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AN ACT
RELATING TO FINANCIAL INSTITUTIONS; LIMITING FEES AND CHARGES
FOR CERTAIN INSTALLMENT LOANS; PROVIDING FOR REPORTING TO
CREDIT AGENCIES; AMENDING CHAPTER 56, ARTICLE 8 NMSA 1978,
THE NEW MEXICO SMALL LOAN ACT OF 1955 AND THE NEW MEXICO BANK
INSTALLMENT LOAN ACT OF 1959; REPEALING SECTIONS OF THE NEW
MEXICO SMALL LOAN ACT OF 1955; CREATING THE FINANCIAL
LITERACY FUND; MAKING AN APPROPRIATION.

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

SECTION 1. Section 56-8-9 NMSA 1978 (being Laws 1957,
Chapter 209, Section 1, as amended) is amended to read:

"56-8-9. EXCESSIVE CHARGES PROHIBITED--APPLICABILITY OF
MAXIMUM RATES--DEFINITION.--

A. Unless otherwise provided by law, no person,
corporation or association, directly or indirectly, shall
take, reserve, receive or charge any interest, discount or
other advantage for the loan of money or credit or the
forbearance or postponement of the right to receive money or
credit except at the rates permitted in Sections 56-8-1
through 56-8-21 NMSA 1978.

B. No provision of law prescribing maximum rates
of interest that may be charged in any transaction shall
apply to a transaction in which a corporation, limited
liability corporation or other business entity is a debtor,

1 regardless of the purpose for which the corporation was
2 formed and regardless of the fact that an individual is
3 codebtor, endorser, guarantor, surety or accommodation party.
4 No corporation or its codebtor, endorser, guarantor, surety
5 or accommodation party shall have a cause of action or
6 affirmatively plead, counterclaim, set off or set up the
7 defense of usury in any action to recover damages or enforce
8 a remedy on any obligation executed by the corporation, and
9 no civil or criminal penalty that would otherwise be
10 applicable except as provided in Sections 30-43-1 through
11 30-43-5 NMSA 1978 shall apply on any obligation executed by
12 the corporation.

13 C. A lender may, in the case of business or
14 commercial loans for business or commercial purposes in the
15 amount of five hundred thousand dollars (\$500,000) or more,
16 take, receive, reserve or charge on any loan or discount
17 made, or upon any note, bill of exchange or other evidence of
18 debt, interest at a rate agreed to by the parties.

19 D. In addition to the maximum interest or discount
20 that a lender is permitted to charge by law, the lender may
21 charge, take, reserve or receive a premium or points in an
22 amount up to but not exceeding three percent of the face
23 amount of the loan on interim construction loans. The lender
24 may charge and require the borrower to pay the premium upon
25 execution of the loan agreement, whether the proceeds are

1 delivered to the borrower immediately or whether there are to
2 be obligatory or permissive future advances. The lender
3 shall not be required to refund this charge in the event of
4 prepayment of the obligation. For the purposes of this
5 section, "interim construction loan" means a loan secured by
6 a first mortgage and used by the borrower primarily for
7 financing the construction of buildings, structures or
8 improvements on or to the real property on which the first
9 mortgage has been taken.

10 E. A lender may charge, take, reserve or receive
11 points or a premium on any loan secured by real property;
12 provided the points or premium together with the interest or
13 discount charged, taken, reserved or received do not exceed
14 the maximum interest or discount permitted by law. The
15 lender shall not be required to refund this charge in the
16 event of prepayment even if the prepayment would result in a
17 higher charge to the borrower than permitted by law.

18 F. A loan in an amount equal to five thousand
19 dollars (\$5,000) or less shall be made only pursuant to the
20 New Mexico Bank Installment Loan Act of 1959 or the New
21 Mexico Small Loan Act of 1955."

22 **SECTION 2.** Section 58-7-1 NMSA 1978 (being Laws 1959,
23 Chapter 327, Section 1) is amended to read:

24 "58-7-1. SHORT TITLE.--Chapter 58, Article 7 NMSA 1978
25 may be cited as the "New Mexico Bank Installment Loan Act of

1 1959"."

2 SECTION 3. Section 58-7-3 NMSA 1978 (being Laws 1995,
3 Chapter 190, Section 15) is amended to read:

4 "58-7-3. LOANS COVERED BY ACT.--

5 A. The New Mexico Bank Installment Loan Act of
6 1959 applies to a loan that is a precomputed loan repayable
7 in installments and that is clearly identified on the loan
8 documents as being made under that act.

9 B. A loan in an amount equal to five thousand
10 dollars (\$5,000) or less shall be made only pursuant to the
11 New Mexico Bank Installment Loan Act of 1959 or the New
12 Mexico Small Loan Act of 1955.

13 C. The provisions of this section shall not apply
14 to a federally insured depository institution."

15 SECTION 4. Section 58-7-3.1 NMSA 1978 (being Laws 1983,
16 Chapter 96, Section 1) is amended to read:

17 "58-7-3.1. PRECOMPUTED LOAN.--In a precomputed loan
18 transaction, the interest charge shall be calculated on the
19 assumption that all scheduled payments will be made when due,
20 and the effect of prepayment is governed by the provisions of
21 rebate upon prepayment in Section 58-7-5 NMSA 1978."

22 SECTION 5. Section 58-7-6 NMSA 1978 (being Laws 1959,
23 Chapter 327, Section 6, as amended) is amended to read:

24 "58-7-6. PERMITTED CHARGES--LIMITATION ON
25 PRESENTMENT.--

1 A. No amount, other than the total finance charge,
2 which consists solely of interest and a fully earned
3 processing fee not to exceed the lesser of two hundred
4 dollars (\$200) or ten percent of the principal, shall be
5 charged or contracted for, directly or indirectly, on or in
6 connection with any such installment loan except as follows:

7 (1) delinquency charges not to exceed five
8 cents (\$.05) for each one dollar (\$1.00) of each installment
9 more than ten days in arrears; provided that the total of
10 delinquency charges on any such installment shall not exceed
11 ten dollars (\$10.00) and that only one delinquency charge
12 shall be made on any one installment regardless of the period
13 during which the installment remains unpaid;

