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HOUSE BILL 558

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

INTRODUCED BY

Patricia A. Lundstrom

AN ACT

RELATING TO LENDING; AMENDING THE NEW MEXICO BANK INSTALLMENT
LOAN ACT OF 1959 AND THE NEW MEXICO SMALL LOAN ACT OF 1955;
ADDING AND AMENDING CERTAIN DEFINITIONS; IMPOSING A CAP ON
INTEREST RATES AND FEES FOR CERTAIN LOANS; AMENDING PAYDAY LOAN
DISCLOSURE REQUIREMENTS; REPEALING A SECTION OF THE NEW MEXICO
SMALL LOAN ACT OF 1955.

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

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

"58-7-1. SHORT TITLE.--~~[This act shall be known]~~ Chapter
58, Article 7 NMSA 1978 may be cited as the "New Mexico Bank
Installment Loan Act of 1959"."

Section 2. Section 58-7-3 NMSA 1978 (being Laws 1995,
Chapter 190, Section 15) is amended to read:

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1 "58-7-3. LOANS COVERED BY ACT.--The New Mexico Bank
2 Installment Loan Act of 1959 applies to a loan that is a
3 precomputed loan repayable in installments [~~or that is clearly~~
4 ~~identified on the loan documents as being made under that~~
5 ~~act~~]."

6 Section 3. Section 58-7-9 NMSA 1978 (being Laws 1959,
7 Chapter 327, Section 10, as amended) is amended to read:

8 "58-7-9. CONSTRUCTION.--

9 A. None of the provisions of the New Mexico Small
10 Loan Act of 1955 are amended or repealed by the New Mexico Bank
11 Installment Loan Act of 1959.

12 B. With the exception of precomputed loan
13 transactions, a lender is not bound by the provisions of the
14 New Mexico Bank Installment Loan Act of 1959 in making loans
15 where the loan is made in accordance with the provisions of
16 Sections 56-8-9 through 56-8-14 NMSA 1978.

17 C. None of the provisions of the New Mexico Bank
18 Installment Loan Act of 1959 apply to the assignment or
19 purchase of retail installment contracts originated under the
20 provisions of Sections 58-19-1 through 58-19-14 NMSA 1978 or
21 originated under the provisions of Sections 56-1-1 through
22 56-1-15 NMSA 1978.

23 D. In the event of a conflict between a requirement
24 of the New Mexico Bank Installment Loan Act of 1959 and a
25 requirement of the Home Loan Protection Act, the requirement of

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1 the Home Loan Protection Act shall control.

2 E. As used in the New Mexico Bank Installment Loan
3 Act of 1959:

4 (1) "year" means three hundred sixty-five
5 days; and

6 (2) "month" means one-twelfth of a year.

7 F. The director of the financial institutions
8 division of the regulation and licensing department shall issue
9 and file as required by law interpretive regulations to
10 effectuate the purposes of the New Mexico Bank Installment Loan
11 Act of 1959. In issuing, amending or repealing interpretive
12 regulations, the director shall issue the regulation amendment
13 or repeal of the regulation as a proposed regulation amendment
14 or repeal of a regulation and file it for public inspection in
15 the office of the director of the financial institutions
16 division. Distribution thereof shall be made to interested
17 persons, and their comments shall be invited. After the
18 proposed regulation has been on file for not less than two
19 months, the director may issue it as a final regulation by
20 filing as required by law. Any person who is or may be
21 adversely affected by the adoption, amendment or repeal of a
22 regulation under this section may file an appeal of that action
23 in the district court in Santa Fe county within thirty days
24 after the filing of the adopted regulation, amendment or repeal
25 as required by law.

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1 G. Any person, corporation or association complying
2 with the regulations adopted by the director of the financial
3 institutions division of the regulation and licensing
4 department is deemed to have complied with the provisions of
5 the New Mexico Bank Installment Loan Act of 1959.

