

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 385

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO FINANCIAL INSTITUTIONS; PROVIDING FOR DISCRETIONARY
PENALTIES; CLARIFYING LICENSEE INFORMATION TO BE REPORTED.

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

SECTION 1. Section 58-15-10.1 NMSA 1978 (being Laws 2011,
Chapter 105, Section 1) is amended to read:

"58-15-10.1. LICENSEE REPORTING REQUIREMENTS--
PENALTIES.--

A. Licensees shall file with the director each year
a report containing at least the following information for the
preceding calendar year in an aggregated, nonidentifying
consumer manner:

(1) a description of each loan product offered
by the licensee, including:

(a) all fees;

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underscored material = new
[bracketed material] = delete

1 (b) the minimum, maximum and average
2 annual interest rate as disclosed pursuant to 12 C.F.R. 226,
3 known as "Regulation Z";

4 (c) the frequency of periodic payments;

5 (d) the term of the loan; and

6 (e) any other standard conditions of the
7 loan product;

8 (2) the total number of transactions entered
9 into for each loan product in the following amounts:

10 (a) five hundred dollars (\$500) or less;

11 (b) five hundred one dollars (\$501) to
12 one thousand dollars (\$1,000);

13 (c) one thousand one dollars (\$1,001) to
14 three thousand dollars (\$3,000);

15 (d) three thousand one dollars (\$3,001)
16 to five thousand dollars (\$5,000); and

17 (e) greater than five thousand dollars
18 (\$5,000);

19 (3) the total number of loans and the total
20 dollar amount of loan principal for each loan product;

21 (4) the average principal loan amount for each
22 loan product;

23 (5) the total number of loans for which the
24 loan principal and accrued interest was not paid in full;

25 (6) the total dollar amount of principal

1 loaned;

2 (7) the total dollar amount of loan principal
3 repaid;

4 (8) the total dollar amount of interest
5 received;

6 (9) the total dollar amount and description of
7 fees received;

8 (10) the total number of loans that were
9 secured by collateral of some type and the total number of such
10 loans in which the security was foreclosed upon or repossessed;

11 (11) the total amount of loan principal and
12 the total amount of accrued interest written-off or charged-
13 off;

14 (12) the percent of consumers who were new
15 consumers;

16 (13) the number of loans that were renewed,
17 refinanced or extended prior to being repaid in full; and

18 (14) procedures the licensee follows as a
19 standard practice to establish each consumer's ability to repay
20 a loan.

21 B. The report required pursuant to Subsection A of
22 this section shall be submitted to the director on or before
23 the thirty-first day of March each year.

24 C. The report required pursuant to Subsection A of
25 this section shall be accompanied by a sworn statement by the

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1 licensee under penalty of perjury that the report is complete
2 and accurate.

3 D. A licensee that fails to timely submit a
4 complete and accurate report as required pursuant to Subsection
5 A of this section [~~shall~~] may:

6 (1) be fined an amount not to exceed one
7 thousand five hundred dollars (\$1,500) per day for each day
8 after the thirty-first day of March a complete and accurate
9 report is not filed; and

10 (2) have a license required pursuant to the
11 New Mexico Small Loan Act of 1955 suspended pursuant to Section
12 58-15-8 NMSA 1978 if a complete and accurate report has not
13 been filed by the thirty-first day of March.

14 E. The information required to be submitted by
15 licensees pursuant to the provisions of this section shall not
16 include information concerning payday loans or loans or loan
17 products with an annual interest rate of one hundred seventy-
18 five percent or less as disclosed pursuant to 12 C.F.R. 226,
19 known as "Regulation Z".

20 **SECTION 2.** Section 58-15-39 NMSA 1978 (being Laws 2007,
21 Chapter 86, Section 21, as amended) is amended to read:

22 "58-15-39. DUTIES OF DIVISION.--

23 A. The division shall:

24 (1) maintain a list of licensees, which list
25 shall be available to interested persons and the public; and

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1 (2) establish a complaint process whereby an
2 aggrieved consumer or other person may file a complaint against
3 a licensee.