14 (2) the lender may charge for only the
15 actual cost of any insurance; provided, however, all
16 insurance shall be written by companies licensed to operate
17 within the state and at rates no higher than those approved
18 by the superintendent of insurance; and provided further that
19 the lender shall not require any insurance to be written or
20 provided by or through any particular agent, broker or
21 insurer as a condition to making the loan but shall, at the
22 borrower's option, permit the insurance to be procured from
23 any reputable insurer or through any reputable agent
24 authorized by law to provide it;

25 (3) in the event that a borrower fails to

1 maintain in effect any insurance required in connection with
2 a loan transaction, the lender may purchase the required
3 insurance or lender's single interest insurance covering the
4 lender's interest in the property, and the cost of that
5 insurance shall be added to the loan and may accrue interest
6 as provided for in the New Mexico Bank Installment Loan Act
7 of 1959;

8 (4) such amounts as are necessary to
9 reimburse the lender for fees paid to a public officer for
10 filing, recording or releasing any instrument or lien;

11 (5) if a loan under the New Mexico Bank
12 Installment Loan Act of 1959 is secured and if the borrower
13 fails to pay any governmental or other levy arising after the
14 date of the loan that would create a lien superior to the
15 lien of the lender on the property standing as security, the
16 lender, at the lender's option, may pay the levy and add the
17 amount so paid to the balance due from the borrower;

18 (6) the actual expenditures, including
19 reasonable attorney fees, for legal process or proceedings to
20 collect any such installment loan; provided, however, that no
21 attorney fees are permitted where the loan is referred for
22 collection to an attorney who is a salaried employee of the
23 holder of the contract; and

24 (7) the actual cost of charges incurred in
25 making a real estate loan secured by a mortgage on real

1 estate, including the charges for an abstract of title, title
2 examination, title insurance premiums, property survey,
3 appraisal fees, notary fees, preparation of deeds, mortgages
4 or other documents, escrow charges, credit reports and filing
5 and recording fees.

6 B. If there are insufficient funds to pay a check
7 or other type of debit on the date of presentment by the
8 lender, a check or debit authorization request shall not be
9 presented to a financial institution by a lender for payment
10 more than one time unless the consumer agrees in writing,
11 after a check or other type of debit has been dishonored, to
12 one additional presentment or deposit.

13 C. The charges permitted under this section may be
14 added to the balance due from the borrower."

15 SECTION 6. Section 58-7-7 NMSA 1978 (being Laws 1959,
16 Chapter 327, Section 8, as amended) is amended to read:

17 "58-7-7. RESTRICTIONS.--

18 A. No lender shall make a loan pursuant to the
19 New Mexico Bank Installment Loan Act of 1959 to a borrower
20 who is also indebted to that lender under the New Mexico
21 Small Loan Act of 1955 unless the loan made under the New
22 Mexico Small Loan Act of 1955 is paid and released at the
23 time the loan is made.

24 B. No lender other than a federally insured
25 depository institution shall make a loan pursuant to the New

1 Mexico Bank Installment Loan Act of 1959 if a loan has an
2 initial stated maturity of less than one hundred twenty days.

3 C. No lender other than a federally insured
4 depository institution shall make a loan pursuant to the New
5 Mexico Bank Installment Loan Act of 1959 unless the loan is
6 repayable in a minimum of four substantially equal
7 installment payments of principal and interest.

8 D. No lender, other than a federally insured
9 depository institution, shall make a loan pursuant to the New
10 Mexico Bank Installment Loan Act of 1959 that has an annual
11 percentage rate greater than one hundred seventy-five
12 percent, calculated pursuant to 12 CFR Part 1026, known as
13 "Regulation Z".

14 E. The provisions of Subsections B and C of this
15 section shall not apply to refund anticipation loans. As
16 used in this subsection, "refund anticipation loan" means a
17 loan that is secured by or that the creditor arranges or
18 expects to be repaid, directly or indirectly, from the
19 proceeds of the consumer's federal or state personal income
20 tax refunds or tax credits, including any sale, assignment or
21 purchase of a tax refund or tax credit at a discount or for a
22 fee."

23 SECTION 7. Section 58-7-8 NMSA 1978 (being Laws 1959,
24 Chapter 327, Section 9) is amended to read:

25 "58-7-8. PENALTIES AND FORFEITURES.--

1 A. Any person, corporation or association
2 willfully violating any of the provisions of the New Mexico
3 Bank Installment Loan Act of 1959 is guilty of a misdemeanor
4 and upon conviction shall be fined not less than one hundred
5 dollars (\$100) or more than five thousand dollars (\$5,000) or
6 imprisoned for not more than six months or both, in the
7 discretion of the court.

8 B. The taking, receiving or reserving of a rate of
9 charge, discount or advantage greater than allowed by the New
10 Mexico Bank Installment Loan Act of 1959, when knowingly
11 done, is deemed a forfeiture of the entire amount of the rate
12 of charge or advantage that the note, bill or other evidence
13 of debt carries with it or that has been agreed to be paid on
14 it. In case the greater rate of charge has been paid, the
15 person by whom it has been paid or the person's legal
16 representatives may recover by civil action twice the amount
17 of the rate of charge paid from the person, corporation or
18 association taking or receiving it, provided that the action
19 is commenced within two years from the time the transaction
20 occurred.

21 C. A violation of the provisions of the New Mexico
22 Bank Installment Loan Act of 1959, which violation consists
23 of a false or misleading oral or written representation of
24 any kind knowingly made in the extension of credit that may,
25 tends to or does deceive or mislead any person to whom the

1 extension of credit is made, constitutes an unfair or
2 deceptive trade practice pursuant to the Unfair Practices
3 Act."

4 SECTION 8. Section 58-7-9 NMSA 1978 (being Laws 1959,
5 Chapter 327, Section 10, as amended) is amended to read:

6 "58-7-9. CONSTRUCTION.--

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

10 B. None of the provisions of the New Mexico Bank
11 Installment Loan Act of 1959 apply to the assignment or
12 purchase of retail installment contracts originated under the
13 provisions of Sections 58-19-1 through 58-19-14 NMSA 1978 or
14 originated under the provisions of Sections 56-1-1 through
15 56-1-15 NMSA 1978.

