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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/11/13

SPONSOR HJC LAST UPDATED 03/12/13 HB 385/HJCS

SHORT TITLE Clarify Lender Reporting Requirement SB \_\_\_\_\_

ANALYST Martinez

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regulation and Licensing Department (RLD)

Attorney General's Office (AGO)

Workers Compensation Administration (WCA)

### SUMMARY

#### Synopsis of Bill

The House Judiciary Committee substitute for House Bill 385 (HB 385) restores original language in the New Mexico Small Loan Act (Section 58-15-10.1 NMSA 1978), by reinstating the requirements that the percentage of new customers and the number of loans in each range of loan amount continue to be in the report. The substitute also removes the language that was added to the New Mexico Small Loan Act in the original bill that would've exempted the required aggregated report by a small loan lender licensee from the Inspection of Public Records Act.

HB 385 aims to limit the information that the Regulation and Licensing Department's (RLD) Financial Institution Division submits to the legislature by only requiring loans whose rates have exceeded an annual interest rate of one hundred seventy-five percent (175 percent) be included in the annual report. HB 385 also amends the penalty for failing to submit a timely report from a mandatory to discretionary penalty by changing the word "shall" to "may".

### FISCAL IMPLICATIONS

No Fiscal Impact

## **SIGNIFICANT ISSUES**

Under current law, small loan licensees are required to submit annual reports to the Financial Institutions Division (FID). In turn, the FID compiles the data submitted by licensees into a report and submits annually to the legislature. During the past year, the first year such reports were required to be submitted, the FID received hundreds of inquiries from licensees who were confused about the data that was supposed to be included in the reports due to the current language in the small loan act. This created unintentional noncompliance with the reporting requirements, and under the current law the FID is required to suspend a license for noncompliant reports. A lack of benchmark measurements for reported data has caused the FID confusion when trying to determine if licensees who submit reports that are noncompliant should have their license suspended.

As a result, HB 385 proposes to clarify the language governing the reports that licensees submit, and amends the penalty for failing to submit a timely report from a mandatory to discretionary penalty by changing the word “shall” to “may”. This is an effort to ensure that the FID can effectively regulate small loan licensees, and provide accurate and valuable data that can be reported to the legislature.

## **ADMINISTRATIVE IMPLICATIONS**

The RLD writes:

HB 385 proposes to change the word “shall” to “may” to allow the Director of FID discretion as to whether to suspend a Small Loan License for not submitting the required report, submitting a late report, or submitting noncompliant data. Such discretion would allow the Director of the FID to reserve suspension of a license only for those instances where noncompliance was particularly egregious.

Whenever the FID suspends a license an administrative law process must follow by issuing a Notice of Contemplating Action to the licensee and affording the licensee due process rights to an administrative hearing before an administrative judge. Such administrative action requires the FID to employ attorneys and administrative judges with limited funds. The amendments proposed by HB 385 will enable the FID to utilize funds for administrative hearings more efficiently and effectively for meaningful regulatory action.

RM/svb:blm