4 B. The division shall annually provide a report to
5 the legislature detailing statistics, including data adequate
6 to obtain an accurate understanding of the practices,
7 demographics and legal compliance of all licensees licensed in
8 the state. The division shall compile an annual report by
9 October 1 of each year containing, at a minimum, data regarding
10 all payday loan products entered into in the preceding calendar
11 year on an aggregate basis. Annual reports shall be made
12 available to interested parties and the general public and
13 published on the division's web site. Consistent with state
14 law, the report shall include, at a minimum, nonidentifying
15 consumer data from the preceding year, including:

16 (1) the total number and dollar amount of
17 payday loan products entered into in the calendar year ending
18 December 31 of the previous year;

19 (2) the total number and dollar amount of
20 payday loan products outstanding as of December 31 of the
21 previous year;

22 (3) the effective annualized percentage rate
23 and the average number of days of a payday loan during the
24 calendar year ending December 31 of the previous year;

25 (4) the number of payday loan products entered

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1 into in the amount of one hundred dollars (\$100) or less, the
2 number of payday loan products entered into in the amount of
3 one hundred one dollars (\$101) to five hundred dollars (\$500),
4 the number of payday loan products entered into in the amount
5 of five hundred one dollars (\$501) to one thousand dollars
6 (\$1,000), the number of payday loan products entered into in
7 the amount of one thousand one dollars (\$1,001) to one thousand
8 five hundred dollars (\$1,500), the number of payday loan
9 products in an amount greater than one thousand five hundred
10 dollars (\$1,500) and the percentage of total payday loan
11 products entered into in each of those ranges;

12 (5) an estimate of the total dollar amount of
13 fees collected for payday loan products;

14 (6) the total number of payday loan products
15 entered into and the total dollar amount of the net charge-offs
16 or write-offs and of the net recoveries of licensees;

17 (7) the minimum, maximum and average dollar
18 amounts of payday loan products entered into in the calendar
19 year ending December 31 of the previous year;

20 (8) the average payday loan product amount,
21 average number of transactions and average aggregate payday
22 loan product amount entered into per consumer each year;

23 (9) the average number of days a consumer is
24 engaged in a payday loan product each year;

25 (10) an estimate of the average total fees

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1 paid by a payday loan product consumer;

2 (11) the number of consumers who are eligible
3 for payment plans and the number of consumers who enter into
4 payment plans pursuant to Section 58-15-35 NMSA 1978; and

5 (12) the number of consumers who are subject
6 to the restrictions of the waiting period pursuant to Section
7 ~~[8-15-36]~~ 58-15-36 NMSA 1978.

8 C. The division shall compile from reports filed by
9 licensees pursuant to Section ~~[1 of this 2011 act]~~ 58-15-10.1
10 NMSA 1978 an annual report by October 1 of each year containing
11 ~~[at a minimum]~~ data regarding ~~[all]~~ only loans ~~[other than]~~
12 exceeding an annual interest rate of one hundred seventy-five
13 percent as disclosed pursuant to 12 C.F.R. 226, known as
14 "Regulation Z", entered into in the preceding calendar year on
15 an aggregate basis. Excluded from the reporting requirements
16 of this subsection are payday loan products or loans or loan
17 products with an annual interest rate of one hundred seventy-
18 five percent or less as disclosed pursuant to 12 C.F.R. 226,
19 known as "Regulation Z", entered into in the preceding calendar
20 year on an aggregate basis. Annual reports shall be made
21 available to interested parties and the general public and
22 published on the division's web site. Consistent with state
23 law, the report shall include, at a minimum, nonidentifying
24 consumer data from the preceding calendar year, including:

25 (1) a general description of loan products

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1 offered by licensees during the preceding calendar year and the
2 minimum, maximum and average annual interest rate for each loan
3 product;

4 (2) the number of loans entered into in the
5 amount of five hundred dollars (\$500) or less, the number of
6 loans entered into in the amount of five hundred one dollars
7 (\$501) to one thousand dollars (\$1,000), the number of loans
8 entered into in the amount of one thousand one dollars (\$1,001)
9 to three thousand dollars (\$3,000), the number of loans entered
10 into in the amount of three thousand one dollars (\$3,001) to
11 five thousand dollars (\$5,000), the number of loans in an
12 amount greater than five thousand dollars (\$5,000) and the
13 number of loans listed by licensee entered into in each of
14 those ranges;

15 (3) the total number and dollar amount of
16 loans entered into in the previous calendar year for each loan
17 product;

18 (4) the average principal loan amount for each
19 loan product;

20 (5) the total number of loans for which the
21 loan principal and accrued interest was not paid in full;

22 (6) the total dollar amount of loan principal
23 repaid and of interest and fees received;

24 (7) the total number of loans secured by
25 collateral of some type and the total number of such loans in

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- 1 which the security was foreclosed upon or repossessed;
- 2 (8) the total amount of loan principal and the
- 3 total amount of accrued interest written-off or charged-off;
- 4 (9) the percent of customers who were new
- 5 customers;
- 6 (10) the number of loans renewed, refinanced
- 7 or extended prior to being repaid in full; and
- 8 (11) procedures followed by licensees to
- 9 establish consumers' ability to repay loans."

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