AN ACT

RELATING TO FINANCIAL INSTITUTIONS; REQUIRING THE REPORTING OF
POSITIVE CREDIT TO NATIONWIDE CONSUMER REPORTING AGENCIES BY
PAYDAY, AUTOMOBILE TITLE AND INSTALLMENT LOAN LENDERS; DEFINING
"POSITIVE CREDIT" AND "NATIONWIDE CONSUMER REPORTING AGENCY".

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

SECTION 1. Section 58-7-1 NMSA 1978 (being Laws 1959,
Chapter 327, Section 1) is amended to read:

"58-7-1. SHORT TITLE.--[This act shall be known] Chapter
58, Article 7 NMSA 1978 may be cited as the "New Mexico Bank
Installment Loan Act of 1959"."

SECTION 2. A new section of the New Mexico Bank
Installment Loan Act of 1959 is enacted to read:

"[NEW MATERIAL] REPORTING OF POSITIVE CREDIT REQUIRED.--A
lender shall report to a nationwide consumer reporting agency

positive credit of the borrower. For the purposes of this
section, "positive credit" means financial records solely
relating to the existence of the borrower's loan and the timely
performance of the borrower in making payments on the loan."

SECTION 3. Section 58-7-9 NMSA 1978 (being Laws 1959,
Chapter 327, Section 10, as amended) is amended to read:

"58-7-9. CONSTRUCTION.--

A. None of the provisions of the New Mexico Small
Loan Act of 1955 are amended or repealed by the New Mexico Bank
Installment Loan Act of 1959.

B. With the exception of precomputed loan
transactions, a lender is not bound by the provisions of the
New Mexico Bank Installment Loan Act of 1959 in making loans
where the loan is made in accordance with the provisions of
Sections 56-8-9 through 56-8-14 NMSA 1978.

C. None of the provisions of the New Mexico Bank
Installment Loan Act of 1959 apply to the assignment or
purchase of retail installment contracts originated under the
provisions of Sections 58-19-1 through 58-19-14 NMSA 1978 or
originated under the provisions of Sections 56-1-1 through

D. In the event of a conflict between a requirement
of the New Mexico Bank Installment Loan Act of 1959 and a
requirement of the Home Loan Protection Act, the requirement of
the Home Loan Protection Act shall control.
E. As used in the New Mexico Bank Installment Loan Act of 1959:

(1) "year" means three hundred sixty-five days; [and]

(2) "month" means one-twelfth of a year; and

(3) "nationwide consumer reporting agency" means any person that, for monetary fees or dues or on a cooperative nonprofit basis, regularly engages in the practice of assembling or evaluating, and maintaining, for the purpose of furnishing consumer reports to third parties bearing on a consumer's creditworthiness, credit standing or credit capacity, each of the following regarding consumers residing nationwide:

(a) public record information; or

(b) credit account information from persons who furnish that information regularly and in the ordinary course of business.

F. The director of the financial institutions division of the regulation and licensing department shall issue and file as required by law interpretive regulations to effectuate the purposes of the New Mexico Bank Installment Loan Act of 1959. In issuing, amending or repealing interpretive regulations, the director shall issue the regulation amendment or repeal of the regulation as a proposed regulation amendment or repeal of a regulation and file it for public inspection in.
the office of the director of the financial institutions
division. Distribution thereof shall be made to interested
persons, and their comments shall be invited. After the
proposed regulation has been on file for not less than two
months, the director may issue it as a final regulation by
filing as required by law. Any person who is or may be
adversely affected by the adoption, amendment or repeal of a
regulation under this section may file an appeal of that action
in the district court in Santa Fe county within thirty days
after the filing of the adopted regulation, amendment or repeal
as required by law.

G. Any person, corporation or association complying
with the regulations adopted by the director of the financial
institutions division of the regulation and licensing
department is deemed to have complied with the provisions of
the New Mexico Bank Installment Loan Act of 1959.

H. All loans other than precomputed loan
transactions made under the New Mexico Bank Installment Loan
Act of 1959 shall be clearly identified on the loan documents
as being made under that act."

SECTION 4. A new section of the New Mexico Small Loan Act
of 1955 is enacted to read:

"[NEW MATERIAL] REPORTING OF POSITIVE CREDIT REQUIRED.--A
licensee shall report to a nationwide consumer reporting agency
positive credit of the consumer. For the purposes of this
section, "positive credit" means financial records solely 
relating to the existence of the consumer's payday loan and the 
timely performance of the consumer in making payments on the 
payday loan."