6 H. ~~[All loans other than precomputed]~~ A loan
7 ~~[transactions]~~ transaction made ~~[under]~~ pursuant to the New
8 Mexico Bank Installment Loan Act of 1959 shall be clearly
9 identified on the loan documents as being made ~~[under]~~ pursuant
10 to that act."

11 Section 4. Section 58-15-2 NMSA 1978 (being Laws 1955,
12 Chapter 128, Section 2, as amended) is amended to read:

13 "58-15-2. DEFINITIONS.--The following words and terms
14 when used in the New Mexico Small Loan Act of 1955 have the
15 following meanings unless the context clearly requires a
16 different meaning. The meaning ascribed to the singular form
17 applies also to the plural:

18 A. "consumer" means a person who enters into a loan
19 agreement and receives the loan proceeds in New Mexico;

20 B. "debit authorization" means an authorization
21 signed by a consumer to electronically transfer or withdraw
22 funds from the consumer's account for the specific purpose of
23 repaying a loan;

24 C. "department" or "division" means the financial
25 institutions division of the regulation and licensing

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1 department;

2 D. "director" means the director of the division;

3 E. "installment loan" means a loan that is to be
4 repaid in a minimum of four successive substantially equal
5 payment amounts to pay off [æ] that loan in its entirety with a
6 period of no less than one hundred twenty days to maturity,
7 except as otherwise provided in Subsection C of Section
8 58-15-20.1 NMSA 1978. "Installment loan" does not mean a loan
9 in which a licensee requires, as a condition of making the
10 loan, the use of postdated checks or debit authorizations for
11 repayment of that loan;

12 F. "license" means a permit issued under the
13 authority of the New Mexico Small Loan Act of 1955 to make
14 loans and collect charges therefor strictly in accordance with
15 the provisions of that act at a single place of business. It
16 shall constitute and shall be construed as a grant of a
17 revocable privilege only to be held and enjoyed subject to all
18 the conditions, restrictions and limitations contained in the
19 New Mexico Small Loan Act of 1955 and lawful regulations
20 promulgated by the director and not otherwise;

21 G. "licensee" means a person to whom one or more
22 licenses have been issued pursuant to the New Mexico Small Loan
23 Act of 1955 upon the person's written application electing to
24 become a licensee and consenting to exercise the privilege of a
25 licensee solely in conformity with the New Mexico Small Loan

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1 Act of 1955 and the lawful regulations promulgated by the
2 director under that act and whose name appears on the face of
3 the license;

4 H. "payday loan" means a loan in which the licensee
5 accepts a personal check or debit authorization tendered by the
6 consumer and agrees [~~in writing~~] to defer presentment of that
7 check or use of the debit authorization until the consumer's
8 next payday or another date agreed to by the licensee and the
9 consumer and:

10 (1) includes any advance of money or
11 arrangement or extension of credit whereby the licensee, for a
12 fee, finance charge or other consideration:

13 (a) accepts a dated personal check or
14 debit authorization from a consumer for the specific purpose of
15 repaying a payday loan;

16 (b) agrees to hold a dated personal
17 check or debit authorization from a consumer for a period of
18 time prior to negotiating or depositing the personal check or
19 debit authorization; or

20 (c) pays to the consumer, credits to the
21 consumer's account or pays another person on behalf of the
22 consumer the amount of an instrument actually paid or to be
23 paid pursuant to the New Mexico Small Loan Act of 1955; but

24 (2) does not include:

25 (a) an overdraft product or service

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1 offered by a banking corporation, savings and loan association
2 or credit union; and

3 (b) installment loans;

4 I. "payday loan product" means a payday loan or a
5 payment plan pursuant to Section 58-15-35 NMSA 1978;

6 J. "person" includes an individual, copartner,
7 association, trust, corporation and any other legal entity;

8 K. "renewed payday loan" means a loan in which a
9 consumer pays in cash the administrative fee payable under a
10 payday loan agreement and refinances all or part of the unpaid
11 principal balance of an existing payday loan with a new payday
12 loan from the same licensee. A "renewed payday loan" includes
13 a transaction in which a consumer pays off all or part of an
14 existing payday loan with the proceeds of a payday loan from
15 the same licensee; and

16 L. "simple interest" means a method of calculating
17 interest in which the amount of interest is calculated based on
18 the annual interest rate disclosed in the loan agreement and is
19 computed only on the outstanding principal balance of the
20 loan."

