

FORTY-SEVENTH LEGISLATURE
SECOND SESSION, 2006

HB 409/a

February 14, 2006

Madam President:

Your **JUDICIARY COMMITTEE**, to whom has been referred

**HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 409**

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 1, line 12, after the semicolon insert "CREATING A FUND;".
2. On page 1, line 12, after "AMENDING" insert ", REPEALING".
3. On page 1, line 14, strike the period and insert in lieu thereof "; MAKING AN APPROPRIATION.".
4. On page 29, lines 17 through 22, strike Paragraphs (1) and (2) in their entirety and insert in lieu thereof the following new paragraph:

"(1) no payday loan shall have a stated minimum term of less than fourteen days nor more than thirty-five days; and".
5. Renumber the succeeding paragraph accordingly.
6. On page 32, line 5, strike "may" and insert in lieu thereof "shall".
7. On page 34, strike all of line 14 and strike line 15 up to the semicolon.
8. On page 42, line 5, after "loan" insert "product".
9. On page 44, between lines 4 and 5, insert the following new sections to read:

**FORTY-SEVENTH LEGISLATURE
SECOND SESSION, 2006**

SJC/HB 409

Page 2

"Section 20. A new section of the New Mexico Small Loan Act of 1955, Section 58-15-40 NMSA 1978, is enacted to read:

"58-15-40. [NEW MATERIAL] 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 April 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. Consistent with state law, the report should 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 average annual percentage rate and the average number of days of a payday loan and a renewed payday loan during the calendar year ending December 31 of the previous year;

**FORTY-SEVENTH LEGISLATURE
SECOND SESSION, 2006**

SJC/HB 409

Page 3

(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 the amount of 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 per consumer per year;

(9) the average length of time between payday loan product transactions for any given licensee;

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

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

(12) the average number of payday loan renewals per

**FORTY-SEVENTH LEGISLATURE
SECOND SESSION, 2006**

SJC/HB 409

Page 4

consumer;

(13) the number of consumers who are eligible for payment plans and the number of consumers who enter into payment plans pursuant to Section 58-17-36 NMSA 1978; and

(14) the number of consumers who are subject to the restrictions of the waiting period pursuant to Section 58-17-37 NMSA 1978.

C. The division may promulgate rules necessary to fulfill the requirements of this section."

Section 21. [NEW MATERIAL] PAYDAY LENDING ENFORCEMENT FUND CREATED.--

A. The "payday lending enforcement fund" is created in the state treasury and consists of appropriations, gifts, grants or donations. All income received from investments of the fund shall be credited to the fund.

B. Money in the fund shall be administered by the office of the attorney general and is appropriated to the office of the attorney general for the investigation and prosecution of alleged violations of Sections 12 through 19 of this 2006 act, including expenses of other state agencies involved in such investigations. Disbursements from the fund shall be made on warrants of the secretary of finance and administration pursuant to vouchers signed by the attorney general or an authorized representative of the attorney general. Money in the fund shall not revert at the end of a fiscal year.

Section 22. APPROPRIATION.--One million dollars (\$1,000,000) is appropriated from the general fund to the payday lending enforcement fund for expenditure in fiscal year 2007 and subsequent fiscal years to carry out the purposes of the fund. Any unexpended

**FORTY-SEVENTH LEGISLATURE
SECOND SESSION, 2006**

SJC/HB 409

Page 5

or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

Section 23. REPEAL.--Sections 58-15-15 and 58-15-19 NMSA 1978 (being Laws 1959, Chapter 201, Section 1 and Laws 1955, Chapter 128, Section 17, as amended) are repealed."

10. Renumber the succeeding sections accordingly.

and thence referred to the **CORPORATIONS AND TRANSPORTATION COMMITTEE.**

Respectfully submitted,

FORTY-SEVENTH LEGISLATURE
SECOND SESSION, 2006

SJC/HB 409

Page 6

Cisco McSorley, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 5 For 3 Against

Yes: 5

No: Grubestic, Lopez, McSorley

Excused: Harden, Sanchez, M.

Absent: None

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