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HOUSE BILL 577

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Miguel P. Garcia

AN ACT

RELATING TO COMMERCIAL TRANSACTIONS; PROVIDING MAXIMUM RATES OF INTEREST FOR CERTAIN TRANSACTIONS.

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

Section 1. A new Section 56-1-2.1 NMSA 1978 is enacted to read:

"56-1-2.1. [NEW MATERIAL] RETAIL INSTALLMENT CONTRACTS-- MAXIMUM TIME PRICE DIFFERENTIAL. --The time price differential shall be the rate specified in the retail installment contract except that the time price differential shall not exceed eighteen dollars (\$18.00) per one hundred dollars (\$100) of the principal balance per year; provided that a minimum time price differential of twenty-five dollars (\$25.00) may be charged, received and collected on each retail installment contract. "

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1           Section 2. A new Section 56-1-3.1 NMSA 1978 is enacted  
2 to read:

3           "56-1-3.1. [NEW MATERIAL] RETAIL CHARGE AGREEMENTS--  
4 MAXIMUM TIME PRICE DIFFERENTIAL. --The time price differential  
5 shall be the rate specified in the retail charge agreement  
6 except that the time price differential shall not exceed  
7 twenty cents (\$0.20) per ten dollars (\$10.00) of the unpaid  
8 balance per month; provided that a minimum time price  
9 differential of two dollars (\$2.00) may be charged, received  
10 and collected per month. "

11           Section 3. A new Section 56-8-11 NMSA 1978 is enacted to  
12 read:

13           "56-8-11. [NEW MATERIAL] RATES OF INTEREST. --

14           A. Except as provided by another law fixing a  
15 specific maximum rate, the rate of interest for the loan of  
16 money or credit or the forbearance or the postponement of the  
17 right to receive money or credit shall be the rate agreed to  
18 by the parties except that:

19                           (1) if the indebtedness of the loan is not  
20 secured by collateral security, the rate of interest shall not  
21 exceed the higher of:

22   (a) twenty-four percent per year on the  
23 unpaid balance; or

24   (b) the published prevailing discount  
25 rate published pursuant to Subsection B of this section plus

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1 ten percent; and

2 (2) if the indebtedness of the loan is  
3 secured by collateral security, the rate of interest shall not  
4 exceed the higher of:

5 (a) eighteen percent per year on the  
6 unpaid balance; or

7 (b) the published prevailing discount  
8 rate published pursuant to Subsection B of this section plus  
9 five percent.

10 B. No later than October 31 of each year, the  
11 director of the financial institutions division of the  
12 regulation and licensing department shall publish the current  
13 discount rate charged by the federal reserve bank of Dallas to  
14 member banks. The rate published shall be used to calculate  
15 the maximum allowable interest rate pursuant to Subsection A  
16 of this section for all agreements entered into in the  
17 calendar year beginning on January 1 after the date of  
18 publication. "

19 Section 4. Section 56-8-13 NMSA 1978 (being Laws 1957,  
20 Chapter 209, Section 4) is amended to read:

21 "56-8-13. PENALTIES AND FORFEITURES. --The taking,  
22 receiving, reserving or charging of a rate of interest greater  
23 than allowed by [~~this act~~] Sections 56-1-2.1, 56-1-3.1 and  
24 56-8-9 through 56-8-14 NMSA 1978, when knowingly done, shall  
25 be deemed a forfeiture of the entire amount of [~~such~~] the

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1 interest which the contract, agreement, note, bill or other  
2 evidence of debt carries with it or which has been agreed to  
3 be paid thereon. In case the greater rate of interest has  
4 been paid, the person by whom it has been paid or his legal  
5 representatives may recover [~~back~~] by civil action twice the  
6 amount of the interest thus paid from the person [~~corporation~~  
7 ~~or association~~] taking or receiving the same; provided that  
8 such action is commenced within two [~~(2)~~] years from the time  
9 the usurious transaction occurred. "

10 Section 5. Section 56-8-14 NMSA 1978 (being Laws 1957,  
11 Chapter 209, Section 5) is amended to read:

12 "56-8-14. CRIMINAL PENALTY. -- Any person [~~corporation or~~  
13 ~~association~~] who [~~shall violate~~] violates the provisions of  
14 [~~this Act shall be~~] Sections 56-1-2.1, 56-1-3.1 and 56-8-9  
15 through 56-8-14 NMSA 1978 is guilty of a misdemeanor and [~~upon~~  
16 ~~conviction thereof before the district court or a justice of~~  
17 ~~the peace shall be fined the sum of not less than twenty-five~~  
18 ~~(\$25.00) dollars nor more than one hundred (\$100.00) dollars]~~  
19 punishable pursuant to the provisions of Section 31-19-1 NMSA  
20 1978. "