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HOUSE BILL 385

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Patricia A. Lundstrom

AN ACT

RELATING TO FINANCIAL INSTITUTIONS; PROVIDING FOR NONDISCLOSURE
OF INDIVIDUAL LICENSEE REPORTING INFORMATION; EXEMPTING
REPORTED INFORMATION ON AN INDIVIDUAL LICENSEE BASIS.

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:

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- 1 (a) all fees;
- 2 (b) the minimum, maximum and average
- 3 annual interest rate as disclosed pursuant to 12 C.F.R. 226,
- 4 known as "Regulation Z";
- 5 (c) the frequency of periodic payments;
- 6 (d) the term of the loan; and
- 7 (e) any other standard conditions of the
- 8 loan product;
- 9 (2) the total number of transactions entered
- 10 into for each loan product in the following amounts:
- 11 (a) five hundred dollars (\$500) or less;
- 12 (b) five hundred one dollars (\$501) to
- 13 one thousand dollars (\$1,000);
- 14 (c) one thousand one dollars (\$1,001) to
- 15 three thousand dollars (\$3,000);
- 16 (d) three thousand one dollars (\$3,001)
- 17 to five thousand dollars (\$5,000); and
- 18 (e) greater than five thousand dollars
- 19 (\$5,000);
- 20 (3) the total number of loans and the total
- 21 dollar amount of loan principal for each loan product;
- 22 (4) the average principal loan amount for each
- 23 loan product;
- 24 (5) the total number of loans for which the
- 25 loan principal and accrued interest was not paid in full;

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- 1 (6) the total dollar amount of principal
2 loaned;
- 3 (7) the total dollar amount of loan principal
4 repaid;
- 5 (8) the total dollar amount of interest
6 received;
- 7 (9) the total dollar amount and description of
8 fees received;
- 9 (10) the total number of loans that were
10 secured by collateral of some type and the total number of such
11 loans in which the security was foreclosed upon or repossessed;
- 12 (11) the total amount of loan principal and
13 the total amount of accrued interest written-off or charged-
14 off;
- 15 [~~(12)~~] ~~the percent of consumers who were new~~
16 ~~consumers;~~
- 17 ~~(13)]~~ (12) the number of loans that were
18 renewed, refinanced or extended prior to being repaid in full;
19 and
- 20 [~~(14)]~~ (13) procedures the licensee follows as
21 a standard practice to establish each consumer's ability to
22 repay a loan.
- 23 B. The report required pursuant to Subsection A of
24 this section shall be submitted to the director on or before
25 the thirty-first day of March each year.

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1 C. The report required pursuant to Subsection A of
2 this section shall be accompanied by a sworn statement by the
3 licensee under penalty of perjury that the report is complete
4 and accurate.

5 D. A licensee that fails to timely submit a
6 complete and accurate report as required pursuant to Subsection
7 A of this section [~~shall~~] may:

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

12 (2) have a license required pursuant to the
13 New Mexico Small Loan Act of 1955 suspended pursuant to Section
14 58-15-8 NMSA 1978 if a complete and accurate report has not
15 been filed by the thirty-first day of March.

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

22 F. Information reported by individual licensees
23 pursuant to this section shall not be subject to inspection
24 pursuant to the Inspection of Public Records Act."

25 SECTION 2. Section 58-15-39 NMSA 1978 (being Laws 2007,

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1 Chapter 86, Section 21, as amended) is amended to read:

2 "58-15-39. DUTIES OF DIVISION.--

3 A. The division shall:

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

6 (2) establish a complaint process whereby an
7 aggrieved consumer or other person may file a complaint against
8 a licensee.