21 Section 5. Section 58-15-3 NMSA 1978 (being Laws 1955,
22 Chapter 128, Section 3, as amended) is amended to read:

23 "58-15-3. APPLICABILITY OF ACT--EXEMPTIONS--EVASIONS--
24 PENALTY.--

25 A. A person shall not engage in the business of

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1 lending in amounts of [~~two thousand five hundred dollars~~
2 ~~(\$2,500)~~] ten thousand dollars (\$10,000) or less for a loan
3 without first having obtained a license from the director.
4 Nothing contained in this subsection shall restrict or prohibit
5 a licensee under the New Mexico Small Loan Act of 1955 from
6 making loans in any amount under the New Mexico Bank
7 Installment Loan Act of 1959 in accordance with the provisions
8 of Section 58-7-2 NMSA 1978; provided, however, that loans in
9 an amount of ten thousand dollars (\$10,000) or less shall be
10 made only pursuant to the New Mexico Small Loan Act of 1955.

11 B. Nothing in the New Mexico Small Loan Act of 1955
12 shall apply to a person making individual advances of [~~two~~
13 ~~thousand five hundred dollars (\$2,500) or less under~~] ten
14 thousand dollars (\$10,000) or less pursuant to a written
15 agreement providing for a total loan or line of credit in
16 excess of [~~two thousand five hundred dollars (\$2,500)~~] ten
17 thousand dollars (\$10,000).

18 C. A banking corporation, savings and loan
19 association or credit union operating under the laws of the
20 United States or of a state shall be exempt from the licensing
21 requirements of the New Mexico Small Loan Act of 1955, nor
22 shall that act apply to business transacted by any person under
23 the authority of and as permitted by any such law nor to any
24 bona fide pawnbroking business transacted under a pawnbroker's
25 license nor to bona fide commercial loans made to dealers upon

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1 personal property held for resale. Nothing contained in the
2 New Mexico Small Loan Act of 1955 shall be construed as
3 abridging the rights of any of those exempted from the
4 operations of that act from contracting for or receiving
5 interest or charges not in violation of an existing applicable
6 statute of this state.

7 D. The provisions of Subsection A of this section
8 apply to:

9 (1) a person who owns an interest, legal or
10 equitable, in the business or profits of a licensee and whose
11 name does not specifically appear on the face of the license,
12 except a stockholder in a corporate licensee; and

13 (2) a person who seeks to evade its
14 application by any device, subterfuge or pretense whatsoever,
15 including but not thereby limiting the generality of the
16 foregoing:

17 (a) the loan, forbearance, use or sale
18 of credit (as guarantor, surety, endorser, comaker or
19 otherwise), money, goods or things in action;

20 (b) the use of collateral or related
21 sales or purchases of goods or services or agreements to sell
22 or purchase, whether real or pretended;

23 (c) receiving or charging compensation
24 for goods or services, whether or not sold, delivered or
25 provided; and

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1 (d) the real or pretended negotiation,
2 arrangement or procurement of a loan through any use or
3 activity of a third person, whether real or fictitious.

4 E. A person, copartnership, trust or a trustee or
5 beneficiary thereof or an association or corporation or a
6 member, officer, director, agent or employee thereof who
7 violates or participates in the violation of a provision of
8 Subsection A of this section is guilty of a petty misdemeanor
9 and upon conviction shall be sentenced pursuant to the
10 provisions of Subsection B of Section 31-19-1 NMSA 1978. A
11 contract or loan in the making or collection of which an act is
12 done that violates Subsection A or D of this section is void
13 and the lender has no right to collect, receive or retain any
14 principal, interest or charges whatsoever.

