

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:

"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 by the licensee, including:

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

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

(a) five hundred dollars (\$500) or less;

(b) five hundred one dollars (\$501) to one thousand dollars (\$1,000);

(c) one thousand one dollars (\$1,001) to three thousand dollars (\$3,000);

(d) three thousand one dollars (\$3,001) to five thousand dollars (\$5,000); and

(e) greater than five thousand dollars (\$5,000);

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

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

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

(6) the total dollar amount of principal loaned;

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

(8) the total dollar amount of interest received;

(9) the total dollar amount and description

of fees received;

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

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

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

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

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

B. The report required pursuant to Subsection A of this section shall be submitted to the director on or before the thirty-first day of March each year.

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

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

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

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

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

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

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

A. The division shall:

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

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

B. The division shall annually provide a report to the legislature detailing statistics, including data adequate

to obtain an accurate understanding of the practices, demographics and legal compliance of all licensees licensed in the state. The division shall compile an annual report by October 1 of each year containing, at a minimum, data regarding all payday loan products entered into in the preceding calendar year on an aggregate basis. Annual reports shall be made available to interested parties and the general public and published on the division's web site. Consistent with state law, the report shall include, at a minimum, nonidentifying consumer data from the preceding year, including:

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

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

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

(4) the number of payday loan products entered into in the amount of one hundred dollars (\$100) or less, the number of payday loan products entered into in the amount of one hundred one dollars (\$101) to five hundred dollars (\$500), the number of payday loan products entered

into in the amount of five hundred one dollars (\$501) to one thousand dollars (\$1,000), the number of payday loan products entered into in the amount of one thousand one dollars (\$1,001) to one thousand five hundred dollars (\$1,500), the number of payday loan products in an amount greater than one thousand five hundred dollars (\$1,500) and the percentage of total payday loan products entered into in each of those ranges;

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

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

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

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

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

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

(11) the number of consumers who are eligible for payment plans and the number of consumers who

enter into payment plans pursuant to Section 58-15-35 NMSA 1978; and

(12) the number of consumers who are subject to the restrictions of the waiting period pursuant to Section 8-15-36 NMSA 1978.

C. The division shall compile from reports filed by licensees pursuant to Section 1 of this 2011 act an annual report by October 1 of each year containing, at a minimum, data regarding all loans, other than payday loan products or loans or loan products with an annual interest rate of one hundred seventy-five percent or less as disclosed pursuant to 12 C.F.R. 226, known as "Regulation Z", entered into in the preceding calendar year on an aggregate basis. Annual reports shall be made available to interested parties and the general public and published on the division's web site. Consistent with state law, the report shall include, at a minimum, nonidentifying consumer data from the preceding calendar year, including:

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

(2) the number of loans entered into in the amount of five hundred dollars (\$500) or less, the number of loans entered into in the amount of five hundred one dollars

(\$501) to one thousand dollars (\$1,000), the number of loans entered into in the amount of one thousand one dollars (\$1,001) to three thousand dollars (\$3,000), the number of loans entered into in the amount of three thousand one dollars (\$3,001) to five thousand dollars (\$5,000), the number of loans in an amount greater than five thousand dollars (\$5,000) and the number of loans listed by licensee entered into in each of those ranges;

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

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

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

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

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

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

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



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

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

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