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HOUSE BILL 584

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Javier Martínez

AN ACT

RELATING TO LENDING; ENACTING NEW SECTIONS OF THE COLLECTION
AGENCY REGULATORY ACT AND THE MOTOR VEHICLE SALES FINANCE ACT;
PROVIDING FOR THE DIRECTOR OF THE FINANCIAL INSTITUTIONS
DIVISION OF THE REGULATION AND LICENSING DEPARTMENT TO UTILIZE
THE NATIONWIDE MULTISTATE LICENSING SYSTEM AND REGISTRY TO
RECEIVE AND PROCESS APPLICATIONS FOR LICENSES; REPEALING A
SECTION OF THE COLLECTION AGENCY REGULATORY ACT.

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

SECTION 1. 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,

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1 trucks, semi-trailers, truck tractors and buses designed and
2 used primarily to transport persons or property on a public
3 highway, farm machinery and all vehicles new or used, with any
4 power other than muscular power except boat trailers, aircraft
5 or any vehicle that runs only on rails or tracks, but does not
6 include any motor vehicle having a gross vehicle weight of ten
7 thousand pounds or more purchased primarily for business or
8 commercial purposes;

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

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

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

21 E. "retail installment transaction" means any
22 transaction evidenced by a retail installment contract entered
23 into between a retail buyer and a retail seller wherein the
24 retail buyer buys a motor vehicle from the retail seller at a
25 time price payable in one or more deferred installments. The

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1 cash sale price of the motor vehicle, the amount included for
2 insurance and other benefits if a separate charge is made
3 therefor, official fees and the finance charge together
4 constitute the time price;

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

19 G. "cash sale price" means the price stated in a
20 retail installment contract for which the seller would have
21 sold to the buyer, and the buyer would have bought from the
22 seller, the motor vehicle that is the subject matter of the
23 retail installment contract, if the sale had been a sale for
24 cash instead of a retail installment transaction. Cash sale
25 price may include any taxes, registration fee, certificate of

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1 title fee, license and other fees and charges for accessories
2 and their installation and for delivery, servicing, repairing
3 or improving the motor vehicle;

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

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

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

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

25 L. "director" means the director of the financial

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1 institutions division of the regulation and licensing
2 department or a duly authorized agent designated by the
3 director; [~~and~~]

4 M. "year" means a period of three hundred sixty-
5 five days; "month" means one-twelfth of a year; and "day" means
6 one three-hundred-sixty-fifth of a year; and

7 N. "nationwide multistate licensing system and
8 registry" means a licensing system developed and maintained by
9 the conference of state bank supervisors and the American
10 association of residential mortgage regulators pursuant to the
11 federal Secure and Fair Enforcement for Mortgage Licensing Act
12 of 2008 to manage mortgage licenses and other financial
13 services licenses, or a successor registry."

14 SECTION 2. Section 58-19-3 NMSA 1978 (being Laws 1959,
15 Chapter 204, Section 3, as amended) is amended to read:

16 "58-19-3. LICENSING OF SALES FINANCE COMPANIES REQUIRED--
17 DENIAL OF LICENSE--PROVISION FOR OUT-OF-STATE LICENSES.--

18 A. [~~No~~] A person shall not engage in the business
19 of a sales finance company in this state without a license
20 [~~therefor~~] as provided in the Motor Vehicle Sales Finance Act;
21 provided, however, that a state or national bank authorized to
22 do business in this state shall not be required to obtain a
23 license under that act but shall comply with all of its other
24 provisions.

25 B. The application for a license shall be in

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1 writing, under oath and in the form prescribed by the director.
2 The application shall contain the name of the applicant; date
3 of incorporation, if incorporated; the address where the
4 business is or is to be conducted and similar information as to
5 any branch office of the applicant; the name and resident
6 address of the owner or partners or, if a corporation or
7 association, of the directors, trustees and principal officers;
8 and such other pertinent information as the director may
9 require.

10 C. The license fee for each calendar year or part
11 thereof shall be four hundred dollars (\$400) for the principal
12 place of business of the licensee and four hundred dollars
13 (\$400) for each branch of the licensee maintained in this
14 state. For a license maintained out of this state, the license
15 fee shall be five hundred dollars (\$500) for each office. All
16 fees shall be deposited with the state treasurer for deposit
17 and transfer as provided in Section 9-16-14 NMSA 1978.

18 D. Each license shall specify the location of the
19 office or branch [~~and the license shall be conspicuously~~
20 ~~displayed in the office or branch~~]. In case a location is
21 changed, the director shall endorse the change of location on
22 the license upon payment to the director by the licensee of a
23 duplicate license fee of twenty-five dollars (\$25.00).

24 E. Applicants for a license issued pursuant to the
25 Motor Vehicle Sales Finance Act shall apply using a form

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1 prescribed by the director. Information required on the form
2 shall be set forth by rule, instruction or procedure of the
3 director, and may be changed or updated as necessary by the
4 director in order to carry out the purposes of the Motor
5 Vehicle Sales Finance Act.

6 F. The director may establish relationships or
7 contracts with the nationwide multistate licensing system and
8 registry or other entities designated by the nationwide
9 multistate licensing system and registry to collect and
10 maintain records and process transaction fees or other fees
11 related to licenses issued pursuant to the Motor Vehicle Sales
12 Finance Act.

13 G. In an application for a license issued pursuant
14 to the Motor Vehicle Sales Finance Act, the applicant shall, at
15 a minimum, furnish to the nationwide multistate licensing
16 system and registry information concerning the applicant's
17 identity, including:

18 (1) the applicant's personal history and
19 experience in a form prescribed by the nationwide multistate
20 licensing system and registry; and

21 (2) authorization for the nationwide
22 multistate licensing system and registry and the director to
23 obtain information related to any administrative, civil or
24 criminal findings by any governmental jurisdiction regarding
25 the applicant.

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1 H. The director may use the nationwide multistate
2 licensing system and registry as a channeling agent for
3 requesting and distributing information provided pursuant to
4 Paragraphs (1) and (2) of Subsection G of this section to and
5 from any source as deemed appropriate by the director.

6 [~~E.~~] I. Upon the filing of an application and the
7 payment of the fee, the director shall issue to the applicant a
8 license to engage in the business of a sales finance company
9 under and in accordance with the provisions of the Motor
10 Vehicle Sales Finance Act for a period [~~which~~] that shall
11 expire on December 31 next following the date of its issuance.
12 The license shall not be transferable or assignable. [~~No~~] A
13 licensee shall not transact any business provided for by the
14 Motor Vehicle Sales Finance Act under any other name.

15 [~~F.~~] J. The director shall deny a license under the
16 Motor Vehicle Sales Finance Act if [~~he~~] the director finds
17 that:

- 18 (1) the applicant has failed to pay the
19 required fee;
- 20 (2) the applicant has willfully furnished the
21 director with false or misleading information in the
22 application; or
- 23 (3) there is reason to believe that the
24 financial responsibility, character and general fitness of the
25 applicant for an original license and of the individual members

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1 and beneficiaries thereof, if the applicant is a copartnership,
2 association or trust, and of the officers and directors
3 thereof, if the applicant is a corporation, are such as to
4 warrant belief that the business will not be operated lawfully,
5 honestly, fairly and efficiently within the declared purposes
6 and spirit of that act.

7 If an original license is denied by the director, [~~he~~] the
8 director shall immediately notify the applicant in writing
9 setting forth the reasons for denial.

10 [~~G.~~] K. The director may issue a motor vehicle
11 sales finance company license to an applicant who applies for
12 such a license to be located outside the state, if the
13 applicant:

14 (1) files an application on a form prescribed
15 by the director enclosing a license fee of five hundred dollars
16 (\$500);

17 (2) maintains, at all times, an agent for
18 service of process, who shall be a resident of New Mexico; and

19 (3) complies with all sections of the Motor
20 Vehicle Sales Finance Act and any rules and regulations that
21 may be promulgated by the director and complies with all
22 statutes relating to money, interest and usury [~~which~~] that are
23 applicable to motor vehicle sales finance companies.

24 A motor vehicle sales finance company license may be
25 granted to an applicant anywhere in the United States. Local

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1 situs is not a requirement for the granting of a license to an
2 out-of-state applicant."

3 SECTION 3. Section 58-21-32 NMSA 1978 (being Laws 2009,
4 Chapter 122, Section 53) is amended to read:

5 "58-21-32. MORTGAGE CALL REPORTS.--Each licensee shall
6 submit to the nationwide [~~mortgage~~] multistate licensing system
7 and registry reports of condition, which shall be in such form
8 and shall contain such information as the nationwide [~~mortgage~~]
9 multistate licensing system and registry may require."