15 F. A person making a loan pursuant to the New
16 Mexico Small Loan Act of 1955 shall not use a device or
17 agreement that would have the effect of charging or collecting
18 more fees, charges or interest than that allowed by law by
19 entering into a different type of transaction with the borrower
20 that would have that effect."

21 Section 6. Section 58-15-9 NMSA 1978 (being Laws 1955,
22 Chapter 128, Section 9, as amended) is amended to read:

23 "58-15-9. EXAMINATION OF LICENSEE'S BOOKS AND RECORDS--
24 WITNESSES.--

25 A. At least once each year, the director or the

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1 director's authorized representative shall make an examination
2 of the place of business of each licensee and the loans,
3 transactions, books, papers and records of the licensee insofar
4 as they pertain to the business licensed under the New Mexico
5 Small Loan Act of 1955 as the director may deem necessary. The
6 licensee shall pay to the director for such annual examination
7 a fee of two hundred dollars (\$200).

8 B. Within a reasonable time after the completion of
9 an examination of a licensed office, the director shall mail to
10 the licensee a copy of the report of the examination, together
11 with any comments, exceptions, objections or criticisms of the
12 director concerning the conduct of the licensee and the
13 operation of the licensed office.

14 C. For the purpose of discovering violations of the
15 New Mexico Small Loan Act of 1955 or of securing information
16 lawfully required under that act, the director or the
17 director's authorized representative may at any time
18 investigate the business and examine the books, accounts,
19 papers and records used therein, including income tax returns
20 or other reports filed in the office of the director of the
21 revenue processing division of the taxation and revenue
22 department of:

- 23 (1) any licensee;
24 (2) any other person engaged in the business
25 described in Subsection A of Section 58-15-3 NMSA 1978 or

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1 participating in such business as principal, agent, broker or
2 otherwise; and

3 (3) any person whom the director has
4 reasonable cause to believe is violating any provision of the
5 New Mexico Small Loan Act of 1955, whether the person claims to
6 be within the authority or beyond the scope of that act.

7 D. For the purposes of this section, a person who
8 advertises, solicits or makes any representation as being
9 willing to make loan transactions in any amount, except
10 persons, financial institutions or lending agencies operating
11 under charters or licenses issued by a state or federal agency
12 or under any special statute, shall be subject to investigation
13 under the New Mexico Small Loan Act of 1955 and shall be
14 presumed to be engaged in the business described in Subsection
15 A of Section 58-15-3 NMSA 1978 as to any loans of [~~two thousand~~
16 ~~five hundred dollars (\$2,500)~~] ten thousand dollars (\$10,000)
17 or less.

18 E. To facilitate the examinations and
19 investigations by the director and fully disclose the
20 operations and methods of operation of each licensed office,
21 the licensee shall, in each licensed office, keep on file as
22 part of the records of the office all office manuals,
23 communications or directives containing statements of loan
24 policy to office managers and employees. If the licensee is an
25 individual, corporation, trust or association, the licensee

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1 shall keep in at least one office for information of the
2 director a record of the several individuals, firms,
3 beneficiaries of any trust and corporations deriving or
4 receiving any part of the benefits, net income or profits from
5 the operation of the licensee within New Mexico.

6 F. For the purposes of this section, the director
7 or the director's authorized representative shall have and be
8 given free access to the offices and places of business, files,
9 safes and vaults of all licensees and shall have authority to
10 require the attendance of any person and to examine the person
11 under oath relative to such loans or business or to the subject
12 matter of any examination, investigation or hearing as provided
13 in the New Mexico Small Loan Act of 1955. Notices to appear
14 before the director for examination under oath may be served by
15 registered mail. If the party notified to appear is the
16 licensee, any person named on the face of the license being
17 investigated or any agent, employee or manager participating in
18 the licensee's business and the party fails to appear for
19 examination or refuses to answer questions submitted, the
20 director may, forthwith and without further notice to the
21 licensee, suspend the license involved pending compliance with
22 the notice. Upon failure of any other person to appear or to
23 answer questions, the director may apply to and invoke the aid
24 of any district court of New Mexico in compelling the
25 attendance and testimony of any such person and the production

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1 of books, records, written instruments and documents relating
2 to the business of the licensee. The district court whose aid
3 is so invoked by the director may, in case of contumacy or
4 refusal to obey any order of the district court issued to
5 compel the attendance of the person or the production of books,
6 records, written instruments and documents, punish the person
7 as for contempt of court.