SECTION 5. Section 58-15-2 NMSA 1978 (being Laws 1955, 
Chapter 128, Section 2, as amended) is amended to read:

"58-15-2. DEFINITIONS.--The following words and terms 
when used in the New Mexico Small Loan Act of 1955 have the 
following meanings unless the context clearly requires a 
different meaning. The meaning ascribed to the singular form 
applies also to the plural:

A. "consumer" means a person who enters into a loan 
agreement and receives the loan proceeds in New Mexico;

B. "debit authorization" means an authorization 
signed by a consumer to electronically transfer or withdraw 
funds from the consumer's account for the specific purpose of 
repaying a loan;

C. "department" or "division" means the financial 
institutions division of the regulation and licensing 
department;

D. "director" means the director of the division;

E. "installment loan" means a loan that is to be 
repaid in a minimum of four successive substantially equal 
payment amounts to pay off a loan in its entirety with a period 
of [no] not less than one hundred twenty days to maturity.
"Installment loan" does not mean a loan in which a licensee requires, as a condition of making the loan, the use of postdated checks or debit authorizations for repayment of that loan;

F. "license" means a permit issued under the authority of the New Mexico Small Loan Act of 1955 to make loans and collect charges therefor strictly in accordance with the provisions of that act at a single place of business. It shall constitute and shall be construed as a grant of a revocable privilege only to be held and enjoyed subject to all the conditions, restrictions and limitations contained in the New Mexico Small Loan Act of 1955 and lawful regulations promulgated by the director and not otherwise;

G. "licensee" means a person to whom one or more licenses have been issued pursuant to the New Mexico Small Loan Act of 1955 upon the person's written application electing to become a licensee and consenting to exercise the privilege of a licensee solely in conformity with the New Mexico Small Loan Act of 1955 and the lawful regulations promulgated by the director under that act and whose name appears on the face of the license;

H. "nationwide consumer reporting agency" means any person that, for monetary fees or dues or on a cooperative nonprofit basis, regularly engages in the practice of assembling or evaluating, and maintaining, for the purpose of
furnishing consumer reports to third parties bearing on a consumer's creditworthiness, credit standing or credit capacity, each of the following regarding consumers residing nationwide:

(1) public record information; or

(2) credit account information from persons who furnish that information regularly and in the ordinary course of business;

"payday loan" means a loan in which the licensee accepts a personal check or debit authorization tendered by the consumer and agrees in writing to defer presentment of that check or use of the debit authorization until the consumer's next payday or another date agreed to by the licensee and the consumer and:

(1) includes any advance of money or arrangement or extension of credit whereby the licensee, for a fee, finance charge or other consideration:

(a) accepts a dated personal check or debit authorization from a consumer for the specific purpose of repaying a payday loan;

(b) agrees to hold a dated personal check or debit authorization from a consumer for a period of time prior to negotiating or depositing the personal check or debit authorization; or

(c) pays to the consumer, credits to the
consumer's account or pays another person on behalf of the consumer the amount of an instrument actually paid or to be paid pursuant to the New Mexico Small Loan Act of 1955; but

(2) does not include:

(a) an overdraft product or service offered by a banking corporation, savings and loan association or credit union; and

(b) installment loans;

[I.] "payday loan product" means a payday loan or a payment plan pursuant to Section 58-15-35 NMSA 1978;

[J.] "person" includes an individual, copartner, association, trust, corporation and any other legal entity;

[K.] "renewed payday loan" means a loan in which a consumer pays in cash the administrative fee payable under a payday loan agreement and refines all or part of the unpaid principal balance of an existing payday loan with a new payday loan from the same licensee. A "renewed payday loan" includes a transaction in which a consumer pays off all or part of an existing payday loan with the proceeds of a payday loan from the same licensee; and

[L.] "simple interest" means a method of calculating interest in which the amount of interest is calculated based on the annual interest rate disclosed in the loan agreement and is computed only on the outstanding principal balance of the loan."
SECTION 6. A new section of the Motor Vehicle Sales Finance Act is enacted to read:

"[NEW MATERIAL] REPORTING OF POSITIVE CREDIT REQUIRED.--A holder of a retail installment contract shall report to a nationwide consumer reporting agency positive credit of the buyer. For the purposes of this section, "positive credit" means financial information solely related to the existence of the buyer's retail installment contract and the timely performance of the buyer in making payments on the retail installment contract."