10 SECTION 4. Section 58-21B-3 NMSA 1978 (being Laws 2009,
11 Chapter 122, Section 3) is amended to read:

12 "58-21B-3. DEFINITIONS.--As used in the New Mexico
13 Mortgage Loan Originator Licensing Act:

14 A. "clerical or support duties" may include,
15 subsequent to the receipt of an application:

16 (1) the receipt, collection, distribution and
17 analysis of information common for the processing or
18 underwriting of a residential mortgage loan; and

19 (2) communicating with a consumer to obtain
20 the information necessary for the processing or underwriting of
21 a loan, to the extent that such communication does not include
22 offering or negotiating loan rates or terms or counseling
23 consumers about residential mortgage loan rates or terms;

24 B. "depository institution" has the same meaning as
25 the definition of depository institution in Section 3 of the

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1 Federal Deposit Insurance Act and includes any credit union;

2 C. "director" means the director of the financial
3 institutions division of the regulation and licensing
4 department;

5 D. "dwelling" means a residential structure that
6 contains one to four units whether or not that structure is
7 attached to real property. "Dwelling" includes an individual
8 condominium unit, an individual cooperative unit, a mobile home
9 and a trailer if used as a residence;

10 E. "federal banking agencies" means the board of
11 governors of the federal reserve system, the comptroller of the
12 currency, [~~the director of the office of thrift supervision~~]
13 the national credit union administration and the federal
14 deposit insurance corporation;

15 F. "immediate family member" means a spouse, child,
16 sibling, parent, grandparent or grandchild, and "immediate
17 family member" includes a stepparent, a stepchild, a
18 stepsibling and an adoptive relationship;

19 G. "individual" means a natural person;

20 H. "license" means a license issued pursuant to
21 Section [~~6 of the New Mexico Mortgage Loan Originator Licensing~~
22 ~~Act~~] 58-21B-6 NMSA 1978;

23 I. "loan processor or underwriter" means an
24 individual who performs clerical or support duties as an
25 employee at the direction of and subject to the supervision and

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1 instruction of a person licensed, or exempt from licensing,
2 pursuant to the Mortgage Loan Company Act;

3 J. "mortgage loan company" means any person defined
4 as such in the Mortgage Loan Company Act;

5 K. "mortgage loan originator" means an individual
6 who for compensation or gain or in the expectation of
7 compensation or gain takes a residential mortgage loan
8 application or offers or negotiates terms of a residential
9 mortgage loan. "Mortgage loan originator" does not include:

10 (1) an individual engaged solely as a loan
11 processor or underwriter except as otherwise provided in
12 Subsection I of this section;

13 (2) a person that only performs real estate
14 brokerage activities and is licensed or registered in
15 accordance with New Mexico law, unless the person is
16 compensated by a lender, a mortgage loan company or other
17 mortgage loan originator or by any agent of such lender,
18 mortgage loan company or other mortgage loan originator; and

19 (3) a person solely involved in extensions of
20 credit relating to timeshare plans, as that term is defined in
21 Section 101(53D) of Title 11 of the United States Code;

22 L. "nationwide [~~mortgage~~] multistate licensing
23 system and registry" means a [~~mortgage~~] licensing system
24 developed and maintained by the conference of state bank
25 supervisors and the American association of residential

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1 mortgage regulators [~~for the licensing and registration of~~
2 ~~licensed mortgage loan originators~~] pursuant to the federal
3 Secure and Fair Enforcement for Mortgage Licensing Act of 2008
4 to manage mortgage licenses and other financial services
5 licenses, or a successor registry;

6 M. "nontraditional mortgage product" means any
7 mortgage product other than a thirty-year fixed rate mortgage;

8 N. "person" means a natural person, corporation,
9 company, limited liability company, partnership or association;

10 O. "real estate brokerage activity" means any
11 activity that involves offering or providing real estate
12 brokerage services to the public, including:

13 (1) acting as a real estate agent or real
14 estate broker for a buyer, seller, lessor or lessee of real
15 property;

16 (2) bringing together parties interested in
17 the sale, purchase, lease, rental or exchange of real property;

18 (3) negotiating, on behalf of any party, any
19 portion of a contract relating to the sale, purchase, lease,
20 rental or exchange of real property, other than in connection
21 with providing financing with respect to any such transaction;

22 (4) engaging in any activity for which a
23 person engaged in the activity is required to be registered or
24 licensed as a real estate agent or real estate broker pursuant
25 to any applicable law; and

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1 (5) offering to engage in any activity or to
2 act in any capacity described in Paragraphs (1) through (4) of
3 this subsection;

4 P. "registered mortgage loan originator" means any
5 individual who:

6 (1) meets the definition of mortgage loan
7 originator and is an employee of:

8 (a) a depository institution;

9 (b) a subsidiary that is: 1) owned and
10 controlled by a depository institution; and 2) regulated by a
11 federal banking agency; or

12 (c) an institution regulated by the farm
13 credit administration; and

14 (2) is registered with, and maintains a unique
15 identifier through, the nationwide [~~mortgage~~] multistate
16 licensing system and registry;

17 Q. "residential mortgage loan" means any loan
18 primarily for personal, family or household use that is secured
19 by a mortgage, deed of trust or other equivalent consensual
20 security interest on a dwelling or on residential real estate
21 upon which is constructed or is intended to be constructed a
22 dwelling as so defined;

23 R. "residential real estate" means any real
24 property located in New Mexico upon which is constructed or
25 intended to be constructed a dwelling;

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1 S. "servicer" means a person that collects or
2 receives payments, including principal, interest and trust
3 items such as hazard insurance, property taxes and other
4 amounts due, on behalf of a note holder or investor in
5 accordance with the terms of a residential mortgage loan, and
6 includes working with a borrower on behalf of a note holder or
7 investor, when the borrower is in financial hardship or
8 default, to modify either temporarily or permanently the terms
9 of an existing residential mortgage loan; and

10 T. "unique identifier" means a number or other
11 identifier assigned by protocols established by the nationwide
12 [~~mortgage~~] multistate licensing system and registry."

13 **SECTION 5.** Section 58-21B-4 NMSA 1978 (being Laws 2009,
14 Chapter 122, Section 4) is amended to read:

15 "58-21B-4. LICENSE AND REGISTRATION REQUIRED TO ORIGINATE
16 MORTGAGE LOANS.--

17 A. Unless specifically exempted from the New Mexico
18 Mortgage Loan Originator Licensing Act pursuant to Subsection B
19 of this section, an individual shall not engage in the business
20 of a mortgage loan originator with respect to any dwelling
21 located in New Mexico without first obtaining and maintaining
22 annually a license pursuant to that act. Each licensed
23 mortgage loan originator must register with and maintain a
24 valid unique identifier issued by the nationwide [~~mortgage~~]
25 multistate licensing system and registry. All new licenses and

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1 license renewals shall expire on December 31 of each year. All
2 license renewal applications shall be submitted on or before
3 November 1 of each year.

4 B. The following are exempt from the provisions of
5 the New Mexico Mortgage Loan Originator Licensing Act:

6 (1) registered mortgage loan originators when
7 acting for an entity defined in Subparagraphs (a) through (c)
8 of Paragraph (1) of Subsection P of Section [~~3 of the New~~
9 ~~Mexico Mortgage Loan Originator Licensing Act]~~ 58-21B-3 NMSA
10 1978;

11 (2) an individual who offers or negotiates
12 terms of a residential mortgage loan with or on behalf of an
13 immediate family member of the individual;

14 (3) an individual who offers or negotiates
15 terms of a real property sale financed in whole or in part by
16 the seller and secured by the seller's real property; or

17 (4) a licensed attorney who negotiates the
18 terms of a residential mortgage loan on behalf of a client as
19 an ancillary matter to the attorney's representation of the
20 client, unless the attorney is compensated by a lender, a
21 mortgage loan company or other mortgage loan originator or by
22 any agent of such lender, mortgage loan company or other
23 mortgage loan originator.

24 C. A loan processor or underwriter who is an
25 independent contractor shall not engage in the activities of a

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1 loan processor or underwriter unless the independent contractor
2 loan processor or underwriter obtains and maintains a license
3 pursuant to Subsection A of this section. Each contractor loan
4 processor or underwriter licensed as a mortgage loan originator
5 shall have and maintain a valid unique identifier issued by the
6 nationwide [~~mortgage~~] multistate licensing system and registry.

7 D. A mortgage loan originator who is currently
8 licensed in another state through the nationwide [~~mortgage~~]
9 multistate licensing system and registry may be granted a
10 temporary mortgage loan originator license valid for ninety
11 days while the mortgage loan originator completes the education
12 and testing requirements of the New Mexico Mortgage Loan
13 Originator Licensing Act. The mortgage loan originator's
14 current license in another state must be valid for more than
15 ninety days beyond the date of application for a temporary
16 license in order to receive a temporary license in New Mexico."

17 SECTION 6. Section 58-21B-5 NMSA 1978 (being Laws 2009,
18 Chapter 122, Section 5) is amended to read:

19 "58-21B-5. STATE LICENSE AND REGISTRATION APPLICATION AND
20 ISSUANCE.--

21 A. Applicants for a license shall apply in a form
22 as prescribed by the director. Each form shall contain content
23 as set forth by rule, instruction or procedure of the director
24 and may be changed or updated as necessary by the director in
25 order to carry out the purposes of the New Mexico Mortgage Loan

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1 Originator Licensing Act.

2 B. In order to fulfill the purposes of the New
3 Mexico Mortgage Loan Originator Licensing Act, the director may
4 establish relationships or contracts with the nationwide
5 [~~mortgage~~] multistate licensing system and registry or other
6 entities designated by the nationwide [~~mortgage~~] multistate
7 licensing system and registry to collect and maintain records
8 and process transaction fees or other fees related to licensed
9 mortgage loan originators or other individuals subject to that
10 act.

11 C. In connection with an application for licensing
12 as a mortgage loan originator, the applicant shall, at a
13 minimum, furnish to the nationwide [~~mortgage~~] multistate
14 licensing system and registry information concerning the
15 applicant's identity, including:

16 (1) fingerprints for submission to the federal
17 bureau of investigation and any governmental agency or entity
18 authorized to receive such information for a state, national
19 and international criminal history background check; and

20 (2) personal history and experience in a form
21 prescribed by the nationwide [~~mortgage~~] multistate licensing
22 system and registry, including the submission of authorization
23 for the nationwide [~~mortgage~~] multistate licensing system and
24 registry and the director to obtain:

25 (a) an independent credit report

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1 obtained from a consumer reporting agency described in Section
2 603(p) of the federal Fair Credit Reporting Act; and

3 (b) information related to any
4 administrative, civil or criminal findings by any governmental
5 jurisdiction.