16 C. In the event of a conflict between a
17 requirement of the New Mexico Bank Installment Loan Act of
18 1959 and a requirement of the Home Loan Protection Act, the
19 requirement of the Home Loan Protection Act shall control.

20 D. As used in the New Mexico Bank Installment Loan
21 Act of 1959:

22 (1) "year" means three hundred sixty-five
23 days;

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

25 (3) "consumer reporting agency" means any

1 person that, for monetary fees or dues or on a cooperative
2 nonprofit basis, regularly engages in the practice of
3 assembling or evaluating, and maintaining, for the purpose of
4 furnishing consumer reports to third parties bearing on a
5 consumer's creditworthiness, credit standing or credit
6 capacity, each of the following regarding consumers:

7 (a) public record information; or

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

11 E. The director of the financial institutions
12 division of the regulation and licensing department shall
13 issue and file as required by law interpretive regulations to
14 effectuate the purposes of the New Mexico Bank Installment
15 Loan Act of 1959. In issuing, amending or repealing
16 interpretive regulations, the director shall issue the
17 regulation amendment or repeal of the regulation as a
18 proposed regulation amendment or repeal of a regulation and
19 file it for public inspection in the office of the director
20 of the financial institutions division. Distribution thereof
21 shall be made to interested persons, and their comments shall
22 be invited. After the proposed regulation has been on file
23 for not less than two months, the director may issue it as a
24 final regulation by filing as required by law. Any person
25 who is or may be adversely affected by the adoption,

1 amendment or repeal of a regulation under this section may
2 file an appeal of that action in the district court in Santa
3 Fe county within thirty days after the filing of the adopted
4 regulation, amendment or repeal as required by law.

5 F. Any person, corporation or association
6 complying with the regulations adopted by the director of the
7 financial institutions division of the regulation and
8 licensing department is deemed to have complied with the
9 provisions of the New Mexico Bank Installment Loan Act of
10 1959."

11 **SECTION 9.** A new section of the New Mexico Bank
12 Installment Loan Act of 1959 is enacted to read:

13 "REPORTING OF CREDIT REQUIRED.--For each installment
14 loan made pursuant to the New Mexico Bank Installment Loan
15 Act of 1959, a lender shall report to a consumer reporting
16 agency the terms of the loan and the borrower's performance
17 pursuant to those terms."

18 **SECTION 10.** A new section of the New Mexico Bank
19 Installment Loan Act of 1959 is enacted to read:

20 "PREEMPTION.--The state has exclusive jurisdiction and
21 authority regarding the terms and conditions of loans to
22 which the New Mexico Bank Installment Loan Act of 1959 is
23 applicable, and counties, municipalities and other political
24 subdivisions of the state are preempted from any regulation
25 of terms and conditions of such loans by ordinance,

1 resolution or otherwise."

2 SECTION 11. Section 58-15-2 NMSA 1978 (being Laws 1955,
3 Chapter 128, Section 2, as amended) is amended to read:

4 "58-15-2. DEFINITIONS.--The following words and terms
5 when used in the New Mexico Small Loan Act of 1955 have the
6 following meanings unless the context clearly requires a
7 different meaning. The meaning ascribed to the singular form
8 applies also to the plural:

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

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

18 (1) public record information; or

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

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

1 D. "division" means the financial institutions
2 division of the regulation and licensing department;

3 E. "director" means the director of the division;

4 F. "installment loan" means a loan in an amount
5 less than or equal to five thousand dollars (\$5,000) that is
6 to be repaid in a minimum of four substantially equal
7 payments of principal and interest to pay off a loan in its
8 entirety with an initial stated maturity of not less than one
9 hundred twenty days to maturity. "Installment loan" does not
10 mean a refund anticipation loan;

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

20 H. "licensee" means a person to whom one or more
21 licenses have been issued pursuant to the New Mexico Small
22 Loan Act of 1955 upon the person's written application
23 electing to become a licensee and consenting to exercise the
24 privilege of a licensee solely in conformity with the New
25 Mexico Small Loan Act of 1955 and the lawful regulations

1 promulgated by the director under that act and whose name
2 appears on the face of the license;

3 I. "person" includes an individual, copartner,
4 association, trust, corporation and any other legal entity;

5 J. "refund anticipation loan" means a loan that is
6 secured by or that the creditor arranges or expects to be
7 repaid, directly or indirectly, from the proceeds of the
8 consumer's federal or state personal income tax refunds or
9 tax credits, including any sale, assignment or purchase of a
10 tax refund or tax credit at a discount or for a fee;

11 K. "simple interest" means a method of calculating
12 interest in which the amount of interest is calculated based
13 on the annual interest rate disclosed in the loan agreement
14 and is computed only on the outstanding principal balance of
15 the loan."

16 **SECTION 12.** Section 58-15-3 NMSA 1978 (being Laws 1955,
17 Chapter 128, Section 3, as amended) is amended to read:

18 "58-15-3. APPLICABILITY OF ACT--EXEMPTIONS--EVASIONS--
19 PENALTY.--

20 A. A person shall not engage in the business of
21 lending in amounts of five thousand dollars (\$5,000) or less
22 for a loan without first having obtained a license from the
23 director. Nothing contained in this subsection shall
24 restrict or prohibit a licensee under the New Mexico Small
25 Loan Act of 1955 from making loans in any amount under the

1 New Mexico Bank Installment Loan Act of 1959 in accordance
2 with the provisions of Section 58-7-2 NMSA 1978.

3 B. Nothing in the New Mexico Small Loan Act of
4 1955 shall apply to a person making individual advances of
5 five thousand dollars (\$5,000) or less under a written
6 agreement providing for a total loan or line of credit in
7 excess of five thousand dollars (\$5,000).

8 C. A banking corporation, savings and loan
9 association or credit union operating under the laws of the
10 United States or of a state shall be exempt from the
11 licensing requirements of the New Mexico Small Loan Act of
12 1955, nor shall that act apply to business transacted by any
13 person under the authority of and as permitted by any such
14 law nor to any bona fide pawnbroking business transacted
15 under a pawnbroker's license nor to bona fide commercial
16 loans made to dealers upon personal property held for resale.
17 Nothing contained in the New Mexico Small Loan Act of 1955
18 shall be construed as abridging the rights of any of those
19 exempted from the operations of that act from contracting for
20 or receiving interest or charges not in violation of an
21 existing applicable statute of this state.