8 G. The director shall prescribe rules of procedure
9 for all hearings, examinations or investigations provided for
10 in the New Mexico Small Loan Act of 1955. The director is not
11 bound by the usual common law or statutory rules of evidence or
12 by any technical or formal rules of procedure or pleading and
13 specification of charges other than as specifically provided in
14 the New Mexico Small Loan Act of 1955 but may conduct hearings,
15 examinations and investigations in the manner best calculated
16 to ascertain the substantial rights of the parties interested.

17 H. The director has the power to administer oaths,
18 certify official acts and records of the director's office,
19 issue subpoenas for witnesses in the name of and under the seal
20 of the director's office and compel the production of papers,
21 books, accounts and documents. The director shall issue
22 subpoenas at the instance of any party to a hearing before the
23 division upon payment of a fee of two dollars fifty cents
24 (\$2.50) for each subpoena so issued.

25 I. Depositions may be taken with or without a

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1 commission, and written interrogatories may be submitted in the
2 same manner and on the same grounds provided by law for the
3 taking of depositions or submission of written interrogatories
4 in civil actions pending in the district courts of this state.

5 J. Each witness who appears before the director by
6 the director's order shall receive the fees and mileage
7 provided for witnesses in civil actions in the district court.
8 Fees and mileage shall be paid by the state, but no witness
9 subpoenaed at the instance of parties other than the director
10 is entitled to compensation from the state for attendance or
11 mileage unless the director certifies that the witness'
12 testimony is material.

13 K. Whenever the director has reasonable cause to
14 believe that a person is violating a provision of the New
15 Mexico Small Loan Act of 1955, the director may, in addition to
16 all actions provided for in that act and without prejudice
17 thereto, enter an order requiring the person to desist or to
18 refrain from the violation. An action may be brought on the
19 relation of the attorney general and the director to enjoin the
20 person from engaging in or continuing the violation or from
21 doing any act in furtherance of the violation. In any such
22 action, an order or judgment may be entered awarding a
23 preliminary or final injunction as may be deemed proper. In
24 addition to all other means provided by law for the enforcement
25 of a temporary restraining order, temporary injunction or final

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1 injunction, the court in which such action is brought shall
2 have power and jurisdiction to impound and to appoint a
3 receiver for the property and business of the defendants,
4 including books, papers, documents and records pertaining
5 thereto or so much thereof as the court may deem reasonably
6 necessary to prevent further violations of the New Mexico Small
7 Loan Act of 1955 through or by means of the use of the property
8 and business. The receiver, when appointed and qualified,
9 shall have powers and duties as to custody, collection,
10 administration, winding up and liquidation of the property and
11 business as are from time to time conferred upon the receiver
12 by the court."

13 Section 7. Section 58-15-12 NMSA 1978 (being Laws 1955,
14 Chapter 128, Section 12, as amended) is amended to read:

15 "58-15-12. ADVERTISING.--A licensee or other person
16 subject to the New Mexico Small Loan Act of 1955 shall not
17 advertise, display, distribute or broadcast or cause or permit
18 to be advertised, displayed, distributed or broadcast in any
19 manner whatsoever a false, misleading or deceptive statement or
20 representation with regard to the charges, terms or conditions
21 for loans in the amount or of the value of [~~two thousand five~~
22 ~~hundred dollars (\$2,500)] ten thousand dollars (\$10,000) or
23 less. The director may require that charges or rates of
24 charge, if stated by a licensee, be stated fully and clearly in
25 such manner as the director deems necessary to prevent~~

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1 misunderstanding by prospective borrowers. The director may
2 permit or require licensees to refer in their advertising to
3 the fact that their business is under state supervision,
4 subject to conditions imposed by the director to prevent
5 erroneous impressions as to the scope or degree of protection
6 provided by the New Mexico Small Loan Act of 1955."

