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HOUSE BILL 174

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

TED HOBBS

AN ACT

RELATING TO FINANCIAL TRANSACTIONS; PROVIDING FOR THE USE OF
REPRODUCED DOCUMENTS IN CERTAIN TRANSACTIONS; AMENDING 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 58-15-17 NMSA 1978 (being Laws 1955,
Chapter 128, Section 15) is amended to read:

"58-15-17. REQUIREMENTS FOR MAKING AND PAYING OF LOANS--
INCOMPLETE INSTRUMENTS--LIMITATIONS ON CHARGES AFTER JUDGMENT
AND INTEREST. --

A. [~~(a)~~ ~~REQUIREMENTS FOR MAKING AND PAYMENT OF
LOANS~~] Every licensee shall:

(1) at the time any loan is made within the
provisions of [~~this Act~~] the New Mexico Small Loan Act of 1955,
deliver to the borrower or, if there are two or more borrowers

Underscored material = new
[bracketed material] = delete

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1 on the same obligation, to one of them, a statement in [~~the~~
2 English [~~language~~] on which shall be printed a copy of Section
3 [~~14 of this Act~~] 58-15-14.1 NMSA 1978, disclosing in clear and
4 distinct terms the amount of the loan, the date the loan was
5 made, a schedule or a description of the payments, the type of
6 the security, if any, for the loan, the name and address of the
7 licensed office, the name of the person primarily obligated for
8 the loan, the amount of principal, the agreed rate of charge
9 stated on a percent per month and a percent per [~~annum~~] year
10 basis and the amount in dollars and cents and other items
11 allowable [~~hereunder~~] pursuant to that act, so stated as to
12 clearly show the allocation of each item included;

13 (2) for each payment made on account of any
14 such loan, give to the person making it a plain and complete
15 receipt specifying the date and amount of the payment, the
16 amount applied to interest and principal and the balance unpaid.
17 When payment is made in any other manner than by the borrower in
18 person, [~~or~~] by an agent of the borrower or by check or money
19 order, the licensee shall mail [~~such~~] the receipt to the
20 borrower's last known address or hold [~~same~~] the receipt for
21 delivery upon request of the borrower. A copy of all [~~such~~] re-
22 cepts shall be kept on file in the office of the licensee as a
23 part of his records; and

24 (3) upon payment of the loan in full, mark
25 plainly every note and promise to pay signed by any obligor with

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1 the word "paid" or [~~cancelled~~] "canceled" and promptly file or
2 record a release of any mortgage if the [~~same~~] mortgage has been
3 filed or recorded, restore any pledge and cancel and return any
4 note and any assignment given to the licensee. A licensee may
5 comply with the provisions of this paragraph by marking and
6 returning a copy of the note or promise to pay if the copy
7 accurately reproduces the complete original.

8 B. [~~(b) INCOMPLETE INSTRUMENTS~~] No licensee shall
9 take any note or promise to pay [~~which~~] that does not disclose
10 the amount of the loan, a schedule of payments, or a description
11 thereof, and the agreed charge or rate of charge [~~nor~~] or any
12 instrument in which blanks are left to be filled in after
13 execution.

14 C. [~~(c) LIMITATION OF CHARGES AFTER JUDGMENT.~~] If
15 judgment [~~be~~] is obtained against any party or any loan made
16 under the provisions of [~~this law~~] the New Mexico Small Loan Act
17 of 1955, neither the judgment nor the loan shall carry, from the
18 date of the judgment, any charges against any party to the loan
19 other than court costs, [~~attorney's~~] attorneys' fees and
20 interest on the amount of the judgment at ten [~~(10%)~~] percent
21 [~~per annum~~] a year.

22 D. [~~(d) LIMITATION OF INTEREST IN BANKRUPTCY~~] Any
23 loan made under the provisions of [~~this law~~] the New Mexico
24 Small Loan Act of 1955 [~~which~~] that is filed and approved as a
25 claim in any bankruptcy proceeding shall, from a date ninety

Underscored material = new
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1 [~~(90)~~] days subsequent to the date of adjudication, bear
2 interest at the rate of ten [~~(10%)~~] percent [~~per annum~~] a year
3 only. This limitation shall not apply when the bankrupt is not
4 discharged in bankruptcy or to any obligation not dischargeable
5 under the provisions of the Bankruptcy Act presently in force or
6 as [~~the same may~~] hereafter [~~be~~] amended.

7 E. [~~(e) LIMITATION OF INTEREST UPON DEATH OF~~
8 ~~BORROWER~~] No loan made under the provisions of [~~this Act~~] the
9 New Mexico Small Loan Act of 1955 shall bear interest after
10 ninety [~~(90)~~] days from the date of the death of the borrower in
11 excess of a rate of ten [~~(10%)~~] percent [~~per annum~~] a year on
12 the unpaid principal balance of the loan.

13 F. [~~(f) LIMITATION OF INTEREST AFTER MATURITY OF~~
14 ~~LOAN~~] No loan made under the provisions of [~~this Act~~] the New
15 Mexico Small Loan Act of 1955 shall bear interest after twelve
16 [~~(12)~~] months from the date of maturity of [~~any said~~] the loan
17 in excess of ten [~~(10%)~~] percent [~~per annum~~] a year upon the
18 unpaid principal balance of [~~said~~] the loan. "

State of New Mexico House of Representatives

FORTY- SECOND LEGISLATURE

SECOND SESSION, 1996

January 30, 1996

Mr. Speaker:

Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
been referred

HOUSE BILL 174

has had it under consideration and reports same with
recommendation that it DO PASS, amended as follows:

1. On page 3, line 6, strike the underscored "or" and insert
in lieu thereof a comma and after "pay" insert "or any
assignment".,

and thence referred to the APPROPRIATIONS AND FINANCE
COMMITTEE.

**FORTY- SECOND LEGISLATURE
SECOND SESSION, 1996**

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Respectfully submitted,

Fred Luna, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

Excused: Varela

Absent: Corley, Macko, Olguin, Rodella

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

February 9, 1996

Mr. President:

Your CORPORATIONS & TRANSPORTATION COMMITTEE, to
whom has been referred

HOUSE BILL 174, as amended

has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
JUDICIARY COMMITTEE.

Respectfully submitted,

Roman M. Maes, III, Chairman

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 4 For 1 Against

Yes: 4

No: Rawson

Excused: Kidd, Maloof, McKibben, Reagan

Absent: None

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

HB 174/a

February 12, 1996

Mr. President:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 174, as amended

has had it under consideration and reports same with
recommendation that it DO PASS, amended as follows:

1. On page 3, line 3, strike "filed or".

2. On page 3, line 4, after the period strike the remainder
of the line, strike all of line 5, on line 6, strike "returning"
and insert in lieu thereof "A licensee may mark and return",

and thence referred to the FINANCE COMMITTEE.

Respectfully submitted,

Janice D. Paster, Chairman

**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: None

Absent: Carraro, Sanchez

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**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

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**FORTY- SECOND LEGI SLATURE
SECOND SESSION, 1996**

February 14, 1996

Mr. President:

Your FINANCE COMMI TTEE, to whom has been referred

HOUSE BILL 174, as amended

**has had it under consideration and reports same with
recommen dation that it DO PASS.**

Respectfully submi tted,

Ben D. Altami rano, Chairman

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**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Donisthorpe, Duran, Ingle, Kidd, Kysar

Absent: None

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Underscored material = new
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