22 D. The provisions of Subsection A of this section
23 apply to:

24 (1) a person who owns an interest, legal or
25 equitable, in the business or profits of a licensee and whose

1 name does not specifically appear on the face of the license,
2 except a stockholder in a corporate licensee; and

3 (2) a person who seeks to evade its
4 application by any device, subterfuge or pretense whatsoever,
5 including but not thereby limiting the generality of the
6 foregoing:

7 (a) the loan, forbearance, use or sale
8 of credit (as guarantor, surety, endorser, comaker or
9 otherwise), money, goods or things in action;

10 (b) the use of collateral or related
11 sales or purchases of goods or services or agreements to sell
12 or purchase, whether real or pretended;

13 (c) receiving or charging compensation
14 for goods or services, whether or not sold, delivered or
15 provided; and

16 (d) the real or pretended negotiation,
17 arrangement or procurement of a loan through any use or
18 activity of a third person, whether real or fictitious.

19 E. A person, copartnership, trust or a trustee or
20 beneficiary thereof or an association or corporation or a
21 member, officer, director, agent or employee thereof who
22 violates or participates in the violation of a provision of
23 Subsection A of this section is guilty of a petty misdemeanor
24 and upon conviction shall be sentenced pursuant to the
25 provisions of Subsection B of Section 31-19-1 NMSA 1978. A

1 contract or loan in the making or collection of which an act
2 is done that violates Subsection A or D of this section is
3 void and the lender has no right to collect, receive or
4 retain any principal, interest or charges whatsoever.

5 F. A loan in an amount equal to five thousand
6 dollars (\$5,000) or less shall be made only pursuant to the
7 New Mexico Bank Installment Loan Act of 1959 or the New
8 Mexico Small Loan Act of 1955.

9 G. A violation of the provisions of the New Mexico
10 Small Loan Act of 1955, which violation consists of a false
11 or misleading oral or written representation of any kind
12 knowingly made in the extension of credit that may, tends to
13 or does deceive or mislead any person to whom the extension
14 of credit is made, constitutes an unfair or deceptive trade
15 practice pursuant to the Unfair Practices Act."

16 SECTION 13. Section 58-15-5 NMSA 1978 (being Laws 1978,
17 Chapter 6, Section 1, as amended) is amended to read:

18 "58-15-5. LICENSES--INVESTIGATION OF APPLICATION--
19 ISSUANCE--DENIAL--ISSUANCE OF RENEWAL LICENSE--DENIAL OF
20 RENEWAL LICENSE--FITNESS AND CHARACTER OF APPLICANT--LICENSE
21 FEES--LICENSEE BOUND BY ACT.--

22 A. Upon the filing of an application, whether it
23 is an original or a renewal, the director shall investigate
24 the facts concerning the application and the requirements
25 provided in this section.

1 B. An applicant for license, upon written notice
2 to do so by the director, shall, within twenty days after
3 service of the notice, furnish in writing, under oath, to the
4 director all additional information required by the director
5 that may be relevant or, in the opinion of the director,
6 helpful in conducting the investigation.

7 C. Failure to comply with the director's
8 requirement for supplemental information or the willful
9 furnishing of false information is sufficient grounds for
10 denial of license.

11 D. False or misleading information willfully and
12 intentionally furnished to the director prior to the issuance
13 of any license is grounds for suspension or revocation of any
14 license in accordance with the procedures for suspension or
15 revocation of license in the New Mexico Small Loan Act of
16 1955.

17 E. The director shall grant or deny each
18 application for an original license within sixty days from
19 the filing of the application with the required information
20 and fees, unless the period is extended by written agreement
21 between the applicant and the director.

22 F. In the event the director finds that:

23 (1) the financial responsibility, character
24 and general fitness of the applicant for an original license
25 and of the individual members and beneficiaries thereof, if

1 the applicant is a copartnership, association or trust, and
2 of the officers and directors thereof, if the applicant is a
3 corporation, are such as to command the confidence of the
4 public and to warrant belief that the business will be
5 operated lawfully, honestly, fairly and efficiently within
6 the declared purposes and spirit of the New Mexico Small Loan
7 Act of 1955;

8 (2) allowing the applicant to engage in
9 business will promote the convenience and advantage of the
10 community in which the business of the applicant is to be
11 conducted; and

12 (3) the applicant has available for
13 operation of the business at the specified location cash or
14 its equivalent, convertible securities or receivables of
15 thirty thousand dollars (\$30,000) or any combination thereof;
16 the director shall enter an order granting the application,
17 file the director's findings and, upon payment of the license
18 fee of five hundred dollars (\$500), issue and deliver a
19 license to the applicant.

20 G. If the director does not make the findings
21 enumerated in Subsection F of this section, the director
22 shall enter an order denying the application, notify the
23 applicant of the denial and retain the application fee.
24 Within thirty days after the entry of such an order, the
25 director shall prepare written findings and shall deliver a

1 copy to the applicant.

2 H. A written application for license renewal shall
3 be filed on or before March 31 of each year, and thereupon
4 the director shall investigate the facts and review the files
5 of examinations of the applicant made by the director's
6 office and of complaints filed by borrowers, if any. The
7 director shall deliver a renewal license to the applicant if
8 the director finds that:

9 (1) no valid complaints of violations or
10 abuses of the New Mexico Small Loan Act of 1955 or of the
11 regulations of the director promulgated under that act have
12 been filed by borrowers;

13 (2) examinations of the affairs of the
14 applicant indicate that the business has been conducted and
15 operated lawfully and efficiently within the declared
16 purposes and spirit of the New Mexico Small Loan Act of 1955;
17 and

18 (3) the financial responsibility, experience
19 and general fitness and character of the applicant remain
20 such as to command the confidence of the public and to
21 warrant the belief that the business will continue to be
22 operated lawfully and efficiently within the purposes and
23 spirit of the New Mexico Small Loan Act of 1955.