7 Section 8. A new section of the New Mexico Small Loan Act
8 of 1955, Section 58-15-20.1 NMSA 1978, is enacted to read:

9 "58-15-20.1. [NEW MATERIAL] CONSUMER LOANS--MAXIMUM
10 INTEREST RATES--MINIMUM LOAN PERIOD.--

11 A. The stated contract rate of interest for any
12 loan with a principal amount of ten thousand dollars (\$10,000)
13 or less entered into pursuant to the New Mexico Small Loan Act
14 of 1955 shall be:

15 (1) for a loan with a principal amount of two
16 thousand five hundred dollars (\$2,500) or less, no greater than
17 ninety percent per annum;

18 (2) for a loan with a principal amount greater
19 than two thousand five hundred dollars (\$2,500) but not greater
20 than five thousand dollars (\$5,000), no greater than sixty
21 percent per annum; and

22 (3) for a loan with a principal amount greater
23 than five thousand dollars (\$5,000) but not greater than ten
24 thousand dollars (\$10,000), no greater than thirty-six per cent
25 per annum.

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1 B. A person required to be a licensee pursuant to
2 the New Mexico Small Loan Act of 1955, when making a loan with
3 a principal amount of ten thousand dollars (\$10,000) or less,
4 may impose a one-time administrative fee of not more than
5 fifteen dollars (\$15.00) per transaction but shall not charge a
6 borrower more than sixty dollars (\$60.00) in administrative
7 fees in any consecutive twelve-month period.

8 C. A person required to be a licensee pursuant to
9 the New Mexico Small Loan Act of 1955, when making a loan with
10 a principal amount of ten thousand dollars (\$10,000) or less
11 pursuant to the New Mexico Small Loan Act of 1955 shall not
12 charge any interest or fees not provided for in Subsections A
13 and B of this section or in Section 58-15-20 NMSA 1978.

14 D. A loan made pursuant to the New Mexico Small
15 Loan Act of 1955 shall be an installment loan payable in
16 substantially equal monthly payments and have the following
17 minimum loan periods:

18 (1) sixty days for a loan with a principal
19 amount of two thousand five hundred dollars (\$2,500) or less;

20 (2) ninety days for a loan with a principal
21 amount greater than two thousand five hundred dollars (\$2,500)
22 but not greater than five thousand dollars (\$5,000); and

23 (3) one hundred twenty days for a loan with a
24 principal amount greater than five thousand dollars (\$5,000)
25 but not greater than ten thousand dollars (\$10,000).

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1 E. The provisions of this section do not apply to
2 payday loans."

3 Section 9. Section 58-15-21 NMSA 1978 (being Laws 1955,
4 Chapter 128, Section 19, as amended) is amended to read:

5 "58-15-21. WHAT CONSTITUTES LOAN OF MONEY--WAGE
6 PURCHASES.--The payment of [~~two thousand five hundred dollars~~
7 ~~(\$2,500)~~] ten thousand dollars (\$10,000) or less in money,
8 credit, goods or things in action, as consideration for any
9 sale or assignment of or order for the payment of wages,
10 salary, commission or other compensation for services, whether
11 earned or to be earned, shall, for the purposes of regulation
12 under the New Mexico Small Loan Act of 1955, be deemed a loan
13 of money secured by [~~such~~] the sale, assignment or order. The
14 amount by which [~~such~~] compensation so sold, assigned or
15 ordered paid exceeds the amount of [~~such~~] consideration
16 actually paid shall for the purpose of regulation under the New
17 Mexico Small Loan Act of 1955 be deemed interest or charges
18 upon [~~such~~] the loan from the date of [~~such~~] payment to the
19 date [~~such~~] the compensation is payable. [~~Such~~] The
20 transaction shall be governed by and subject to the provisions
21 of the New Mexico Small Loan Act of 1955."

