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HOUSE BILL 280

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

INTRODUCED BY

Miguel P. Garcia

AN ACT

**RELATING TO COMMERCIAL TRANSACTIONS; PROVIDING MAXIMUM RATES
OF INTEREST FOR MOTOR VEHICLE LOANS.**

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

**Section 1. A new section 56-8-11 NMSA 1978 is enacted to
read:**

**"56-8-11. [NEW MATERIAL] RATE OF INTEREST--MOTOR VEHICLE
LOANS. --**

**A. Except as provided in the Motor Vehicle Sales
Finance Act, the rate of interest 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 the higher of:**

- (1) eighteen percent per year on the unpaid
balance; or**
- (2) the published prevailing discount rate**

underscored material = new
[bracketed material] = delete

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[bracketed material] = delete

1 published pursuant to Subsection B of this section plus five
2 percent.

3 B. On October 31 of each year, the director of the
4 financial institutions division of the regulation and
5 licensing department shall publish the current discount rate
6 charged by the federal reserve bank of Dallas to member banks.
7 The rate published shall be used to calculate the maximum
8 allowable interest rate pursuant to Subsection A of this
9 section for all agreements entered into in the calendar year
10 beginning on January 1 after the date of publication.

11 C. As used in this section, "motor vehicle" means
12 an automobile, recreational vehicle, recreational travel
13 trailer, trailer, motorcycle, truck, semi-trailer, truck
14 tractor or bus designed and used primarily to transport
15 persons or property on a public highway, farm machinery or a
16 vehicle, new or used, with any power other than muscular power
17 except a boat trailer, aircraft or a vehicle that runs only on
18 rails or tracks, but does not include any motor vehicle having
19 a gross vehicle weight of ten thousand pounds or more
20 purchased primarily for business or commercial purposes. "

21 Section 2. Section 56-8-13 NMSA 1978 (being Laws 1957,
22 Chapter 209, Section 4) is amended to read:

23 "56-8-13. PENALTIES AND FORFEITURES. --The taking,
24 receiving, reserving or charging of a rate of interest greater
25 than allowed by [~~this act~~] Sections 56-8-9 through 56-8-14

. 134996. 1

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

12 Section 3. Section 56-8-14 NMSA 1978 (being Laws 1957,
13 Chapter 209, Section 5) is amended to read:

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

22 Section 4. A new section of the Motor Vehicle Sales
23 Finance Act, Section 58-19-8 NMSA 1978, is enacted to read:

24 "58-19-8. [NEW MATERIAL] FINANCE CHARGE LIMITATION. --

25 A. The finance charge shall not exceed the higher

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1 of:

2 (1) eighteen percent per year on the unpaid
3 balance; or

4 (2) the published prevailing discount rate
5 published pursuant to Subsection B of this section plus five
6 percent.

7 B. On October 31 of each year, the director shall
8 publish the current discount rate charged by the federal
9 reserve bank of Dallas to member banks. The rate published
10 shall be used to calculate the maximum allowable interest rate
11 pursuant to Subsection A of this section for all agreements
12 entered into in the calendar year beginning on January 1 after
13 the date of publication. "

14 Section 5. Section 58-19-11 NMSA 1978 (being Laws 1959,
15 Chapter 204, Section 11) is amended to read:

16 "58-19-11. PENALTY. --

17 A. Any person who [~~shall~~] willfully [~~violate~~]
18 violates any provision of the Motor Vehicle Sales Finance Act
19 or [~~engage~~] engages in the business of a sales finance company
20 in this state without a license therefor as provided in [~~this~~]
21 that act [~~shall be~~] is guilty of a misdemeanor and upon
22 conviction shall be punished by a fine not exceeding five
23 hundred dollars (\$500).

24 B. A willful violation of any of the provisions of
25 [~~Sections 7 or 8 of this act~~] Section 58-19-7 or 58-19-8 NMSA

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1 1978 by any person [~~or individual~~] shall bar recovery of the
2 finance charge, delinquency and collection or other charges
3 whatsoever by the owner or holder of the retail installment
4 contract involved. "