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HOUSE BILL 501

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Andrew J. Barreras

AN ACT

RELATING TO FINANCIAL MATTERS; REQUIRING DISCLOSURE OF
PREPAYMENT PROVISIONS IN LOAN DOCUMENTS; PROVIDING A PENALTY.

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

Section 1. A new Section 56-8-21.1 NMSA 1978 is enacted
to read:

"56-8-21.1. [NEW MATERIAL] LOAN PREPAYMENT PENALTIES--
DISCLOSURE--PENALTY FOR FAILURE TO DISCLOSE.--

A. A loan or loan document containing a prepayment
penalty shall comply with the following disclosure provisions:

(1) a prepayment penalty in a loan shall be
set forth in full in writing in a separate document containing
only the terms of the prepayment penalty and with a heading in
at least sixteen point bold type stating "This Loan Contains A
Prepayment Penalty"; and

.175965.1

underscoring material = new
[bracketed material] = delete

underscoring material = new
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1 (2) the lender shall provide each borrower
2 with a copy of the prepayment penalty disclosure document and
3 shall request each borrower to acknowledge, in writing and at
4 the time the loan is entered into:

5 (a) receipt of the prepayment penalty
6 disclosure document set forth in Paragraph (1) of this
7 subsection; and

8 (b) acceptance of the provisions of the
9 prepayment penalty.

10 B. If a lender does not obtain the signature of
11 each borrower on a loan acknowledging receipt of the prepayment
12 penalty disclosure document and acceptance of the provisions of
13 the prepayment penalty, the prepayment penalty shall be
14 unenforceable by the lender or an assignee of the lender."

15 Section 2. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2009.