

1 SENATE BILL 550

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Pete Campos

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10 AN ACT

11 RELATING TO FINANCIAL INSTITUTIONS; AMENDING THE NEW MEXICO
12 BANK INSTALLMENT LOAN ACT OF 1959; INCREASING DELINQUENCY
13 CHARGES; PROVIDING FOR CHARGES FOR CHECKS DISHONORED DUE TO
14 INSUFFICIENT FUNDS.

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

17 SECTION 1. Section 58-7-6 NMSA 1978 (being Laws 1959,
18 Chapter 327, Section 6, as amended) is amended to read:

19 "58-7-6. PERMITTED CHARGES--LIMITATION ON PRESENTMENT.--

20 A. No amount, other than the total finance charge,
21 which consists solely of interest and a fully earned processing
22 fee not to exceed the lesser of two hundred dollars (\$200) or
23 ten percent of the principal, shall be charged or contracted
24 for, directly or indirectly, on or in connection with any such
25 installment loan except as follows:

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1 (1) delinquency charges not to exceed [~~five~~
2 ~~cents (\$.05) for each one dollar (\$1.00) of~~] five percent of
3 the scheduled installment payment for each installment more
4 than ten days in arrears; provided that [~~the total of~~
5 ~~delinquency charges on any such installment shall not exceed~~
6 ~~ten dollars (\$10.00) and that~~] only one delinquency charge
7 shall be made on any one installment regardless of the period
8 during which the installment remains unpaid;

9 (2) the lender may charge for only the actual
10 cost of any insurance; provided, however, all insurance shall
11 be written by companies licensed to operate within the state
12 and at rates no higher than those approved by the
13 superintendent of insurance; and provided further that the
14 lender shall not require any insurance to be written or
15 provided by or through any particular agent, broker or insurer
16 as a condition to making the loan but shall, at the borrower's
17 option, permit the insurance to be procured from any reputable
18 insurer or through any reputable agent authorized by law to
19 provide it;

20 (3) in the event that a borrower fails to
21 maintain in effect any insurance required in connection with a
22 loan transaction, the lender may purchase the required
23 insurance or lender's single interest insurance covering the
24 lender's interest in the property, and the cost of that
25 insurance shall be added to the loan and may accrue interest as

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1 provided for in the New Mexico Bank Installment Loan Act of
2 1959;

3 (4) such amounts as are necessary to reimburse
4 the lender for fees paid to a public officer for filing,
5 recording or releasing any instrument or lien;

6 (5) if a loan under the New Mexico Bank
7 Installment Loan Act of 1959 is secured and if the borrower
8 fails to pay any governmental or other levy arising after the
9 date of the loan that would create a lien superior to the lien
10 of the lender on the property standing as security, the lender,
11 at the lender's option, may pay the levy and add the amount so
12 paid to the balance due from the borrower;

13 (6) the actual expenditures, including
14 reasonable attorney fees, for legal process or proceedings to
15 collect any such installment loan; provided, however, that no
16 attorney fees are permitted where the loan is referred for
17 collection to an attorney who is a salaried employee of the
18 holder of the contract; and

19 (7) the actual cost of charges incurred in
20 making a real estate loan secured by a mortgage on real estate,
21 including the charges for an abstract of title, title
22 examination, title insurance premiums, property survey,
23 appraisal fees, notary fees, preparation of deeds, mortgages or
24 other documents, escrow charges, credit reports and filing and
25 recording fees.

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B. If there are insufficient funds to pay a check or other type of debit on the date of presentment by the lender, a check or debit authorization request shall not be presented to a financial institution by a lender for payment more than one time unless the consumer agrees in writing, after a check or other type of debit has been dishonored, to one additional presentment or deposit. A lender may charge a fee not to exceed thirty-five dollars (\$35.00) if a check or other type of debit is dishonored by a financial institution due to insufficient funds.

C. The charges permitted under this section may be added to the balance due from the borrower."

SECTION 2. APPLICABILITY.--The provisions of this act apply to loans subject to the New Mexico Bank Installment Loan Act of 1959 that are executed on or after July 1, 2019.

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.