6 D. For the purposes of this section and in order to
7 reduce the points of contact that the federal bureau of
8 investigation may have to maintain for purposes of Paragraph
9 (1) of Subsection C of this section and Subparagraph (b) of
10 Paragraph (2) of Subsection C of this section, the director may
11 use the nationwide [~~mortgage~~] multistate licensing system and
12 registry as a channeling agent for requesting information from
13 and distributing information to the federal department of
14 justice or any governmental agency with mortgage industry
15 oversight authority.

16 E. For the purposes of this section and in order to
17 reduce the points of contact that the director may have to
18 maintain for purposes of Subparagraphs (a) and (b) of Paragraph
19 (2) of Subsection C of this section, the director may use the
20 nationwide [~~mortgage~~] multistate licensing system and registry
21 as a channeling agent for requesting and distributing
22 information to and from any source as directed by the
23 director."

24 SECTION 7. Section 58-21B-7 NMSA 1978 (being Laws 2009,
25 Chapter 122, Section 7) is amended to read:

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1 "58-21B-7. PRE-LICENSING EDUCATION OF MORTGAGE LOAN
2 ORIGINATORS.--

3 A. In order to meet the pre-licensing education
4 requirement referred to in Subsection D of Section [~~6 of the~~
5 ~~New Mexico Mortgage Loan Originator Licensing Act~~] 58-21B-6
6 NMSA 1978, an individual shall complete at least twenty hours
7 of education approved in accordance with Subsection B of this
8 section, which shall include at least:

9 (1) three hours of federal law and
10 regulations;

11 (2) three hours of ethics, including
12 instruction on fraud, consumer protection and fair lending
13 issues;

14 (3) two hours of training related to lending
15 standards for the nontraditional mortgage product marketplace;
16 and

17 (4) three hours of New Mexico law and
18 administrative rules.

19 B. For the purposes of Subsection A of this
20 section, pre-licensing education courses shall be reviewed and
21 approved by the nationwide [~~mortgage~~] multistate licensing
22 system and registry based upon reasonable standards. Review
23 and approval of a pre-licensing education course shall include
24 review and approval of the course provider.

25 C. Nothing in this section shall preclude any

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1 pre-licensing education course, as approved by the nationwide
2 [~~mortgage~~] multistate licensing system and registry, that is
3 provided by the employer of the applicant or by an entity that
4 is affiliated with the applicant by an agency contract, or by
5 any subsidiary or affiliate of the employer or entity.

6 D. Pre-licensing education may be offered in a
7 classroom, online or by any other means approved by the
8 nationwide [~~mortgage~~] multistate licensing system and registry.

9 E. The pre-licensing education requirements
10 approved by the nationwide [~~mortgage~~] multistate licensing
11 system and registry in Paragraphs (1) through (4) of Subsection
12 A of this section for any state shall be accepted as credit
13 toward completion of pre-licensing education requirements in
14 New Mexico.

15 F. An individual previously licensed pursuant to
16 the New Mexico Mortgage Loan Originator Licensing Act
17 subsequent to the effective date of that act applying to be
18 licensed again shall prove that the individual has completed
19 all of the continuing education requirements for the year in
20 which the license was last held."

21 SECTION 8. Section 58-21B-8 NMSA 1978 (being Laws 2009,
22 Chapter 122, Section 8) is amended to read:

23 "58-21B-8. TESTING OF MORTGAGE LOAN ORIGINATORS.--

24 A. In order to meet the written test requirement
25 referred to in Subsection E of Section [~~6 of the New Mexico~~

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1 ~~Mortgage Loan Originator Licensing Act]~~ 58-21B-6 NMSA 1978, an
2 individual shall pass, in accordance with the standards
3 established pursuant to this section, a qualified written test
4 developed by the nationwide [~~mortgage~~] multistate licensing
5 system and registry and administered by a test provider
6 approved by the nationwide [~~mortgage~~] multistate licensing
7 system and registry based upon reasonable standards.

8 B. A written test shall not be treated as a
9 qualified written test for purposes of Subsection A of this
10 section unless the test adequately measures the applicant's
11 knowledge and comprehension in appropriate subject areas,
12 including:

- 13 (1) ethics;
- 14 (2) federal law and regulations pertaining to
15 mortgage origination;
- 16 (3) New Mexico law and rules pertaining to
17 mortgage origination; and
- 18 (4) federal and New Mexico law and regulations
19 and rules, including those concerning fraud, consumer
20 protection, the nontraditional mortgage product marketplace and
21 fair lending issues.

22 C. Nothing in this section shall prohibit a test
23 provider approved by the nationwide [~~mortgage~~] multistate
24 licensing system and registry from providing a test at the
25 location of the employer of the applicant or the location of

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1 any subsidiary or affiliate of the employer of the applicant,
2 or at the location of any entity with which the applicant holds
3 an exclusive arrangement to conduct the business of a mortgage
4 loan originator.

5 D. An individual shall not be considered to have
6 passed a qualified written test unless the individual achieves
7 a test score of not less than seventy-five percent correct
8 answers to questions.

9 E. An individual may retake a test two consecutive
10 times, provided that each retake occurs at least thirty days
11 after the preceding test. After failing three consecutive
12 tests, an individual shall wait at least six months before
13 taking the test again.

14 F. A licensed mortgage loan originator who fails to
15 maintain a valid license for a period of five years or longer
16 shall retake the test, not taking into account any time during
17 which the individual is a registered mortgage loan originator."

18 SECTION 9. Section 58-21B-9 NMSA 1978 (being Laws 2009,
19 Chapter 122, Section 9) is amended to read:

20 "58-21B-9. STANDARDS FOR LICENSE RENEWAL.--

21 A. The minimum standards for license renewal for
22 mortgage loan originators shall include the following:

23 (1) the mortgage loan originator continues to
24 meet the minimum standards for license issuance pursuant to
25 Section [~~6 of the New Mexico Mortgage Loan Originator Licensing~~

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1 ~~Act]~~ 58-21B-6 NMSA 1978;

2 (2) the mortgage loan originator has satisfied
3 the annual continuing education requirements set forth in
4 Section [~~10 of the New Mexico Mortgage Loan Originator~~
5 ~~Licensing Act]~~ 58-21B-10 NMSA 1978; and

6 (3) the mortgage loan originator has paid all
7 required fees for renewal of the license.

8 B. The license of a mortgage loan originator who
9 fails to satisfy the minimum standards for license renewal
10 shall expire. The director may adopt rules for the
11 reinstatement of expired licenses consistent with the standards
12 established by the nationwide [~~mortgage~~] multistate licensing
13 system and registry."

14 **SECTION 10.** Section 58-21B-10 NMSA 1978 (being Laws 2009,
15 Chapter 122, Section 10) is amended to read:

16 "58-21B-10. CONTINUING EDUCATION FOR MORTGAGE LOAN
17 ORIGINATORS.--

18 A. In order to meet the annual continuing education
19 requirements set forth in Paragraph (2) of Subsection A of
20 Section [~~9 of the New Mexico Mortgage Loan Originator Licensing~~
21 ~~Act]~~ 58-21B-9 NMSA 1978, a licensed mortgage loan originator
22 shall complete at least eight hours of education approved in
23 accordance with Subsection B of this section, which shall
24 include at least:

25 (1) three hours of federal law and

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1 regulations;

2 (2) two hours of ethics, including instruction
3 on fraud, consumer protection and fair lending issues;

4 (3) two hours of training related to lending
5 standards for the nontraditional mortgage product marketplace;
6 and

7 (4) one hour of New Mexico law and
8 administrative rules.

9 B. For the purposes of Subsection A of this
10 section, continuing education courses shall be reviewed and
11 approved by the nationwide [~~mortgage~~] multistate licensing
12 system and registry based upon reasonable standards. Review
13 and approval of a continuing education course shall include
14 review and approval of the course provider.

15 C. Nothing in this section shall preclude any
16 education course, as approved by the nationwide [~~mortgage~~]
17 multistate licensing system and registry, that is provided by
18 the employer of the mortgage loan originator or by an entity
19 that is affiliated with the mortgage loan originator by an
20 agency contract, or any subsidiary or affiliate of such
21 employer or entity.

22 D. Continuing education may be offered in a
23 classroom, online or by any other means approved by the
24 nationwide [~~mortgage~~] multistate licensing system and registry.

25 E. A licensed mortgage loan originator:

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1 (1) except for the provisions of Subsection B
2 of Section [~~9 of the New Mexico Mortgage Loan Originator~~
3 ~~Licensing Act~~] 58-21B-9 NMSA 1978 and Subsection I of this
4 section, may only receive credit for a continuing education
5 course in the year in which the course is taken; and

6 (2) may not take the same approved course in
7 the same or successive years to meet the annual requirements
8 for continuing education.

9 F. A licensed mortgage loan originator who is an
10 approved instructor of an approved continuing education course
11 may receive credit for the licensed mortgage loan originator's
12 own annual continuing education requirement at the rate of two
13 hours' credit for every one hour taught.

14 G. An individual who has successfully completed the
15 education requirements approved by the nationwide [~~mortgage~~
16 multistate licensing system and registry and as set forth in
17 Subsection A of this section for any state shall be accepted as
18 credit toward completion of continuing education requirements
19 in New Mexico.