22 Section 10. Section 58-15-24 NMSA 1978 (being Laws 1955,
23 Chapter 128, Section 22, as amended) is amended to read:

24 "58-15-24. LOANS MADE ELSEWHERE.--No loan made outside
25 this state to a resident of New Mexico in the amount or of the

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1 value of [~~two thousand five hundred dollars (\$2,500)~~] ten
2 thousand dollars (\$10,000) or less for which a greater rate of
3 interest, consideration, charge or compensation to the lender
4 than is permitted by the [~~general~~] laws of New Mexico
5 [~~presently in force governing money, interest and usury~~] has
6 been charged, contracted for or received shall be enforced in
7 this state. Every person in any way participating in such a
8 loan in this state [~~shall be~~] is subject to the provisions of
9 the New Mexico Small Loan Act of 1955. Any loan made to a
10 nonresident of New Mexico in conformity with the law of the
11 state where made may be enforced in this state."

12 Section 11. Section 58-15-36 NMSA 1978 (being Laws 2007,
13 Chapter 86, Section 18) is amended to read:

14 "58-15-36. [~~PAYDAY~~] LOANS--WAITING PERIOD.--A licensee
15 shall not make a [~~payday~~] loan to a consumer who has entered
16 into a payment plan pursuant to Section 58-15-35 NMSA 1978
17 until at least ten calendar days have passed since the consumer
18 completed all payment obligations pursuant to all of the
19 consumer's outstanding payday loan products, including that
20 payment plan."

21 Section 12. Section 58-15-38 NMSA 1978 (being Laws 2007,
22 Chapter 86, Section 20) is amended to read:

23 "58-15-38. REQUIRED DISCLOSURES WHEN MAKING PAYDAY
24 LOANS--REQUIRED SIGNAGE.--

25 A. A licensee making payday loans shall provide a

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1 notice immediately above the consumer's signature on each
2 payday loan agreement in at least twelve-point bold type using
3 the following language:

4 "(1) A payday loan is not intended to meet
5 long-term financial needs.

6 (2) You should use a payday loan only to meet
7 short-term cash needs.

8 (3) A payday loan is a high-cost loan. You
9 should consider what other lower-cost loans are available to
10 you.

11 (4) If you cannot fully repay a payday loan
12 when due, you have a right to enter into a payment plan
13 requiring payment within a minimum of one hundred thirty days,
14 in relatively equal installments, based upon your scheduled pay
15 periods. If you enter into a payment plan, you will not have
16 to pay an additional administrative fee or interest on the
17 outstanding principal balance or any unpaid administrative
18 fees.

19 (5) If you have had payment obligations under
20 a payment plan pursuant to Section 58-15-35 NMSA 1978, you may
21 not enter into a new payday loan until at least ten calendar
22 days have passed since you have completed all payment
23 obligations pursuant to all of your outstanding payday loan
24 products, including that payment plan."

25 B. Each licensee shall prominently display in each

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[bracketed material] = delete

1 licensed place of business, in a place where it will be readily
2 legible by consumers, a sign in at least sixty-point bold type
3 containing the following notice in both English and Spanish:
4 "If you cannot fully repay a payday loan when due, you have a
5 right to enter into a payment plan requiring payment within a
6 minimum of one hundred thirty days, in relatively equal
7 installments, based upon your scheduled pay periods. If you
8 enter into a payment plan, you will not have to pay an
9 additional administrative fee or interest on the outstanding
10 principal balance or any unpaid administrative fees."

11 Section 13. REPEAL.--Section 58-15-19 NMSA 1978 (being
12 Laws 1955, Chapter 128, Section 17) is repealed.

13 Section 14. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 2009.

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