

SENATE EDUCATION COMMITTEE SUBSTITUTE FOR  
SENATE BILL 630

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

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
RELATING TO FINANCIAL INSTITUTIONS; PROVIDING FOR NONDISCLOSURE  
OF INDIVIDUAL LICENSEE REPORTING INFORMATION; EXEMPTING  
REPORTED INFORMATION ON AN INDIVIDUAL LICENSEE BASIS.

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

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

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

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

(1) a description of each loan product offered

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underscored material = new  
[bracketed material] = delete

1 by the licensee, including:

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

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

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

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

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

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

- 1 loan principal and accrued interest was not paid in full;
- 2 (6) the total dollar amount of principal
- 3 loaned;
- 4 (7) the total dollar amount of loan principal
- 5 repaid;
- 6 (8) the total dollar amount of interest
- 7 received;
- 8 (9) the total dollar amount and description of
- 9 fees received;
- 10 (10) the total number of loans that were
- 11 secured by collateral of some type and the total number of such
- 12 loans in which the security was foreclosed upon or repossessed;
- 13 (11) the total amount of loan principal and
- 14 the total amount of accrued interest written-off or charged-
- 15 off;
- 16 [~~(12)~~] ~~the percent of consumers who were new~~
- 17 ~~consumers;~~
- 18 ~~(13)]~~ (12) the number of loans that were
- 19 renewed, refinanced or extended prior to being repaid in full;
- 20 and
- 21 [~~(14)]~~ (13) procedures the licensee follows as
- 22 a standard practice to establish each consumer's ability to
- 23 repay 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~~] may:

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

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

3           "58-15-39. DUTIES OF DIVISION.--

4           A. The division shall:

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

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

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

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

25                     (2) the total number and dollar amount of

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1     payday loan products outstanding as of December 31 of the  
2     previous year;

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

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

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

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

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

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1 (8) the average payday loan product amount,  
 2 average number of transactions and average aggregate payday  
 3 loan product amount entered into per consumer each year;

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

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

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

11 (12) the number of consumers who are subject  
 12 to the restrictions of the waiting period pursuant to Section  
 13 ~~[8-15-36]~~ 58-15-36 NMSA 1978.

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

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

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

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

21 (3) the total number and dollar amount of  
22 loans entered into in the previous calendar year for each loan  
23 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 loan principal  
4 repaid and of interest and fees received;

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

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

10 [~~(9)~~ the percent of customers who were new  
11 customers;

12 ~~(10)~~ (9) the number of loans renewed,  
13 refinanced or extended prior to being repaid in full; and

14 [~~(11)~~ (10) procedures followed by licensees  
15 to establish consumers' ability to repay loans."

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