20 H. A licensed mortgage loan originator who
21 subsequently becomes unlicensed shall complete the continuing
22 education requirements for the last year in which the license
23 was held prior to issuance of a new or renewed license.

24 I. An individual who meets the requirements set
25 forth in Paragraphs (1) and (3) of Subsection A of Section [9

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1 ~~of the New Mexico Mortgage Loan Originator Licensing Act]~~
2 58-21B-9 NMSA 1978 may make up any deficiency in continuing
3 education as established by rule promulgated by the director."

4 SECTION 11. Section 58-21B-11 NMSA 1978 (being Laws 2009,
5 Chapter 122, Section 11) is amended to read:

6 "58-21B-11. AUTHORITY TO REQUIRE LICENSE AND TO SET
7 FEES.--

8 A. In addition to any other duties imposed upon the
9 director by law, the director shall require mortgage loan
10 originators to be licensed and registered through the
11 nationwide [~~mortgage~~] multistate licensing system and registry.
12 In order to carry out this requirement, the director may
13 participate in the nationwide [~~mortgage~~] multistate licensing
14 system and registry. For this purpose, the director may
15 establish requirements as necessary, including [~~but not limited~~
16 ~~to~~]:

17 (1) background checks for:

18 (a) criminal history through fingerprint
19 or other databases;

20 (b) civil or administrative records;

21 (c) credit history; or

22 (d) any other information deemed

23 necessary by the nationwide [~~mortgage~~] multistate licensing
24 system and registry;

25 (2) payment of fees to apply for or renew

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1 licenses through the nationwide [~~mortgage~~] multistate licensing
2 system and registry;

3 (3) setting or resetting as necessary renewal
4 or reporting dates; and

5 (4) requirements for amending or surrendering
6 a license or any other activities the director deems necessary
7 for participation in the nationwide [~~mortgage~~] multistate
8 licensing system and registry.

9 B. The director shall establish by rule fees
10 sufficient to cover the costs of administering the New Mexico
11 Mortgage Loan Originator Licensing Act. These fees may
12 include:

13 (1) an original and renewal license fee paid
14 by each licensed mortgage loan originator;

15 (2) an application fee to cover the costs of
16 processing applications;

17 (3) an examination or investigation fee to
18 cover the costs of any examination or investigation of the
19 books and records of a licensed mortgage loan originator or
20 other person subject to the New Mexico Mortgage Loan Originator
21 Licensing Act; and

22 (4) late fees, license amendment fees and any
23 other fees associated with the costs of administering the New
24 Mexico Mortgage Loan Originator Licensing Act.

25 C. Mortgage loan originators shall not be charged

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1 investigation fees for the processing of complaints when the
2 investigation determines that no violation of the New Mexico
3 Mortgage Loan Originator Licensing Act occurred or when the
4 mortgage loan originator provides a remedy satisfactory to the
5 complainant and the director and no order of the director is
6 issued. All money, fees and penalties collected pursuant to
7 the New Mexico Mortgage Loan Originator Licensing Act shall be
8 deposited into the mortgage regulatory fund.

9 D. For the purposes of implementing an orderly and
10 efficient licensing process, the director may establish
11 licensing rules and interim procedures for licensing and
12 acceptance of applications. For individuals previously
13 registered or licensed pursuant to the Mortgage Loan Company
14 [~~and Loan Broker~~] Act, the director may establish expedited
15 review and licensing procedures."

16 SECTION 12. Section 58-21B-12 NMSA 1978 (being Laws 2009,
17 Chapter 122, Section 12) is amended to read:

18 "58-21B-12. NATIONWIDE [~~MORTGAGE~~] MULTISTATE LICENSING
19 SYSTEM AND REGISTRY INFORMATION CHALLENGE PROCESS.--The
20 director shall establish rules whereby mortgage loan
21 originators may challenge information entered into the
22 nationwide [~~mortgage~~] multistate licensing system and registry
23 by the director."

24 SECTION 13. Section 58-21B-13 NMSA 1978 (being Laws 2009,
25 Chapter 122, Section 13) is amended to read:

1 "58-21B-13. ENFORCEMENT--VIOLATIONS--PENALTIES.--

2 A. In order to ensure the effective supervision and
3 enforcement of the New Mexico Mortgage Loan Originator
4 Licensing Act, the director may:

5 (1) deny, suspend, revoke or decline to renew
6 a license for a violation of the New Mexico Mortgage Loan
7 Originator Licensing Act or rules issued pursuant to that act
8 or an order or a directive entered pursuant to that act;

9 (2) deny, suspend, revoke or decline to renew
10 a license if an applicant or licensed mortgage loan originator:

11 (a) fails at any time to meet the
12 requirements of Section [~~6 or 9 of the New Mexico Mortgage Loan~~
13 ~~Originator Licensing Act~~] 58-21B-6 or 58-21B-9 NMSA 1978; or

14 (b) withholds information or makes a
15 material misstatement in an application for a license or
16 renewal of a license;

17 (3) order restitution against mortgage loan
18 originators for violations of that act;

19 (4) impose fines on mortgage loan originators
20 pursuant to Subsections C through E of this section;

21 (5) order or direct such other affirmative
22 action as the director deems necessary;

23 (6) bar or suspend a mortgage loan originator
24 from licensure in New Mexico as a mortgage loan originator; and

25 (7) issue orders or directives pursuant to the

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1 New Mexico Mortgage Loan Originator Licensing Act as follows:

2 (a) order or direct mortgage loan
3 originators to cease and desist from conducting business,
4 including issuing an immediate temporary order to cease and
5 desist;

6 (b) order or direct mortgage loan
7 originators to cease any harmful activities or violations of
8 that act, including issuing an immediate temporary order to
9 cease and desist; and

10 (c) enter immediate temporary orders to
11 cease business pursuant to a license issued pursuant to the
12 authority granted pursuant to Section [~~4 of the New Mexico~~
13 ~~Mortgage Loan Originator Licensing Act~~] 58-21B-4 NMSA 1978 if
14 the director determines that the license was erroneously
15 granted or the licensed mortgage loan originator is currently
16 in violation of that act.

17 B. The director may initiate one or more of the
18 actions set forth in Section [~~15 of the New Mexico Mortgage~~
19 ~~Loan Originator Licensing Act~~] 58-21B-15 NMSA 1978.

20 C. It is a violation of the New Mexico Mortgage
21 Loan Originator Licensing Act for a mortgage loan originator
22 to:

23 (1) directly or indirectly employ any scheme,
24 device or artifice to defraud or mislead borrowers or lenders
25 or to defraud any person;

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1 (2) engage in any unfair or deceptive practice
2 toward any person;

3 (3) obtain property by fraud or
4 misrepresentation;

5 (4) solicit or enter into a contract with a
6 borrower that provides in substance that the mortgage loan
7 originator may earn a fee or commission through "best efforts"
8 to obtain a loan even though no loan is actually obtained for
9 the borrower;

10 (5) solicit, advertise or enter into a
11 contract for specific interest rates, points or other financing
12 terms unless the terms are actually available at the time of
13 soliciting, advertising or contracting;

14 (6) conduct any business covered by the New
15 Mexico Mortgage Loan Originator Licensing Act without holding a
16 valid license as required pursuant to that act, or assist or
17 aid and abet any person in the conduct of business pursuant to
18 that act without a valid license as required pursuant to that
19 act;

20 (7) fail to make disclosures as required by
21 the New Mexico Mortgage Loan Originator Licensing Act and any
22 other applicable state or federal law, including rules and
23 regulations thereunder;

24 (8) fail to comply with the provisions of the
25 New Mexico Mortgage Loan Originator Licensing Act or rules or

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1 regulations promulgated pursuant to that act, or fail to comply
2 with any other state or federal law, including rules and
3 regulations thereunder, applicable to any business authorized
4 or conducted pursuant to the New Mexico Mortgage Loan
5 Originator Licensing Act;

6 (9) make, in any manner, a false or deceptive
7 statement or representation, including, with regard to the
8 rates, points or other financing terms or conditions for a
9 residential mortgage loan, engaging in bait-and-switch
10 advertising;

11 (10) negligently make any false statement or
12 knowingly and willfully make any omission of material fact in
13 connection with any information or reports filed with a
14 governmental agency or the nationwide [~~mortgage~~] multistate
15 licensing system and registry or in connection with any
16 investigation conducted by the director or another governmental
17 agency;

18 (11) make any payment, threat or promise,
19 directly or indirectly, to any person for the purposes of
20 influencing the independent judgment of the person in
21 connection with a residential mortgage loan or make any
22 payment, threat or promise, directly or indirectly, to any
23 appraiser of a property for the purposes of influencing the
24 independent judgment of the appraiser with respect to the value
25 of the property. Nothing in this paragraph shall be construed

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1 to prohibit a mortgage loan originator from asking the
2 appraiser to consider additional appropriate property
3 information or provide further detail, substantiation or
4 explanation for the appraiser's value conclusion;

5 (12) collect, charge, attempt to collect or
6 charge, or to use or propose any agreement purporting to
7 collect or charge, any fee prohibited by the New Mexico
8 Mortgage Loan Originator Licensing Act;

9 (13) cause or require a borrower to obtain
10 property insurance coverage in an amount that exceeds the
11 replacement cost of the improvements as established by the
12 director and the property insurer;

13 (14) fail to account truthfully for money
14 belonging to a party to a residential mortgage loan
15 transaction;