SECTION 7. Section 58-19-2 NMSA 1978 (being Laws 1959, Chapter 204, Section 2, as amended) is amended to read:

"58-19-2. DEFINITIONS.--As used in the Motor Vehicle Sales Finance Act:

A. "motor vehicles" means automobiles, recreational vehicles, recreational travel trailers, trailers, motorcycles, trucks, semi-trailers, truck tractors and buses designed and used primarily to transport persons or property on a public highway, farm machinery and all vehicles new or used, with any power other than muscular power except boat trailers, aircraft or any vehicle that runs only on rails or tracks, but does not include any motor vehicle having a gross vehicle weight of ten thousand pounds or more purchased primarily for business or commercial purposes;

B. "retail buyer" or "buyer" means a person who
buys a motor vehicle primarily for personal, family or household purposes from a retail seller and who executes a retail installment contract in connection therewith;

C. "retail seller" or "seller" means a person who sells a motor vehicle to a retail buyer or subject to a retail installment contract;

D. "holder" of a retail installment contract means the retail seller of the motor vehicle under or subject to the contract or, if the contract is purchased by a sales finance company or other assignee, the sales finance company or other assignee;

E. "retail installment transaction" means any transaction evidenced by a retail installment contract entered into between a retail buyer and a retail seller wherein the retail buyer buys a motor vehicle from the retail seller at a time price payable in one or more deferred installments. The cash sale price of the motor vehicle, the amount included for insurance and other benefits if a separate charge is made therefor, official fees and the finance charge together constitute the time price;

F. "retail installment contract" or "contract" means an agreement, entered into in this state or made subject to the laws of this state, pursuant to which the title to or a lien upon the motor vehicle that is the subject matter of a retail installment transaction is retained or taken by a retail seller.
from a retail buyer as security for the buyer's obligation. The term includes a chattel mortgage, a conditional sales contract and a contract for the bailment or leasing of a motor vehicle by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become or has the option of becoming the owner of the motor vehicle upon full compliance with the provisions of the contract;

G. "cash sale price" means the price stated in a retail installment contract for which the seller would have sold to the buyer, and the buyer would have bought from the seller, the motor vehicle that is the subject matter of the retail installment contract, if the sale had been a sale for cash instead of a retail installment transaction. Cash sale price may include any taxes, registration fee, certificate of title fee, license and other fees and charges for accessories and their installation and for delivery, servicing, repairing or improving the motor vehicle;

H. "official fees" means the fee prescribed by law for filing, recording or otherwise perfecting and releasing or satisfying a retained title or a lien created by a retail installment contract;

I. "finance charge" means the amount agreed upon between the buyer and the seller to be added to the aggregate
of the cash sale price, the amount, if any, included for
insurance and other benefits and official fees, in determining
the time price;

J. "person" means an individual, partnership,
corporation, association and any other group however organized;

K. "sales finance company" means a person engaged in
whole or in part in the business of purchasing retail
installment contracts from one or more retail sellers. The
term includes but is not limited to a bank, trust company,
private banker, small loan licensee, industrial bank or
investment company, if so engaged; the term also includes a
retail seller engaged in whole or in part in the business of
creating and holding retail installment contracts that exceed a
total aggregate outstanding indebtedness of one hundred
thousand dollars ($100,000);

L. "director" means the director of the financial
institutions division of the regulation and licensing
department; [and]

M. "nationwide consumer reporting agency" means any
person that, for monetary fees or dues or on a cooperative
nonprofit basis, regularly engages in the practice of
assembling or evaluating, and maintaining, for the purpose of
furnishing consumer reports to third parties bearing on a
consumer's creditworthiness, credit standing or credit
capacity, each of the following regarding consumers residing
nationwide:

(1) public record information; or

(2) credit account information from persons who furnish that information regularly and in the ordinary course of business; and

[MN] N. "year" means a period of three hundred sixty-five days; "month" means one-twelfth of a year; and "day" means one three-hundred-sixty-fifth of a year."

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2017.

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