

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 337

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

AN ACT

RELATING TO FINANCIAL INSTITUTIONS; AMENDING THE NEW MEXICO
SMALL LOAN ACT OF 1955; REQUIRING LICENSEES TO FILE ANNUAL
REPORTS; PROVIDING PENALTIES; REQUIRING THE FINANCIAL
INSTITUTIONS DIVISION OF THE REGULATION AND LICENSING
DEPARTMENT TO PREPARE AN ANNUAL REPORT.

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

SECTION 1. A new section of the New Mexico Small Loan Act
of 1955 is enacted to read:

"[NEW MATERIAL] LICENSEE REPORTING REQUIREMENTS--
PENALTIES.--

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

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

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

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

- 13 (a) five hundred dollars (\$500) or less;
14 (b) five hundred one dollars (\$501) to
15 one thousand dollars (\$1,000);
16 (c) one thousand one dollars (\$1,001) to
17 three thousand dollars (\$3,000);
18 (d) three thousand one dollars (\$3,001)
19 to five thousand dollars (\$5,000); and
20 (e) greater than five thousand dollars
21 (\$5,000);

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

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

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

3 (6) the total dollar amount of principal
4 loaned;

5 (7) the total dollar amount of loan principal
6 repaid;

7 (8) the total dollar amount of interest
8 received;

9 (9) the total dollar amount and description of
10 fees received;

11 (10) the total number of loans that were
12 secured by collateral of some type and the total number of such
13 loans in which the security was foreclosed upon or repossessed;

14 (11) the total amount of loan principal and
15 the total amount of accrued interest written-off or charged-
16 off;

17 (12) the percent of consumers who were new
18 consumers;

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

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

24 B. The report required pursuant to Subsection A of
25 this section shall be submitted to the director on or before

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1 the thirty-first day of March each year.

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

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

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

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

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

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

25 "58-15-39. DUTIES OF DIVISION.--

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1 A. The division shall:

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

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

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

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

22 (2) the total number and dollar amount of
23 payday loan products outstanding as of December 31 of the
24 previous year;

25 (3) the effective annualized percentage rate

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1 and the average number of days of a payday loan during the
2 calendar year ending December 31 of the previous year;

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

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

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

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

23 (8) the average payday loan product amount,
24 average number of transactions and average aggregate payday
25 loan product amount entered into per consumer each year;

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

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

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

8 (12) the number of consumers who are subject
 9 to the restrictions of the waiting period pursuant to Section
 10 [~~58-17-36~~] 58-15-36 NMSA 1978.

11 C. The division shall compile from reports filed by
 12 licensees pursuant to Section 1 of this 2011 act an annual
 13 report by October 1 of each year containing, at a minimum, data
 14 regarding all loans made pursuant to the New Mexico Small Loan
 15 Act of 1955 other than payday loan products entered into in the
 16 preceding calendar year on an aggregate basis. Annual reports
 17 shall be made available to interested parties and the general
 18 public and published on the division's web site. Consistent
 19 with state law, the report shall include, at a minimum,
 20 nonidentifying consumer data from the preceding calendar year,
 21 including:

22 (1) a general description of loan products
 23 offered by licensees during the preceding calendar year and the
 24 minimum, maximum and average annual interest rate for each loan
 25 product;

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

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

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

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

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

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

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

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

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

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

7 **SECTION 3. TEMPORARY PROVISION--LICENSEE AND DIVISION**
8 **REPORTS.--**The reports required to be prepared pursuant to
9 Section 1 of this act and Subsection C of Section 58-15-39 NMSA
10 1978 shall, for the reports required to be filed in 2011, cover
11 only the last six months of the preceding calendar year.

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