16 (15) engage in mortgage loan origination on
17 behalf of more than one mortgage loan company;

18 (16) pay, receive or collect in whole or in
19 part any commission, fee or other compensation for originating
20 a mortgage loan in violation of the New Mexico Mortgage Loan
21 Originator Licensing Act, including a mortgage loan originated
22 by any unlicensed person other than an exempt person;

23 (17) charge or collect any fee, commission or
24 rate of interest or make or originate any mortgage loan with
25 terms or conditions or in a manner contrary to other applicable

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1 federal and state laws;

2 (18) advertise mortgage loans, including
3 rates, margins, discounts, points, fees, commission or other
4 material information, including material limitations on the
5 loans, unless the person is able to make the mortgage loans
6 available to a reasonable number of qualified applicants;

7 (19) coerce, extort, induce, bribe or
8 intimidate or attempt to coerce, extort, induce, bribe or
9 intimidate an appraiser to value property in excess of its fair
10 market value;

11 (20) originate a mortgage loan that contains a
12 pre-payment penalty;

13 (21) misrepresent a borrower's credit rating;

14 (22) misrepresent, inflate or fabricate, or
15 encourage a borrower to misrepresent, inflate or fabricate, the
16 source or amount of a borrower's actual income or assets, other
17 than allowable grossed-up income not to exceed twenty-five
18 percent per current agency guidelines as set by the director,
19 in the application or underwriting process for a residential
20 mortgage loan;

21 (23) originate a residential mortgage loan
22 when the terms of that loan are in violation of the Home Loan
23 Protection Act;

24 (24) originate a residential mortgage loan
25 that does not require documentation and consideration of the

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1 borrower's reasonable ability to repay that loan pursuant to
2 its terms. The borrower's ability to repay shall be
3 demonstrated through reasonably reliable documentation that may
4 include payroll receipts, tax returns, bank records, asset and
5 credit evaluations, mortgage payment history or other similar
6 reliable documentation. The provisions of this paragraph shall
7 not apply to a residential mortgage loan originated pursuant to
8 a government streamline program or a streamline program
9 administered by a government-sponsored enterprise, to a reverse
10 mortgage insured as part of a government program or to loss
11 mitigation activities of a mortgage loan servicer or lender
12 with which the borrower has a current relationship, so long as
13 each of these exceptions, as applicable, provides the borrower
14 with a reasonable, tangible net benefit; or

15 (25) originate a residential mortgage loan
16 that does not require a determination of the borrower's
17 reasonable ability to pay the costs set forth in this
18 paragraph. In the case of an adjustable rate residential
19 mortgage loan, the reasonable ability to pay shall be
20 determined based on a fully indexed rate and repayment schedule
21 that achieves full amortization over the life of the mortgage
22 loan. The costs, as applicable, to be used in determining the
23 borrower's reasonable ability to pay include principal,
24 interest, real estate taxes, property insurance, property
25 assessments, mortgage insurance premiums and other scheduled

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1 long-term monthly debt payments.

2 D. The director may impose a civil penalty on a
3 mortgage loan originator if the director finds, on the record
4 after notice and opportunity for hearing, that the mortgage
5 loan originator has violated or failed to comply with any
6 requirement of the New Mexico Mortgage Loan Originator
7 Licensing Act or any rule promulgated by the director pursuant
8 to that act or any order issued pursuant to authority of that
9 act.

10 E. The maximum amount of penalty for each act or
11 omission described in Subsection C of this section shall be
12 twenty-five thousand dollars (\$25,000).

13 F. Each violation or failure to comply with any
14 directive or order of the director is a separate and distinct
15 violation or failure."

16 SECTION 14. Section 58-21B-18 NMSA 1978 (being Laws 2009,
17 Chapter 122, Section 18) is amended to read:

18 "58-21B-18. CONFIDENTIALITY.--In order to promote more
19 effective regulation and reduce regulatory burden through
20 supervisory information-sharing, except as otherwise provided
21 in Public Law 110-289, Section 1512, the requirements pursuant
22 to any federal law or pursuant to the Inspection of Public
23 Records Act regarding the privacy or confidentiality of any
24 information or material provided to the nationwide [~~mortgage~~]
25 multistate licensing system and registry, and any privilege

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1 arising pursuant to federal or state law, including the rules
2 of any federal or state court, with respect to such information
3 or material, shall continue to apply to such information or
4 material after the information or material has been disclosed
5 to the nationwide [~~mortgage~~] multistate licensing system and
6 registry. Such information and material may be shared with all
7 state and federal regulatory officials with mortgage industry
8 oversight authority without the loss of privilege or the loss
9 of confidentiality protections provided by federal law or the
10 Inspection of Public Records Act, and the director may enter
11 into agreements or sharing arrangements with other governmental
12 agencies, the conference of state bank supervisors, the
13 American association of residential mortgage regulators or
14 other associations representing governmental agencies as
15 established by rule or order of the director."

16 SECTION 15. Section 58-21B-22 NMSA 1978 (being Laws 2009,
17 Chapter 122, Section 22) is amended to read:

18 "58-21B-22. MORTGAGE CALL REPORTS.--A mortgage loan
19 originator shall submit to the nationwide [~~mortgage~~] multistate
20 licensing system and registry reports of condition, which shall
21 be in such form and shall contain such information as the
22 nationwide [~~mortgage~~] multistate licensing system and registry
23 may require."

24 SECTION 16. Section 58-21B-23 NMSA 1978 (being Laws 2009,
25 Chapter 122, Section 23) is amended to read:

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1 "58-21B-23. REPORT TO NATIONWIDE [~~MORTGAGE~~] MULTISTATE
2 LICENSING SYSTEM AND REGISTRY.--Subject to state privacy laws,
3 the director shall report regularly violations of the New
4 Mexico Mortgage Loan Originator Licensing Act, as well as
5 enforcement actions and other relevant information, to the
6 nationwide [~~mortgage~~] multistate licensing system and registry
7 subject to the provisions set forth in Section [~~18 of the New~~
8 ~~Mexico Mortgage Loan Originator Licensing Act~~] 58-21B-18 NMSA
9 1978."

10 **SECTION 17.** Section 58-32-102 NMSA 1978 (being Laws 2016,
11 Chapter 88, Section 102) is amended to read:

12 "58-32-102. DEFINITIONS.--As used in the Uniform Money
13 Services Act:

14 A. "applicant" means a person that files an
15 application for a license pursuant to the Uniform Money
16 Services Act;

17 B. "authorized delegate" means a person that a
18 licensee designates to provide money services on behalf of the
19 licensee;

20 C. "bank" means an institution organized under
21 federal or state law that:

22 (1) accepts demand deposits or deposits that
23 the depositor may use for payment to third parties and engages
24 in the business of making commercial loans; or

25 (2) engages in credit card operations and

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1 maintains only one office that accepts deposits, does not
2 accept demand deposits or deposits that the depositor may use
3 for payments to third parties, does not accept a savings or
4 time deposit less than one hundred thousand dollars (\$100,000)
5 and does not engage in the business of making commercial loans;

6 D. "check cashing" means receiving compensation for
7 taking payment instruments or stored value, other than
8 traveler's checks, in exchange for money, payment instruments
9 or stored value delivered to the person delivering the payment
10 instrument or stored value at the time and place of delivery
11 without an agreement specifying when the person taking the
12 payment instrument will present it for collection;

13 E. "control" means:

14 (1) ownership of, or the power to vote,
15 directly or indirectly, at least twenty-five percent of a class
16 of voting securities or voting interests of a licensee or
17 person in control of a licensee;

18 (2) the power to elect, appoint, choose or
19 otherwise designate, directly or indirectly, a majority of
20 executive officers, managers, directors, trustees or other
21 persons exercising managerial authority of a licensee or person
22 in control of a licensee; or

23 (3) the power to exercise, directly or
24 indirectly, a controlling influence over the management or
25 policies of a licensee or person in control of a licensee;

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1 F. "currency exchange" means receipt of revenues
2 from the exchange of money of one government for money of
3 another government;

4 G. "director" means the director of the financial
5 institutions division of the regulation and licensing
6 department;

7 H. "electronic" means relating to technology having
8 electrical, digital, magnetic, wireless, optical,
9 electromagnetic or similar capabilities;

10 I. "executive officer" means a president, chair of
11 the executive committee, chief financial officer, responsible
12 individual or other individual who performs similar functions;

13 J. "internet-based money services business" means a
14 business that provides money transmission, check cashing or
15 currency exchange services to residents of New Mexico through
16 the internet;

17 K. "licensee" means a person licensed pursuant to
18 the Uniform Money Services Act;

19 L. "limited station" means private premises where a
20 check casher is authorized to engage in check cashing solely
21 for the employees of the particular employer or group of
22 employers specified in the check casher's license application;

23 M. "mobile location" means a vehicle or a movable
24 facility where check cashing occurs;

25 N. "monetary value" means a medium of exchange,

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1 whether or not redeemable in money;

2 O. "money" means a medium of exchange that is
3 authorized or adopted by the United States or a foreign
4 government. "Money" includes a monetary unit of account
5 established by an intergovernmental organization or by
6 agreement between two or more governments;

7 P. "money services" means money transmission, check
8 cashing or currency exchange;

9 Q. "money transmission" means selling or issuing
10 payment instruments, stored value or receiving money or
11 monetary value for transmission. "Money transmission" does not
12 include the provision solely of delivery, online or
13 telecommunications services or network access;