9 B. The division shall annually provide a report to
10 the legislature detailing statistics, including data adequate
11 to obtain an accurate understanding of the practices,
12 demographics and legal compliance of all licensees licensed in
13 the state. The division shall compile an annual report by
14 October 1 of each year containing, at a minimum, data regarding
15 all payday loan products entered into in the preceding calendar
16 year on an aggregate basis. Annual reports shall be made
17 available to interested parties and the general public and
18 published on the division's web site. Consistent with state
19 law, the report shall include, at a minimum, nonidentifying
20 consumer data from the preceding year, including:

21 (1) the total number and dollar amount of
22 payday loan products entered into in the calendar year ending
23 December 31 of the previous year;

24 (2) the total number and dollar amount of
25 payday loan products outstanding as of December 31 of the

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1 previous year;

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

5 (4) the number of payday loan products entered
6 into in the amount of one hundred dollars (\$100) or less, the
7 number of payday loan products entered into in the amount of
8 one hundred one dollars (\$101) to five hundred dollars (\$500),
9 the number of payday loan products entered into in the amount
10 of five hundred one dollars (\$501) to one thousand dollars
11 (\$1,000), the number of payday loan products entered into in
12 the amount of one thousand one dollars (\$1,001) to one thousand
13 five hundred dollars (\$1,500), the number of payday loan
14 products in an amount greater than one thousand five hundred
15 dollars (\$1,500) and the percentage of total payday loan
16 products entered into in each of those ranges;

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

19 (6) the total number of payday loan products
20 entered into and the total dollar amount of the net charge-offs
21 or write-offs and of the net recoveries of licensees;

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

25 (8) the average payday loan product amount,

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1 average number of transactions and average aggregate payday
2 loan product amount entered into per consumer each year;

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

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

7 (11) the number of consumers who are eligible
8 for payment plans and the number of consumers who enter into
9 payment plans pursuant to Section 58-15-35 NMSA 1978; and

10 (12) the number of consumers who are subject
11 to the restrictions of the waiting period pursuant to Section
12 ~~[8-15-36]~~ 58-15-36 NMSA 1978.

13 C. The division shall compile from reports filed by
14 licensees pursuant to Section ~~[1 of this 2011 act]~~ 58-15-10.1
15 NMSA 1978 an annual report by October 1 of each year containing
16 ~~[at a minimum]~~ data regarding ~~[all]~~ only loans ~~[other than]~~
17 exceeding an annual interest rate of one hundred seventy-five
18 percent as disclosed pursuant to 12 C.F.R. 226, known as
19 "Regulation Z", entered into in the preceding calendar year on
20 an aggregate basis. Excluded from the reporting requirements
21 of this subsection are payday loan products or loans or loan
22 products with an annual interest rate of one hundred seventy-
23 five percent or less as disclosed pursuant to 12 C.F.R. 226,
24 known as "Regulation Z" ~~[entered into in the preceding calendar~~
25 ~~year on an aggregate basis]~~. Annual reports shall be made

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1 available to interested parties and the general public and
2 published on the division's web site. Consistent with state
3 law, the report shall include, at a minimum, nonidentifying
4 consumer data from the preceding calendar year, including:

5 (1) a general description of loan products
6 offered by licensees during the preceding calendar year and the
7 minimum, maximum and average annual interest rate for each loan
8 product;

9 (2) the number of loans entered into in the
10 amount of five hundred dollars (\$500) or less, the number of
11 loans entered into in the amount of five hundred one dollars
12 (\$501) to one thousand dollars (\$1,000), the number of loans
13 entered into in the amount of one thousand one dollars (\$1,001)
14 to three thousand dollars (\$3,000), the number of loans entered
15 into in the amount of three thousand one dollars (\$3,001) to
16 five thousand dollars (\$5,000) and the number of loans in an
17 amount greater than five thousand dollars (\$5,000) [~~and the~~
18 ~~number of loans listed by licensee entered into in each of~~
19 ~~those ranges~~];

20 (3) the total number and dollar amount of
21 loans entered into in the previous calendar year for each loan
22 product;

23 (4) the average principal loan amount for each
24 loan product;

25 (5) the total number of loans for which the

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1 loan principal and accrued interest was not paid in full;
2 (6) the total dollar amount of loan principal
3 repaid and of interest and fees received;
4 (7) the total number of loans secured by
5 collateral of some type and the total number of such loans in
6 which the security was foreclosed upon or repossessed;
7 (8) the total amount of loan principal and the
8 total amount of accrued interest written-off or charged-off;
9 [~~(9)~~ the percent of customers who were new
10 customers;
11 ~~(10)~~] (9) the number of loans renewed,
12 refinanced or extended prior to being repaid in full; and
13 [~~(11)~~] (10) procedures followed by licensees
14 to establish consumers' ability to repay loans."

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