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HOUSE BILL 814

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Leo C. Watchman Jr.

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 56-8-11.1 NMSA 1978 is enacted
to read:**

**"56-8-11.1. [NEW MATERIAL] ANNUAL PERCENTAGE RATE--MOTOR
VEHICLE LOANS. --**

**A. The annual percentage rate on a loan for which
the lender takes or retains a security interest or lien on, or
the title to, a motor vehicle shall not exceed:**

**(1) seventeen percent if the principal amount
of the loan is less than five hundred dollars (\$500);**

**(2) fifteen percent if the principal amount
of the loan is five hundred dollars (\$500) or greater but less**

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1 than two thousand five hundred dollars (\$2,500);

2 (3) thirteen percent if the principal amount
3 of the loan is two thousand five hundred dollars (\$2,500) or
4 greater but less than five thousand dollars (\$5,000); or

5 (4) ten percent if the principal amount of
6 the loan is five thousand dollars (\$5,000) or greater.

7 B. The provisions of this section do not apply to
8 transactions regulated pursuant to the Motor Vehicle Sales
9 Finance Act.

10 C. As used in this section:

11 (1) "annual percentage rate" means the
12 measure of the cost of credit, expressed as a yearly rate,
13 that relates the amount and timing of value received by the
14 borrower to the amount and timing of payments made, determined
15 in accordance with the federal Truth In Lending Act; and

16 (2) "motor vehicle" means an automobile,
17 recreational vehicle, recreational travel trailer, trailer,
18 motorcycle, truck, semi-trailer, truck tractor or bus designed
19 and used primarily to transport persons or property on a
20 public highway, farm machinery or a vehicle, new or used, with
21 any power other than muscular power except a boat trailer,
22 aircraft or a vehicle that runs only on rails or tracks, but
23 does not include any motor vehicle having a gross vehicle
24 weight of ten thousand pounds or more purchased primarily for
25 business or commercial purposes. "

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1 Section 2. A new Section 56-8-11.2 NMSA 1978 is enacted
2 to read:

3 "56-8-11.2. [NEW MATERIAL] ANNUAL PERCENTAGE RATE--
4 CONSUMER LOANS--CONSUMER REVOLVING LOANS--HOME EQUITY
5 REVOLVING LOANS.--

6 A. The annual percentage rate on a consumer loan
7 shall not exceed:

8 (1) if the original principal amount of the
9 loan is one thousand dollars (\$1,000) or less, thirty-six
10 percent; or

11 (2) if the original principal amount of the
12 loan is greater than one thousand dollars (\$1,000):

13 (a) thirty-six percent on the initial
14 five hundred dollars (\$500) of the original principal amount
15 and twenty-four percent on that part of the principal amount
16 greater than five hundred dollars (\$500); or

17 (b) the single blended annual
18 percentage rate that results from applying the total amount of
19 finance charges that the lender would receive through the
20 scheduled maturity of the consumer loan at the annual
21 percentage rate that would otherwise be applicable pursuant to
22 Subparagraph (a) of this paragraph to the different portions
23 of the unpaid principal balance, assuming that the consumer
24 loan will be paid according to its terms.

25 B. The annual percentage rate on a consumer

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1 revolving loan or a home equity revolving loan shall not
2 exceed:

3 (1) if the credit limit is one thousand
4 dollars (\$1,000) or less, thirty-six percent; or

5 (2) if the credit limit is greater than one
6 thousand dollars (\$1,000):

7 (a) thirty-six percent on that portion
8 of the outstanding balance each monthly billing cycle that is
9 not more than five hundred dollars (\$500) and twenty-four
10 percent on that part of the outstanding balance each monthly
11 billing cycle that is greater than five hundred dollars
12 (\$500); or

13 (b) the single blended annual
14 percentage rate that would result in a period finance charge
15 during a monthly billing cycle that is equal to the finance
16 charge that would result from the multiple annual percentage
17 rates authorized in Subparagraph (a) of this paragraph.

18 C. The provisions of this section do not apply to:

19 (1) motor vehicle loans subject to Section
20 56-8-11.1 NMSA 1978;

21 (2) pawnbroker transactions regulated
22 pursuant to the Pawnbrokers Act; and

23 (3) a loan made by a person that is not
24 regularly engaged in the business of making loans.

25 D. As used in this section:

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1 (1) "annual percentage rate" means the
2 measure of the cost of credit, expressed as a yearly rate,
3 that relates the amount and timing of value received by the
4 borrower to the amount and timing of payments made, determined
5 in accordance with the federal Truth In Lending Act;

6 (2) "consumer loan" means a direct closed-end
7 loan of a principal amount of money equal to ten thousand
8 dollars (\$10,000) or less that is subject to a finance charge;

9 (3) "consumer revolving loan" means an
10 open-end revolving loan that is established pursuant to an
11 agreement with a credit limit that does not exceed ten
12 thousand dollars (\$10,000), that the borrower may pay in full
13 at any time but has the privilege of paying in installments
14 and that contemplates or provides that advances may be
15 obtained from time to time by the borrower; and

16 (4) "home equity revolving loan" means an
17 open-end loan that is made pursuant to an agreement with a
18 credit limit that is not more than ten thousand dollars
19 (\$10,000), that is secured by the borrower's principal
20 residence and that provides that advances may be obtained from
21 time to time by the borrower."

22 Section 3. Section 56-8-13 NMSA 1978 (being Laws 1957,
23 Chapter 209, Section 4) is amended to read:

24 "56-8-13. PENALTIES AND FORFEITURES.--The taking,
25 receiving, reserving or charging of a rate of interest greater

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1 than allowed by [~~this act~~] Sections 56-8-9 through 56-8-14
2 NMSA 1978, when knowingly done, shall be deemed a forfeiture
3 of the entire amount of [~~such~~] the interest [~~which~~] that the
4 note, bill or other evidence of debt carries with it or
5 [~~which~~] that has been agreed to be paid thereon. In case the
6 greater rate of interest has been paid, the person by whom it
7 has been paid or his legal representatives may recover [~~back~~]
8 by civil action twice the amount of the interest thus paid
9 from the person [~~corporation or association~~] taking or
10 receiving the same; provided that such action is commenced
11 within two [~~(2)~~] years from the time the usurious transaction
12 occurred. "

13 Section 4. Section 56-8-14 NMSA 1978 (being Laws 1957,
14 Chapter 209, Section 5) is amended to read:

15 "56-8-14. CRIMINAL PENALTY. -- Any person [~~corporation or~~
16 ~~association~~] who [~~shall violate~~] violates the provisions of
17 [~~this Act shall be~~] Sections 56-8-9 through 56-8-14 NMSA 1978
18 is guilty of a misdemeanor and upon conviction [~~thereof before~~
19 ~~the district court or a justice of the peace~~] shall be fined
20 the sum of not less than twenty-five [~~(\$25.00)~~] dollars
21 (\$25.00) nor more than one hundred [~~(\$100.00)~~] dollars
22 (\$100). "