14 R. "nationwide [~~mortgage~~] multistate licensing
15 system and registry" means a licensing system developed and
16 maintained by the conference of state bank supervisors and the
17 American association of residential mortgage regulators
18 pursuant to the federal Secure and Fair Enforcement for
19 Mortgage Licensing Act of 2008 to manage mortgage licenses and
20 other financial services licenses, or a successor registry;

21 S. "outstanding", with respect to a payment
22 instrument, means issued or sold by or for the licensee and
23 reported as sold but not yet paid by or for the licensee;

24 T. "payment instrument" means a check, draft, money
25 order, traveler's check or other instrument for the

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1 transmission or payment of money or monetary value, whether or
2 not negotiable. "Payment instrument" does not include a credit
3 card voucher, letter of credit or instrument that is redeemable
4 by the issuer in goods or services;

5 U. "person" means an individual, corporation,
6 business trust, estate, trust, partnership, limited liability
7 company, association, joint venture, government, governmental
8 subdivision, agency or instrumentality, public corporation or
9 any other legal or commercial entity;

10 V. "record", when used as a noun, means information
11 that is inscribed on a tangible medium or that is stored in an
12 electronic or other medium and is retrievable in perceivable
13 form;

14 W. "responsible individual" means an individual who
15 is employed by a licensee and has principal managerial
16 authority over the provision of money services by the licensee
17 in New Mexico;

18 X. "sign" means, with present intent to
19 authenticate or adopt a record:

- 20 (1) to execute or adopt a tangible symbol; or
21 (2) to attach to or logically associate with
22 the record an electronic sound, symbol or process;

23 Y. "state" means a state of the United States, the
24 District of Columbia, Puerto Rico, the United States Virgin
25 Islands or any territory or insular possession subject to the

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1 jurisdiction of the United States;

2 Z. "stored value" means monetary value that is
3 evidenced by an electronic record;

4 AA. "unique identifier" means a number or other
5 identifier assigned by protocols established by the nationwide
6 [~~mortgage~~] multistate licensing system and registry; and

7 BB. "unsafe or unsound practice" means a practice
8 or conduct by a person licensed to engage in money transmission
9 or an authorized delegate of such a person that creates the
10 likelihood of material loss, insolvency or dissipation of the
11 licensee's assets, or otherwise materially prejudices the
12 interests of its customers."

13 SECTION 18. Section 58-32-202 NMSA 1978 (being Laws 2016,
14 Chapter 88, Section 202) is amended to read:

15 "58-32-202. APPLICATION FOR LICENSE.--

16 A. A person applying for a license pursuant to
17 Article 2 of the Uniform Money Services Act shall apply in a
18 record signed under penalty of perjury that shall be in a form
19 and in a medium required by the director. Each form shall
20 contain content as set forth by rule, instruction or procedure
21 of the director. The form shall include the following
22 information:

23 (1) the legal name and residential and
24 business addresses of the applicant and any fictitious or trade
25 name used by the applicant in conducting its business;

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1 (2) a list of any criminal convictions of the
2 applicant and any material litigation in which the applicant
3 has been involved in the ten-year period next preceding the
4 submission of the application;

5 (3) a description of any money services
6 previously provided by the applicant and the money services
7 that the applicant seeks to provide in New Mexico;

8 (4) a list of the applicant's proposed
9 authorized delegates and the locations in New Mexico where the
10 applicant and its authorized delegates propose to engage in
11 money transmission or provide other money services;

12 (5) a list of other states in which the
13 applicant is licensed to engage in money transmission or
14 provide other money services and any license revocations,
15 suspensions or other disciplinary action taken against the
16 applicant in another state;

17 (6) information concerning any bankruptcy or
18 receivership proceedings affecting the applicant;

19 (7) a sample form of contract for authorized
20 delegates, if applicable, and a sample form of payment
21 instrument or instrument upon which stored value is recorded,
22 if applicable;

23 (8) the name and address of any bank through
24 which the applicant's payment instruments and stored value will
25 be paid;

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1 (9) a description of the source of money and
2 credit to be used by the applicant to provide money services;
3 and

4 (10) any other information the director
5 reasonably requires with respect to the applicant.

6 B. In order to fulfill the purposes of the Uniform
7 Money Services Act, the director may establish relationships or
8 contracts with the nationwide [~~mortgage~~] multistate licensing
9 system and registry or other entities designated by the
10 nationwide [~~mortgage~~] multistate licensing system and registry
11 to collect and maintain records and process transaction fees or
12 other fees related to applicants or other individuals subject
13 to that act.

14 C. In connection with an application for licensing
15 pursuant to Article 2 of the Uniform Money Services Act, the
16 applicant shall, at a minimum, furnish to the nationwide
17 [~~mortgage~~] multistate licensing system and registry the
18 following information in a form and medium prescribed by the
19 nationwide [~~mortgage~~] multistate licensing system and registry:

20 (1) the applicant's history and experience;
21 and

22 (2) an authorization for the nationwide
23 [~~mortgage~~] multistate licensing system and registry and the
24 director to obtain:

25 (a) an independent credit report; and

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1 (b) information related to any
2 administrative, civil or criminal findings by any governmental
3 jurisdiction.

4 D. If an applicant is a corporation, limited
5 liability company, partnership or other entity, the applicant
6 shall also provide:

7 (1) the date of the applicant's incorporation
8 or formation and the state or country of incorporation or
9 formation;

10 (2) if applicable, a certificate of good
11 standing from the state or country in which the applicant is
12 incorporated or formed;

13 (3) a brief description of the structure or
14 organization of the applicant, including any parent or
15 subsidiary of the applicant, and whether any parent or
16 subsidiary is publicly traded;

17 (4) the legal name, any fictitious or trade
18 name, all business and residential addresses and the employment
19 in the ten-year period next preceding the submission of the
20 application of each executive officer, manager, director or
21 person that has control of the applicant;

22 (5) a list of any criminal convictions and
23 material litigation in which any executive officer, manager,
24 director or person in control of the applicant has been
25 involved in the ten-year period next preceding the submission

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1 of the application;

2 (6) a copy of the applicant's audited
3 financial statements for the most recent fiscal year and, if
4 available, for the two-year period next preceding the
5 submission of the application;

6 (7) a copy of the applicant's unconsolidated
7 financial statements for the current fiscal year, whether
8 audited or not, and, if available, for the two-year period next
9 preceding the submission of the application;

10 (8) if the applicant is publicly traded, a
11 copy of the most recent report filed with the United States
12 securities and exchange commission pursuant to Section 13 of
13 the federal Securities Exchange Act of 1934;

14 (9) if the applicant is a wholly owned
15 subsidiary of:

16 (a) a corporation publicly traded in the
17 United States, a copy of audited financial statements for the
18 parent corporation for the most recent fiscal year or a copy of
19 the parent corporation's most recent report filed pursuant to
20 Section 13 of the federal Securities Exchange Act of 1934; or

21 (b) a corporation publicly traded
22 outside the United States, a copy of similar documentation
23 filed with the regulator of the parent corporation's domicile
24 outside the United States;

25 (10) if the applicant has a registered agent

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1 in New Mexico, the name and address of the applicant's
2 registered agent in New Mexico; and

3 (11) any other information the director
4 reasonably requires with respect to the applicant.

5 E. A nonrefundable application fee of two thousand
6 dollars (\$2,000) and a nonrefundable license fee of two
7 thousand dollars (\$2,000) shall accompany an application for a
8 license pursuant to Article 2 of the Uniform Money Services
9 Act. The application shall also be accompanied by the surety
10 bond or other security required by Section [~~203 of the Uniform~~
11 ~~Money Services Act~~] 58-32-203 NMSA 1978.

12 F. The director may waive one or more requirements
13 of Subsection C or D of this section or permit an applicant to
14 submit other information in lieu of the required information.

15 G. As used in this section, "material litigation"
16 means litigation that, according to generally accepted
17 accounting principles, is significant to an applicant's or a
18 licensee's financial health and would be required to be
19 disclosed in the applicant's or licensee's annual audited
20 financial statements, report to shareholders or similar
21 records."

22 **SECTION 19.** Section 58-32-302 NMSA 1978 (being Laws 2016,
23 Chapter 88, Section 302) is amended to read:

24 "58-32-302. APPLICATION FOR LICENSE.--

25 A. A person applying for a license pursuant to

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1 Article 3 of the Uniform Money Services Act shall apply in a
2 record signed under penalty of perjury that shall be in a form
3 and in a medium required by the director. Each form shall
4 contain content as set forth by rule, instruction or procedure
5 of the director. The form shall include the following
6 information:

7 (1) the legal name and residential and
8 business addresses of the applicant if the applicant is an
9 individual or, if the applicant is not an individual, the name
10 of each partner, executive officer, manager and director;

11 (2) the location of the principal office of
12 the applicant;

13 (3) complete addresses of other locations in
14 New Mexico where the applicant proposes to engage in check
15 cashing or currency exchange, including all limited stations
16 and mobile locations;

17 (4) a description of the source of money and
18 credit to be used by the applicant to engage in check cashing
19 and currency exchange; and

20 (5) other information the director reasonably
21 requires with respect to the applicant, but not more than the
22 director may require pursuant to Article 2 of the Uniform Money
23 Services Act.