24 I. If the director does not make the findings
25 enumerated in Subsection H of this section, the director may

1 grant a temporary extension of the license not exceeding
2 sixty days pending a hearing; shall enter an order fixing a
3 date for hearing upon the application; shall notify the
4 licensee thereof, specifying the particular complaints,
5 violations or abuses or other reasons for the director's
6 contemplated refusal to renew the license; and shall afford
7 to the applicant an opportunity to be heard. At the hearing,
8 the director shall produce evidence to establish the truth of
9 the charges of violation or other grounds specified in the
10 notice, and the applicant shall be accorded the right to
11 produce evidence or other matters of defense. If after the
12 hearing the director finds that the complaints of violations
13 or other grounds specified in the notice are not well-
14 founded, the director shall issue the renewal license. If
15 the director finds that the complaints of violations or other
16 grounds are well-founded, the director shall enter an order
17 denying the renewal application and notify the applicant of
18 the denial, returning the renewal license fee tendered with
19 the application. Within thirty days after the entry of such
20 an order, the director shall prepare written findings and
21 shall deliver a copy of the findings to the applicant. The
22 order shall be subject to review as provided in Section
23 58-15-25 NMSA 1978. The court in its discretion and upon
24 proper showing may order a temporary extension of the license
25 pending disposition of the review proceedings.

1 J. In connection with the determination of fitness
2 and character of an applicant pursuant to the provisions of
3 this section, the fact that the applicant or licensee is a
4 member of or interested financially in, connected or
5 affiliated with, controls or is controlled by or owns or is
6 owned by other corporations, partnerships, trusts,
7 associations or other legal entities engaged in the lending
8 of money whose policies and practices as to rates of
9 interest, charges and fees and general dealing with borrowers
10 are questionable or would constitute violation of the general
11 usury statutes of this state or of the declared purposes and
12 spirit of the New Mexico Small Loan Act of 1955 shall be
13 given such consideration and weight as the director
14 determines.

15 K. At the time of issuance of original license and
16 each annual renewal thereof, the licensee for each licensed
17 office shall pay to the director as a license fee for the
18 period covered by the license the sum of five hundred dollars
19 (\$500) as a minimum, plus an additional seventy-five cents
20 (\$.75) for each one thousand dollars (\$1,000) or fraction
21 thereof of loans outstanding as of December 31 next
22 preceding, as shown on the applicant's annual report. In the
23 event that the application for annual renewal of the license
24 is delinquent, the licensee shall also pay a delinquency fee
25 of ten dollars (\$10.00) per day for each day the licensee is

1 delinquent in filing the application for renewal.

2 L. In addition to the fees provided for in
3 Subsection K of this section, at the time of issuance of
4 original license and each annual renewal thereof, the
5 licensee for each licensed office shall pay to the director
6 as an additional fee for the period covered by the license
7 the sum of two hundred dollars (\$200), which fee shall be
8 deposited into the financial literacy fund.

9 M. A licensee by accepting a license that is
10 issued or renewed or by continuing to operate a licensed
11 office under the New Mexico Small Loan Act of 1955 shall by
12 such action be deemed to have consented to be bound by the
13 lawful provisions of that act and all lawful requirements,
14 regulations and orders of the director promulgated or issued
15 pursuant to any authorization granted in that act."

16 **SECTION 14.** Section 58-15-9 NMSA 1978 (being Laws 1955,
17 Chapter 128, Section 9, as amended) is amended to read:

18 "58-15-9. EXAMINATION OF LICENSEE'S BOOKS AND RECORDS--
19 WITNESSES.--

20 A. At least once each year, the director or the
21 director's authorized representative shall make an
22 examination of the place of business of each licensee and the
23 loans, transactions, books, papers and records of the
24 licensee insofar as they pertain to the business licensed
25 under the New Mexico Small Loan Act of 1955 as the director

1 may deem necessary. The licensee shall pay to the director
2 for such annual examination a fee of two hundred dollars
3 (\$200).

4 B. Within a reasonable time after the completion
5 of an examination of a licensed office, the director shall
6 mail to the licensee a copy of the report of the examination,
7 together with any comments, exceptions, objections or
8 criticisms of the director concerning the conduct of the
9 licensee and the operation of the licensed office.

10 C. For the purpose of discovering violations of
11 the New Mexico Small Loan Act of 1955 or of securing
12 information lawfully required under that act, the director or
13 the director's authorized representative may at any time
14 investigate the business and examine the books, accounts,
15 papers and records used therein, including income tax returns
16 or other reports filed in the office of the director of the
17 revenue processing division of the taxation and revenue
18 department of:

19 (1) any licensee;

20 (2) any other person engaged in the business
21 described in Subsection A of Section 58-15-3 NMSA 1978 or
22 participating in such business as principal, agent, broker or
23 otherwise; and

24 (3) any person whom the director has
25 reasonable cause to believe is violating any provision of the

1 New Mexico Small Loan Act of 1955, whether the person claims
2 to be within the authority or beyond the scope of that act.

3 D. For the purposes of this section, a person who
4 advertises, solicits or makes any representation as being
5 willing to make loan transactions in any amount, except
6 persons, financial institutions or lending agencies operating
7 under charters or licenses issued by a state or federal
8 agency or under any special statute, shall be subject to
9 investigation under the New Mexico Small Loan Act of 1955 and
10 shall be presumed to be engaged in the business described in
11 Subsection A of Section 58-15-3 NMSA 1978 as to any loans of
12 five thousand dollars (\$5,000) or less.

13 E. To facilitate the examinations and
14 investigations by the director and fully disclose the
15 operations and methods of operation of each licensed office,
16 the licensee shall, in each licensed office, keep on file as
17 part of the records of the office all office manuals,
18 communications or directives containing statements of loan
19 policy to office managers and employees. If the licensee is
20 an individual, corporation, trust or association, the
21 licensee shall keep in at least one office for information of
22 the director a record of the several individuals, firms,
23 beneficiaries of any trust and corporations deriving or
24 receiving any part of the benefits, net income or profits
25 from the operation of the licensee within New Mexico.

