
24 complete and accurate report as required pursuant to
25 Subsection A of this section may:

1 (1) be fined an amount not to exceed one
2 thousand five hundred dollars (\$1,500) per day for each day
3 after the thirty-first day of March a complete and accurate
4 report is not filed; and

5 (2) have a license required pursuant to the
6 New Mexico Small Loan Act of 1955 suspended pursuant to
7 Section 58-15-8 NMSA 1978 if a complete and accurate report
8 has not been filed by the thirty-first day of March.

9 E. The information required to be submitted by
10 licensees pursuant to the provisions of this section shall
11 not include information concerning payday loans or loans or
12 loan products with an annual interest rate of one hundred
13 seventy-five percent or less as disclosed pursuant to
14 12 C.F.R. 226, known as "Regulation Z".

15 SECTION 2. Section 58-15-39 NMSA 1978 (being Laws 2007,
16 Chapter 86, Section 21, as amended) is amended to read:

17 "58-15-39. DUTIES OF DIVISION.--

18 A. The division shall:

19 (1) maintain a list of licensees, which list
20 shall be available to interested persons and the public; and

21 (2) establish a complaint process whereby an
22 aggrieved consumer or other person may file a complaint
23 against a licensee.

24 B. The division shall annually provide a report to
25 the legislature detailing statistics, including data adequate

1 to obtain an accurate understanding of the practices,
2 demographics and legal compliance of all licensees licensed
3 in the state. The division shall compile an annual report by
4 October 1 of each year containing, at a minimum, data
5 regarding all payday loan products entered into in the
6 preceding calendar year on an aggregate basis. Annual
7 reports shall be made available to interested parties and the
8 general public and published on the division's web site.
9 Consistent with state law, the report shall include, at a
10 minimum, nonidentifying consumer data from the preceding
11 year, including:

12 (1) the total number and dollar amount of
13 payday loan products entered into in the calendar year ending
14 December 31 of the previous year;

15 (2) the total number and dollar amount of
16 payday loan products outstanding as of December 31 of the
17 previous year;

18 (3) the effective annualized percentage rate
19 and the average number of days of a payday loan during the
20 calendar year ending December 31 of the previous year;

21 (4) the number of payday loan products
22 entered into in the amount of one hundred dollars (\$100) or
23 less, the number of payday loan products entered into in the
24 amount of one hundred one dollars (\$101) to five hundred
25 dollars (\$500), the number of payday loan products entered

1 into in the amount of five hundred one dollars (\$501) to one
2 thousand dollars (\$1,000), the number of payday loan products
3 entered into in the amount of one thousand one dollars
4 (\$1,001) to one thousand five hundred dollars (\$1,500), the
5 number of payday loan products in an amount greater than one
6 thousand five hundred dollars (\$1,500) and the percentage of
7 total payday loan products entered into in each of those
8 ranges;

9 (5) an estimate of the total dollar amount
10 of fees collected for payday loan products;

11 (6) the total number of payday loan products
12 entered into and the total dollar amount of the net
13 charge-offs or write-offs and of the net recoveries of
14 licensees;

15 (7) the minimum, maximum and average dollar
16 amounts of payday loan products entered into in the calendar
17 year ending December 31 of the previous year;

18 (8) the average payday loan product amount,
19 average number of transactions and average aggregate payday
20 loan product amount entered into per consumer each year;

21 (9) the average number of days a consumer is
22 engaged in a payday loan product each year;

23 (10) an estimate of the average total fees
24 paid by a payday loan product consumer;

25 (11) the number of consumers who are

1 eligible for payment plans and the number of consumers who
2 enter into payment plans pursuant to Section 58-15-35
3 NMSA 1978; and

4 (12) the number of consumers who are subject
5 to the restrictions of the waiting period pursuant to Section
6 58-15-36 NMSA 1978.

7 C. The division shall compile from reports filed
8 by licensees pursuant to Section 58-15-10.1 NMSA 1978 an
9 annual report by October 1 of each year containing data
10 regarding only loans exceeding an annual interest rate of one
11 hundred seventy-five percent as disclosed pursuant to 12
12 C.F.R. 226, known as "Regulation Z", entered into in the
13 preceding calendar year on an aggregate basis. Excluded from
14 the reporting requirements of this subsection are payday loan
15 products or loans or loan products with an annual interest
16 rate of one hundred seventy-five percent or less as disclosed
17 pursuant to 12 C.F.R. 226, known as "Regulation Z", entered
18 into in the preceding calendar year on an aggregate basis.
19 Annual reports shall be made available to interested parties
20 and the general public and published on the division's web
21 site. Consistent with state law, the report shall include,
22 at a minimum, nonidentifying consumer data from the preceding
23 calendar year, including:

24 (1) a general description of loan products
25 offered by licensees during the preceding calendar year and

1 the minimum, maximum and average annual interest rate for
2 each loan product;

3 (2) the number of loans entered into in the
4 amount of five hundred dollars (\$500) or less, the number of
5 loans entered into in the amount of five hundred one dollars
6 (\$501) to one thousand dollars (\$1,000), the number of loans
7 entered into in the amount of one thousand one dollars
8 (\$1,001) to three thousand dollars (\$3,000), the number of
9 loans entered into in the amount of three thousand one
10 dollars (\$3,001) to five thousand dollars (\$5,000), the
11 number of loans in an amount greater than five thousand
12 dollars (\$5,000) and the number of loans listed by licensee
13 entered into in each of those ranges;

14 (3) the total number and dollar amount of
15 loans entered into in the previous calendar year for each
16 loan product;

17 (4) the average principal loan amount for
18 each loan product;

19 (5) the total number of loans for which the
20 loan principal and accrued interest was not paid in full;

21 (6) the total dollar amount of loan
22 principal repaid and of interest and fees received;

23 (7) the total number of loans secured by
24 collateral of some type and the total number of such loans in
25 which the security was foreclosed upon or repossessed;

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(8) the total amount of loan principal and
the total amount of accrued interest written-off or
charged-off;

(9) the percent of customers who were new
customers;

(10) the number of loans renewed, refinanced
or extended prior to being repaid in full; and

(11) procedures followed by licensees to
establish consumers' ability to repay loans."