24 B. In connection with an application for licensing
25 pursuant to Article 3 of the Uniform Money Services Act, the

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1 applicant shall, at a minimum, furnish to the nationwide
2 [~~mortgage~~] multistate licensing system and registry the
3 following information in a form and medium prescribed by the
4 nationwide [~~mortgage~~] multistate licensing system and registry:

5 (1) the applicant's history and experience;
6 and

7 (2) an authorization for the nationwide
8 [~~mortgage~~] multistate licensing system and registry and the
9 director to obtain:

10 (a) an independent credit report; and
11 (b) information related to any
12 administrative, civil or criminal findings by any governmental
13 jurisdiction.

14 C. A nonrefundable application fee of two thousand
15 dollars (\$2,000) and a nonrefundable license fee of two
16 thousand dollars (\$2,000) shall accompany an application for a
17 license pursuant to Article 3 of the Uniform Money Services
18 Act."

19 **SECTION 20.** Section 58-32-402 NMSA 1978 (being Laws 2016,
20 Chapter 88, Section 402) is amended to read:

21 "58-32-402. APPLICATION FOR LICENSE.--

22 A. A person applying for a license pursuant to
23 Article 4 of the Uniform Money Services Act shall apply in a
24 record signed under penalty of perjury that shall be in a form
25 and in a medium required by the director. Each form shall

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1 contain content as set forth by rule, instruction or procedure
2 of the director. The form shall include the following
3 information:

4 (1) the legal name and residential and
5 business addresses of the applicant if the applicant is an
6 individual or, if the applicant is not an individual, the name
7 of each partner, executive officer, manager and director;

8 (2) the location of the principal office of
9 the applicant;

10 (3) complete addresses of other locations in
11 New Mexico where the applicant proposes to engage in currency
12 exchange or check cashing, including all limited stations and
13 mobile locations;

14 (4) a description of the source of money and
15 credit to be used by the applicant to engage in check cashing
16 and currency exchange; and

17 (5) other information the director reasonably
18 requires with respect to the applicant, but not more than the
19 director may require pursuant to Article 2 of the Uniform Money
20 Services Act.

21 B. In connection with an application for licensing
22 pursuant to Article 4 of the Uniform Money Services Act, the
23 applicant shall, at a minimum, furnish to the nationwide
24 [~~mortgage~~] multistate licensing system and registry the
25 following information in a form and medium prescribed by the

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1 nationwide [~~mortgage~~] multistate licensing system and registry:

2 (1) the applicant's history and experience;
3 and

4 (2) an authorization for the nationwide
5 [~~mortgage~~] multistate licensing system and registry and the
6 director to obtain:

7 (a) an independent credit report; and

8 (b) information related to any
9 administrative, civil or criminal findings by any governmental
10 jurisdiction.

11 C. A nonrefundable application fee of two thousand
12 dollars (\$2,000) and a nonrefundable license fee of two
13 thousand dollars (\$2,000) shall accompany an application for a
14 license pursuant to Article 4 of the Uniform Money Services
15 Act."

16 SECTION 21. Section 58-32-602 NMSA 1978 (being Laws 2016,
17 Chapter 88, Section 602) is amended to read:

18 "58-32-602. COOPERATION.--The director may consult and
19 cooperate with other state agencies, agencies of another state
20 or of the United States or the nationwide [~~mortgage~~] multistate
21 licensing system and registry in enforcing and administering
22 the Uniform Money Services Act. They may jointly pursue
23 examinations and take other official action that they are
24 otherwise empowered to take."

25 SECTION 22. Section 58-32-603 NMSA 1978 (being Laws 2016,

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1 Chapter 88, Section 603) is amended to read:

2 "58-32-603. REPORTS.--

3 A. A licensee shall file with the director a record
4 signed under penalty of perjury that shall be in a form and in
5 a medium prescribed by the director and that shall contain any
6 material change in information provided in the licensee's
7 application or the information provided by the licensee to the
8 nationwide [~~mortgage~~] multistate licensing system and registry.
9 The record shall be filed within fifteen business days after
10 the licensee has reason to know of the change.

11 B. A licensee shall file with the director within
12 forty-five days after the end of each fiscal quarter a record
13 signed under penalty of perjury that shall be in a form and in
14 a medium prescribed by the director and that shall contain a
15 current list of all authorized delegates and locations in New
16 Mexico where the licensee or an authorized delegate of the
17 licensee provides money services, including limited stations
18 and mobile locations. The licensee shall state the name and
19 street address of each location and authorized delegate.

20 C. A licensee shall file a report with the director
21 within one business day after the licensee has reason to know
22 of the occurrence of any of the following events:

- 23 (1) the filing of a petition by or against the
24 licensee pursuant to the United States Bankruptcy Code for
25 bankruptcy or reorganization;

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1 (2) the filing of a petition by or against the
2 licensee for receivership, the commencement of any other
3 judicial or administrative proceeding for its dissolution or
4 reorganization or the making of a general assignment for the
5 benefit of its creditors;

6 (3) the commencement of a proceeding to revoke
7 or suspend its license in a state or country in which the
8 licensee engages in business or is licensed;

9 (4) the cancellation or other impairment of
10 the licensee's bond or other security;

11 (5) a charge or conviction of the licensee or
12 of an executive officer, manager, director or person in control
13 of the licensee for a felony; or

14 (6) a charge or conviction of an authorized
15 delegate for a felony.

16 D. The report required pursuant to Subsection C of
17 this section shall be a record signed under penalty of perjury
18 and in a form and in a medium prescribed by the director and
19 shall describe the event requiring the report."

20 **SECTION 23.** Section 58-32-901 NMSA 1978 (being Laws 2016,
21 Chapter 88, Section 901) is amended to read:

22 "58-32-901. POWERS OF DIRECTOR.--

23 A. The director may act on the director's own
24 initiative or in response to complaints and may receive
25 complaints, take action to obtain voluntary compliance with the

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1 Uniform Money Services Act, refer cases to the office of the
2 attorney general or any other state agency or agency of another
3 state or the United States and seek or provide remedies as
4 provided in the Uniform Money Services Act.

5 B. The director may investigate and examine, in New
6 Mexico or in any other state or country, by subpoena or
7 otherwise, the activities, books, accounts and records of a
8 person that provides or offers to provide money services, or a
9 person to which a licensee has delegated its obligations
10 pursuant to an agreement or the Uniform Money Services Act, to
11 determine compliance with the Uniform Money Services Act.

12 Information that identifies individuals who have agreements
13 with the licensee shall not be disclosed to the public. In
14 connection with the investigation, the director may:

15 (1) charge the person the reasonable expenses
16 necessarily incurred to conduct the examination; and

17 (2) require or permit a person to file a
18 statement under oath as to all the facts and circumstances of a
19 matter to be investigated.

20 C. The director may enter into cooperative
21 arrangements with other state agencies or agencies of another
22 state or of the United States, or the nationwide [~~mortgage~~
23 multistate licensing system and registry, and may exchange with
24 any of those entities information about a licensee, including
25 information obtained during an examination of the licensee.

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1 D. The director may bring an action to enforce the
2 Uniform Money Services Act in New Mexico or in any other state
3 or country.

4 E. The director may recover the reasonable expenses
5 of enforcing the Uniform Money Services Act pursuant to Article
6 8 of that act, including nongovernmental attorney and expert
7 witness fees based on the hours reasonably expended and the
8 hourly rates for attorneys and expert witnesses of comparable
9 experience in the community."

10 SECTION 24. Section 61-18A-1 NMSA 1978 (being Laws 1987,
11 Chapter 252, Section 1) is amended to read:

12 "61-18A-1. SHORT TITLE.--~~[This act]~~ Chapter 61, Article
13 18A NMSA 1978 may be cited as the "Collection Agency Regulatory
14 Act"."

15 SECTION 25. Section 61-18A-2 NMSA 1978 (being Laws 1987,
16 Chapter 252, Section 2) is amended to read:

17 "61-18A-2. DEFINITIONS.--As used in the Collection Agency
18 Regulatory Act:

19 A. "division" means the financial institutions
20 division of the regulation and licensing department;

21 B. "director" means the director of the [~~financial~~
22 ~~institutions]~~ division [of the regulation and licensing
23 department] or a duly authorized agent designated by the
24 director;

25 C. "collection agency" means [~~any~~] a person

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1 engaging in business for the purpose of collecting or
2 attempting to collect, directly or indirectly, debts owed or
3 due or asserted to be owed or due another, where such person is
4 so engaged by two or more creditors. The term also includes
5 [~~any~~] a creditor who, in the process of collecting [~~his~~] the
6 creditor's own debts, uses any name other than [~~his~~] the
7 creditor's own [~~which~~] that would indicate that a third person
8 is collecting or attempting to collect [~~such~~] the debts. The
9 term does not include:

10 (1) [~~any~~] an officer or employee of a creditor
11 while, in the name of the creditor, collecting debts for such
12 creditor;

13 (2) [~~any~~] a person while collecting debts for
14 another person, both of whom are related by common ownership or
15 affiliated by corporate control, if the person collects debts
16 only for persons to whom it is so related or affiliated and if
17 the principal business of such person is not the collection of
18 debts;

19 (3) [~~any~~] an officer or employee of the United
20 States, [~~any~~] a state or [~~any~~] a political subdivision thereof
21 to the extent that collecting or attempting to collect [~~any~~] a
22 debt is in the performance of [~~his~~] official duties;

23 (4) [~~any~~] a person while serving or attempting
24 to serve legal process on any other person in connection with
25 the judicial enforcement of [~~any~~] a debt;

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1 (5) [~~any~~] a nonprofit organization [~~which~~
2 that, at the request of debtors, performs bona fide consumer
3 credit counseling and assists debtors in the liquidation of
4 their debts by receiving payments from such debtors and
5 distributing such amounts to creditors;