1 F. For the purposes of this section, the director
2 or the director's authorized representative shall have and be
3 given free access to the offices and places of business,
4 files, safes and vaults of all licensees and shall have
5 authority to require the attendance of any person and to
6 examine the person under oath relative to such loans or
7 business or to the subject matter of any examination,
8 investigation or hearing as provided in the New Mexico Small
9 Loan Act of 1955. Notices to appear before the director for
10 examination under oath may be served by registered mail. If
11 the party notified to appear is the licensee, any person
12 named on the face of the license being investigated or any
13 agent, employee or manager participating in the licensee's
14 business and the party fails to appear for examination or
15 refuses to answer questions submitted, the director may,
16 forthwith and without further notice to the licensee, suspend
17 the license involved pending compliance with the notice.
18 Upon failure of any other person to appear or to answer
19 questions, the director may apply to and invoke the aid of
20 any district court of New Mexico in compelling the attendance
21 and testimony of any such person and the production of books,
22 records, written instruments and documents relating to the
23 business of the licensee. The district court whose aid is so
24 invoked by the director may, in case of contumacy or refusal
25 to obey any order of the district court issued to compel the

1 attendance of the person or the production of books, records,
2 written instruments and documents, punish the person as for
3 contempt of court.

4 G. The director shall prescribe rules of procedure
5 for all hearings, examinations or investigations provided for
6 in the New Mexico Small Loan Act of 1955. The director is
7 not bound by the usual common law or statutory rules of
8 evidence or by any technical or formal rules of procedure or
9 pleading and specification of charges other than as
10 specifically provided in the New Mexico Small Loan Act of
11 1955 but may conduct hearings, examinations and
12 investigations in the manner best calculated to ascertain the
13 substantial rights of the parties interested.

14 H. The director has the power to administer oaths,
15 certify official acts and records of the director's office,
16 issue subpoenas for witnesses in the name of and under the
17 seal of the director's office and compel the production of
18 papers, books, accounts and documents. The director shall
19 issue subpoenas at the instance of any party to a hearing
20 before the division upon payment of a fee of two dollars
21 fifty cents (\$2.50) for each subpoena so issued.

22 I. Depositions may be taken with or without a
23 commission, and written interrogatories may be submitted in
24 the same manner and on the same grounds provided by law for
25 the taking of depositions or submission of written

1 interrogatories in civil actions pending in the district
2 courts of this state.

3 J. Each witness who appears before the director by
4 the director's order shall receive the fees and mileage
5 provided for witnesses in civil actions in the district
6 court. Fees and mileage shall be paid by the state, but no
7 witness subpoenaed at the instance of parties other than the
8 director is entitled to compensation from the state for
9 attendance or mileage unless the director certifies that the
10 witness' testimony is material.

11 K. Whenever the director has reasonable cause to
12 believe that a person is violating a provision of the New
13 Mexico Small Loan Act of 1955, the director may, in addition
14 to all actions provided for in that act and without prejudice
15 thereto, enter an order requiring the person to desist or to
16 refrain from the violation. An action may be brought on the
17 relation of the attorney general and the director to enjoin
18 the person from engaging in or continuing the violation or
19 from doing any act in furtherance of the violation. In any
20 such action, an order or judgment may be entered awarding a
21 preliminary or final injunction as may be deemed proper. In
22 addition to all other means provided by law for the
23 enforcement of a temporary restraining order, temporary
24 injunction or final injunction, the court in which such
25 action is brought shall have power and jurisdiction to

1 impound and to appoint a receiver for the property and
2 business of the defendants, including books, papers,
3 documents and records pertaining thereto or so much thereof
4 as the court may deem reasonably necessary to prevent further
5 violations of the New Mexico Small Loan Act of 1955 through
6 or by means of the use of the property and business. The
7 receiver, when appointed and qualified, shall have powers and
8 duties as to custody, collection, administration, winding up
9 and liquidation of the property and business as are from time
10 to time conferred upon the receiver by the court."

11 SECTION 15. Section 58-15-10.1 NMSA 1978 (being Laws
12 2011, Chapter 105, Section 1, as amended) is amended to read:

13 "58-15-10.1. LICENSEE REPORTING REQUIREMENTS--
14 PENALTIES.--

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

19 (1) as of December 31 of each calendar year,
20 aggregated for loans of one thousand dollars (\$1,000) or
21 less, for loans more than one thousand dollars (\$1,000) but
22 not more than three thousand dollars (\$3,000) and for loans
23 more than three thousand dollars (\$3,000) but not more than
24 five thousand dollars (\$5,000):

25 (a) the total number of outstanding

1 loans;

2 (b) the dollar value of outstanding
3 loans net of unearned charges;

4 (c) the total number of loans that are
5 more than sixty days delinquent; and

6 (d) the dollar value of loans that are
7 more than sixty days delinquent net of unearned charges;

8 (2) for the calendar year ending December
9 31, the total aggregate number of customers of licensees and
10 of secured and unsecured loans made by licensees and the
11 total dollar value of those loans net of unearned charges;

12 (3) the total amount of finance charges
13 collected during the calendar year ending December 31;

14 (4) the total number of vehicles repossessed
15 during the calendar year ending December 31; and

16 (5) the total bad debt expense incurred
17 during the calendar year ending December 31.

18 B. The report required pursuant to Subsection A of
19 this section shall be submitted to the director on or before
20 the fifteenth day of April each year.

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

25 D. A licensee that fails to timely submit a

1 complete and accurate report as required pursuant to
2 Subsection A of this section may:

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

7 (2) have a license required pursuant to the
8 New Mexico Small Loan Act of 1955 suspended pursuant to
9 Section 58-15-8 NMSA 1978, if a complete and accurate report
10 has not been filed by the fifteenth day of April."

11 **SECTION 16.** Section 58-15-12 NMSA 1978 (being Laws
12 1955, Chapter 128, Section 12, as amended) is amended to
13 read:

14 "58-15-12. ADVERTISING.--A licensee or other person
15 subject to the New Mexico Small Loan Act of 1955 shall not
16 advertise, display, distribute or broadcast or cause or
17 permit to be advertised, displayed, distributed or broadcast
18 in any manner whatsoever a false, misleading or deceptive
19 statement or representation with regard to the charges, terms
20 or conditions for loans in the amount or of the value of five
21 thousand dollars (\$5,000) or less. The director may require
22 that charges or rates of charge, if stated by a licensee, be
23 stated fully and clearly in such manner as the director deems
24 necessary to prevent misunderstanding by prospective
25 borrowers. The director may permit or require licensees to

1 refer in their advertising to the fact that their business is
2 under state supervision, subject to conditions imposed by the
3 director to prevent erroneous impressions as to the scope or
4 degree of protection provided by the New Mexico Small Loan
5 Act of 1955."