6 (6) [~~any~~] an attorney-at-law collecting a debt
7 as an attorney on behalf of and in the name of a client; [~~and~~
8 or

9 (7) [~~any~~] a person collecting or attempting to
10 collect [~~any~~] a debt owed or due or asserted to be owed or due
11 to another to the extent such activity:

12 (a) is incidental to a bona fide
13 fiduciary obligation or a bona fide escrow arrangement;

14 (b) concerns a debt [~~which~~] that was
15 originated by such person;

16 (c) concerns a debt [~~which~~] that was not
17 in default at the time it was obtained by such person; or

18 (d) concerns a debt obtained by such
19 person as a secured party in a commercial credit transaction
20 involving the creditor;

21 D. "communication" means the conveying of
22 information regarding a debt directly or indirectly to [~~any~~] a
23 person through any medium;

24 E. "creditor" means [~~any~~] a person who offers or
25 extends credit creating a debt or to whom a debt is owed, but

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1 [such] the term does not include [~~any~~] a person to the extent
2 that [~~he~~] the person receives an assignment or transfer of a
3 debt in default solely for the purpose of facilitating
4 collection of such debt for another;

5 F. "debt" means [~~any~~] an obligation or alleged
6 obligation of a debtor to pay money arising out of a
7 transaction in which the money, property, insurance or services
8 [~~which~~] that are the subject of the transaction are primarily
9 for personal, family or household purposes, whether or not such
10 obligation has been reduced to judgment;

11 G. "debt collector" means a collection agency, a
12 reposessor, a manager, a solicitor and [~~any~~] an attorney-at-
13 law collecting a debt as an attorney on behalf of and in the
14 name of a client;

15 H. "debtor" means [~~any~~] a natural person obligated
16 or allegedly obligated to pay [~~any~~] a debt;

17 I. "location information" means a debtor's place of
18 abode and [~~his~~] the telephone number at such place or [~~his~~] the
19 debtor's place of employment;

20 J. "manager" means a natural person who qualifies
21 under the Collection Agency Regulatory Act to be in full-time
22 charge of a licensed collection agency and to whom a manager's
23 license has been issued by the director;

24 K. "nationwide multistate licensing system and
25 registry" means a licensing system developed and maintained by

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1 the conference of state bank supervisors and the American
2 association of residential mortgage regulators pursuant to the
3 federal Secure and Fair Enforcement for Mortgage Licensing Act
4 of 2008 to manage mortgage licenses and other financial
5 services licenses, or a successor registry;

6 [K-] L. "person" means an individual, corporation,
7 partnership, association, joint-stock company, trust where the
8 interests of the beneficiaries are evidenced by a security,
9 unincorporated organization, government or political
10 subdivision of a government;

11 [L-] M. "repossessor" means a person engaged solely
12 in the business of repossessing personal property for others
13 for a fee. The term does not include a duly licensed
14 collection agency; and

15 [M-] N. "solicitor" means a natural person who,
16 through lawful means, communicates with debtors or solicits the
17 payment of debts for a collection agency licensee by the use of
18 telephone, personal contact, letters or other methods of
19 collection conducted from and within the licensee's office."

20 SECTION 26. Section 61-18A-3 NMSA 1978 (being Laws 1987,
21 Chapter 252, Section 3) is amended to read:

22 "61-18A-3. ADMINISTRATION AND ENFORCEMENT.--

23 A. The administration and enforcement of the
24 Collection Agency Regulatory Act shall be vested in the office
25 of the director as [~~hereinafter~~] set forth in that act.

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1 ~~[A.]~~ B. The director shall investigate violations
2 or alleged ~~[violation]~~ violations of the Collection Agency
3 Regulatory Act by persons engaged in business as collection
4 agencies or reposseors who fail to obtain licenses.

5 ~~[B.]~~ C. The director may examine the business and
6 the books, accounts, records and files used therein by a
7 collection agency licensee, and for such purpose, the director
8 shall have free access to the offices, places of business,
9 books, accounts, records, papers, files, safes and vaults of
10 all licensees and other persons engaging or attempting to
11 engage in business as a collection agency.

12 ~~[G.]~~ D. Any examination reports or other documents
13 or information developed in administration of this section are
14 confidential and not subject to subpoena.

15 E. Applicants for a license issued pursuant to the
16 Collection Agency Regulatory Act shall apply on a form
17 prescribed by the director. Information required on the form
18 shall be set forth by rule, instruction or procedure of the
19 director and may be changed or updated as necessary by the
20 director in order to carry out the purposes of the Collection
21 Agency Regulatory Act.

22 F. In order to fulfill the purposes of the
23 Collection Agency Regulatory Act, the director may establish
24 relationships or contracts with the nationwide multistate
25 licensing system and registry or other entities designated by

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1 the nationwide multistate licensing system and registry to
2 collect and maintain records and process transaction fees or
3 other fees related to licenses issued pursuant to the
4 Collection Agency Regulatory Act.

5 G. An applicant for a license pursuant to the
6 Collection Agency Regulatory Act shall, at a minimum, furnish
7 to the nationwide multistate licensing system and registry
8 information concerning the applicants identity, including:

9 (1) the applicant's personal history and
10 experience in a form prescribed by the nationwide multistate
11 licensing system and registry; and

12 (2) authorization for the nationwide
13 multistate licensing system and registry and the director to
14 obtain information related to any administrative, civil or
15 criminal findings by any governmental jurisdiction regarding
16 the applicant.

17 H. The director may use the nationwide multistate
18 licensing system and registry as a channeling agent for
19 requesting and distributing information provided pursuant to
20 Paragraphs (1) and (2) of Subsection G of this section to and
21 from any source as deemed appropriate by the director."

22 SECTION 27. Section 61-18A-7 NMSA 1978 (being Laws 1987,
23 Chapter 252, Section 7, as amended) is amended to read:

24 "61-18A-7. APPLICATION FOR LICENSE.--

25 A. Application for a collection agency license,

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1 reposessor's license or manager's license shall be made to the
2 director in such form as may be required by the director.

3 B. Applicants for an original license issued
4 pursuant to the Collection Agency Regulatory Act for the period
5 beginning July 1, 2020 and ending December 31, 2020 shall pay
6 an amount equal to one-half of the original license fee for the
7 applicable license as established pursuant to Section 61-18A-30
8 NMSA 1978.

9 C. Applicants for renewal of a license issued
10 pursuant to the Collection Agency Regulatory Act with an
11 expiration date of June 30, 2020 may apply for renewal of the
12 license for the period beginning July 1, 2020 and ending
13 December 31, 2020 and shall pay an amount equal to one-half of
14 the renewal license fee for the applicable license as
15 established pursuant to Section 61-18A-30 NMSA 1978.

16 D. Applicants for all licenses issued pursuant to
17 the Collection Agency Regulatory Act beginning on or after
18 January 1, 2021, and ending at the conclusion of the calendar
19 year for which the license may be issued, shall pay an amount
20 equal to the applicable original or renewal license fee as
21 established pursuant to Section 61-18A-30 NMSA 1978."

22 SECTION 28. Section 61-18A-8 NMSA 1978 (being Laws 1987,
23 Chapter 252, Section 8) is amended to read:

24 "61-18A-8. APPLICATIONS--REQUIRED INFORMATION.--

25 A. The application for a collection agency license

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1 shall state, among other things that may be required, the name
2 of the applicant together with the name under which the
3 applicant will do business and the location by street number
4 and city in this state of the office of the business for which
5 the license is sought.

6 B. The application shall state:

7 (1) in the case of an individual, [~~the~~
8 ~~application shall state~~] the full residence address of the
9 applicant;

10 (2) in the case of a partnership, [~~the~~
11 ~~application shall state~~] the true names and complete residence
12 addresses of all partners;

13 (3) in the case of a corporation, [~~the~~
14 ~~application shall state~~] the true names and complete residence
15 addresses of all directors and officers and the true names and
16 residence addresses of all holders of ten percent or more of
17 the corporation's outstanding stock and other securities and
18 the number of shares or units of each and of all classes held
19 by each and the total number of shares or units of each class
20 issued and outstanding; and

21 (4) in the case of a nonstock corporation or
22 an unincorporated association, the true names and complete
23 residence addresses of all officers, directors and trustees.

24 C. The application shall state the name of the
25 licensed manager who will be actively in charge of the

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1 collection agency for which the license is sought.

2 D. The director may establish, by rule, regulation
3 or order, requirements for a license application as necessary,
4 including:

5 (1) background checks for criminal history
6 through fingerprint or other databases;

7 (2) civil or administrative records;

8 (3) credit history; and

9 (4) other information as deemed relevant and
10 necessary by the director."

11 SECTION 29. Section 61-18A-22 NMSA 1978 (being Laws 1987,
12 Chapter 252, Section 22) is amended to read:

13 "61-18A-22. OFFICE MANAGEMENT--LICENSE.--

14 A. Every licensed office of a collection agency,
15 whether a principal or branch office, shall be under the active
16 charge of a licensed manager. Each manager's license shall be
17 issued by the director upon qualification by the applicant [~~for~~
18 ~~same~~] and shall be renewed annually upon application [~~therefor~~]
19 accompanied by the manager's renewal license fee, which
20 application is to be filed with the division on or before [~~May~~
21 ~~31~~] November 30 of each year. Unless so renewed, each
22 manager's license shall expire on [~~June 30~~] January 1 unless
23 previously revoked or canceled.

24 B. As used in this section, "under the active
25 charge of a licensed manager" means that a licensed manager

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