6 SECTION 17. Section 58-15-17 NMSA 1978 (being Laws
7 1955, Chapter 128, Section 15, as amended) is amended to
8 read:

9 "58-15-17. REQUIREMENTS FOR MAKING AND PAYING OF
10 LOANS--INCOMPLETE INSTRUMENTS--LIMITATIONS ON CHARGES AFTER
11 JUDGMENT AND INTEREST.--

12 A. Every licensee shall:

13 (1) at the time a loan is made within the
14 provisions of the New Mexico Small Loan Act of 1955, deliver
15 to the borrower or, if there are two or more borrowers on the
16 same obligation, to one of them, a statement in English or
17 Spanish, as required by federal law, on which shall be
18 printed a copy of Section 58-15-14.1 NMSA 1978 and that
19 discloses in clear and distinct terms:

20 (a) the amount of the loan;

21 (b) the date the loan was made;

22 (c) a schedule or a description of the
23 payments;

24 (d) the type of the security, if any,
25 for the loan;

1 (e) the name and address of the
2 licensed office;

3 (f) the name of the person primarily
4 obligated for the loan;

5 (g) the amount of principal;

6 (h) the annual interest rate as
7 disclosed pursuant to 12 CFR Part 1026, known as "Regulation
8 Z", and the amount in dollars and cents;

9 (i) all other disclosures required
10 pursuant to state and federal law; and

11 (j) other items allowable pursuant to
12 that act, so stated as to clearly show the allocation of each
13 item included;

14 (2) for each payment made on account of any
15 such loan, give to the person making it a plain and complete
16 receipt specifying the date and amount of the payment, the
17 amount applied to interest and principal and the balance
18 unpaid. When payment is made in any other manner than by the
19 borrower in person, by an agent of the borrower or by check
20 or money order, the licensee shall mail the receipt to the
21 borrower's last known address or hold the receipt for
22 delivery upon request of the borrower. A copy of all
23 receipts shall be kept on file in the office of the licensee
24 as a part of the licensee's records; and

25 (3) upon payment of the loan in full, mark

1 plainly every note and promise to pay signed by any obligor
2 with the word "paid" or "canceled" and promptly file or
3 record a release of any mortgage if the mortgage has been
4 recorded, restore any pledge and cancel and return any note
5 and any assignment given to the licensee. A licensee may
6 mark and return a copy of the note, promise to pay or any
7 assignment if the copy accurately reproduces the complete
8 original.

9 B. A licensee shall not take a note or promise to
10 pay that does not disclose the amount of the loan, a schedule
11 of payments, or a description thereof, and the agreed charge
12 or rate of charge or any instrument in which blanks are left
13 to be filled in after execution.

14 C. If judgment is obtained against a party on a
15 loan made pursuant to the provisions of the New Mexico Small
16 Loan Act of 1955, neither the judgment nor the loan shall
17 carry, from the date of the judgment, charges against a party
18 to the loan other than costs, attorney fees and post-judgment
19 interest as provided by law.

20 D. Any loan made under the provisions of the New
21 Mexico Small Loan Act of 1955 that is filed and approved as a
22 claim in any bankruptcy proceeding shall, from a date ninety
23 days subsequent to the date of adjudication, bear interest at
24 the rate of ten percent a year only. This limitation shall
25 not apply when the bankrupt is not discharged in bankruptcy

1 or to any obligation not dischargeable under the provisions
2 of the United States Bankruptcy Code presently in force or as
3 hereafter amended.

4 E. No loan made under the provisions of the New
5 Mexico Small Loan Act of 1955 shall bear interest after
6 ninety days from the date of the death of the borrower in
7 excess of a rate of ten percent a year on the unpaid
8 principal balance of the loan.

9 F. No loan made under the provisions of the New
10 Mexico Small Loan Act of 1955 shall bear interest after
11 twelve months from the date of maturity of the loan in excess
12 of ten percent a year upon the unpaid principal balance of
13 the loan.

14 G. No lender shall make a loan pursuant to the New
15 Mexico Small Loan Act of 1955 if a loan has an initial stated
16 maturity of less than one hundred twenty days unless the loan
17 is a refund anticipation loan.

18 H. No lender shall make a loan pursuant to the New
19 Mexico Small Loan Act of 1955 unless the loan is an
20 installment loan or a refund anticipation loan.

21 I. No lender shall make a loan pursuant to the New
22 Mexico Small Loan Act of 1955, other than a refund
23 anticipation loan, unless the loan is repayable in a minimum
24 of four substantially equal installment payments of principal
25 and interest.

1 J. No lender shall make a loan pursuant to the New
2 Mexico Small Loan Act of 1955 that has an annual percentage
3 rate greater than one hundred seventy-five percent,
4 calculated pursuant to 12 CFR Part 1026, known as "Regulation
5 Z".

6 **SECTION 18.** Section 58-15-21 NMSA 1978 (being Laws
7 1955, Chapter 128, Section 19, as amended) is amended to
8 read:

9 "58-15-21. WHAT CONSTITUTES LOAN OF MONEY--WAGE
10 PURCHASES.--The payment of five thousand dollars (\$5,000) or
11 less in money, credit, goods or things in action, as
12 consideration for any sale or assignment of or order for the
13 payment of wages, salary, commission or other compensation
14 for services, whether earned or to be earned, shall, for the
15 purposes of regulation under the New Mexico Small Loan Act of
16 1955, be deemed a loan of money secured by such sale,
17 assignment or order. The amount by which compensation so
18 sold, assigned or ordered paid exceeds the amount of
19 consideration actually paid shall for the purpose of
20 regulation under the New Mexico Small Loan Act of 1955 be
21 deemed interest or charges upon the loan from the date of
22 payment to the date the compensation is payable. Such
23 transaction shall be governed by and subject to the
24 provisions of the New Mexico Small Loan Act of 1955."

25 **SECTION 19.** Section 58-15-24 NMSA 1978 (being Laws

1 1955, Chapter 128, Section 22, as amended) is amended to
2 read:

3 "58-15-24. LOANS MADE ELSEWHERE.--No loan made outside
4 this state to a resident of New Mexico in the amount or of
5 the value of five thousand dollars (\$5,000) or less for which
6 a greater rate of interest, consideration, charge or
7 compensation to the lender than is permitted by the general
8 laws of New Mexico in force governing money, interest and
9 usury has been charged, contracted for or received shall be
10 enforced in this state. Every person in any way
11 participating in such a loan in this state is subject to the
12 provisions of the New Mexico Small Loan Act of 1955. Any
13 loan made to a nonresident of New Mexico in conformity with
14 the law of the state where made may be enforced in this
15 state."

16 SECTION 20. A new section of the New Mexico Small Loan
17 Act of 1955 is enacted to read:

18 "INSTALLMENT LOANS--REFUND ANTICIPATION LOANS--
19 INSUFFICIENT FUNDS--PERMITTED CHARGES.--

20 A. If there are insufficient funds to pay a check
21 or other type of debit on the date of presentment by the
22 licensee, a check or debit authorization request shall not be
23 presented to a financial institution by a licensee for
24 payment more than one time unless the consumer agrees in
25 writing, after a check or other type of debit has been

1 dishonored, to one additional presentment or deposit.

2 B. A licensee shall not charge a consumer for
3 fees, interest or charges of any kind other than those
4 permitted pursuant to Sections 58-15-16, 58-15-17 and 58-15-
5 20 NMSA 1978."

6 SECTION 21. A new section of the New Mexico Small Loan
7 Act of 1955 is enacted to read:

8 "REPORTING OF CREDIT REQUIRED.--For each installment
9 loan and refund anticipation loan made pursuant to the New
10 Mexico Small Loan Act of 1955, a lender shall report to a
11 consumer reporting agency the terms of the loan and the
12 borrower's performance pursuant to those terms."

13 SECTION 22. A new section of the New Mexico Small Loan
14 Act of 1955 is enacted to read:

15 "FINANCIAL LITERACY FUND.--The "financial literacy fund"
16 is created in the state treasury. The fund shall consist of
17 appropriations, gifts, grants, donations and bequests made to
18 the fund and fees received pursuant to Subsection L of
19 Section 58-15-5 NMSA 1978. Income from the fund shall be
20 credited to the fund, and money in the fund shall not revert
21 or be transferred to any other fund at the end of a fiscal
22 year. Money in the fund is appropriated to the regulation
23 and licensing department for the purposes of developing and
24 implementing financial literacy programs as provided for in
25 Subsection C of Section 58-15-39 NMSA 1978. Expenditures

1 from the fund shall be made on warrant of the secretary of
2 finance and administration pursuant to vouchers signed by the
3 superintendent of regulation and licensing."

4 **SECTION 23.** Section 58-15-39 NMSA 1978 (being Laws
5 2007, Chapter 86, Section 21, as amended) is amended to read:

6 "58-15-39. DUTIES OF DIVISION.--

7 A. The division shall:

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

10 (2) establish a complaint process whereby an
11 aggrieved consumer or other person may file a complaint
12 against a licensee.

13 B. The division shall compile from reports filed
14 by licensees pursuant to Section 58-15-10.1 NMSA 1978 an
15 annual report by July 1 of each year containing data
16 regarding loans entered into by licensees, which data shall
17 be aggregated for all licensees. Annual reports shall be
18 made available to interested parties and the general public
19 and published on the division's website. Consistent with
20 state law, the report shall include, at a minimum,
21 nonidentifying consumer data from the preceding calendar
22 year, including:

23 (1) as of December 31 of each calendar year,
24 aggregated for loans of one thousand dollars (\$1,000) or
25 less, for loans more than one thousand dollars (\$1,000) but

1 not more than three thousand dollars (\$3,000) and for loans
2 more than three thousand dollars (\$3,000) but not more than
3 five thousand dollars (\$5,000):

4 (a) the total number of outstanding
5 loans;

6 (b) the dollar value of outstanding
7 loans net of unearned charges;

8 (c) the total number of loans that are
9 more than sixty days delinquent; and

10 (d) the dollar value of loans that are
11 more than sixty days delinquent net of unearned charges;

12 (2) for the calendar year ending December
13 31, the total aggregate number of customers of licensees and
14 secured and unsecured loans made by licensees and the total
15 dollar value of those loans net of unearned charges;

16 (3) the total amount of finance charges
17 collected during the calendar year ending December 31;

18 (4) the total number of vehicles repossessed
19 during the calendar year ending December 31; and

20 (5) the total bad debt expense incurred
21 during the calendar year ending December 31.

22 C. The division shall, in cooperation with the
23 office of the attorney general, develop and implement
24 curriculum for a financial literacy program with elements
25 that shall include a basic understanding of budgets, checking

1 and savings accounts, credit and interest and considerations
2 in deciding how and when to use financial services, including
3 installment loans and refund anticipation loans. The
4 financial literacy program developed pursuant to this
5 subsection may be implemented through the adult basic
6 education division of the higher education department and
7 nonprofit public interest organizations."

8 **SECTION 24.** A new section of the New Mexico Small Loan
9 Act of 1955 is enacted to read:

10 "PREEMPTION.--The state has exclusive jurisdiction and
11 authority regarding the terms and conditions of permitted
12 installment loans and refund anticipation loans, and
13 counties, municipalities and other political subdivisions of
14 the state are preempted from any regulation of terms and
15 conditions of permitted installment loans and refund
16 anticipation loans by ordinance, resolution or otherwise."

17 **SECTION 25.** REPEAL.--Sections 58-15-18 and 58-15-32
18 through 58-15-38 NMSA 1978 (being Laws 1955, Chapter 128,
19 Section 16 and Laws 2007, Chapter 86, Sections 14 through 20,
20 as amended) are repealed.

21 **SECTION 26.** APPLICABILITY.--The provisions of this act
22 shall apply to loans subject to the New Mexico Small Loan Act
23 of 1955 and the New Mexico Bank Installment Loan Act of 1959
24 executed on or after January 1, 2018.

25 **SECTION 27.** EFFECTIVE DATE.--The effective date of the

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provisions of this act is January 1, 2018. _____