



New Mexico Small Loan Act of 1955

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58-15-1. Objects and purposes of act.

The following are hereby declared to be the objects and purposes of this act:

A. there exists among citizens of this state a widespread demand for small loans. The scope and intensity of this demand have been increased progressively by many social and economic forces;

B. the expense of making and collecting small loans, which are usually made on comparatively unsubstantial security to wage earners, salaried employees and other persons of relatively low incomes is necessarily high in relation to the amounts lent;

C. experience has proven that such loans cannot be made profitably except under special permissive laws and that without such laws many legitimate enterprises are excluded from the small loan field; that without laws regulating the making of small loans interest charges are often disguised by the use of complicated and technical subterfuge to evade the usury law; that without regulations, borrowers of small sums are often exploited by charges generally exorbitant in relation to those necessary to conduct a small loan business;

D. it is the intent of the legislature in enacting this statute to bring up to date the law pertaining to small loans; to insure more rigid public regulation and supervision of those engaging in the business of making small loans, and selling insurance in connection therewith; to facilitate the elimination of abuse of borrowers; and to establish a system which will more adequately provide honest and efficient small loan service and stimulate competitive reductions in charges.

The legislature expressly declares: that the charges which licensee [licensees] may collect under the provisions of this act, while inclusive of pure interest, are recognized as inclusive also of adequate service fees to the licensees.

The legislature further declares: that the charges established by this act are limiting maximums, fixed after careful study of modernized, adequate and efficiently functioning small loan statutes of other states, which will permit licensees hereunder to meet the expense and loss hazard incident to the making and servicing of small loans, to the end that licensees may be encouraged to establish and maintain supervised and regulated loan agencies, whose competitive operations, while stimulating reductions from maximum allowable charges, will provide legitimate sources of loan credit to a large class of borrowers throughout the state, who cannot otherwise obtain honest and lawful loan accommodations under the general laws of New Mexico governing money, interest and usury.

History: 1953 Comp., § 48-17-30, enacted by Laws 1955, ch. 128, § 1.

58-15-2. Definitions.

The following words and terms when used in the New Mexico Small Loan Act of 1955 have the following meanings unless the context clearly requires a different meaning. The meaning ascribed to the singular form applies also to the plural:

A. "consumer" means a person who resides in New Mexico or who enters into a loan agreement in New Mexico;

B. "consumer reporting agency" means any person that, for monetary fees or dues or on a cooperative nonprofit basis, regularly engages in the practice of assembling or evaluating, and maintaining, for the purpose of furnishing consumer reports to third parties bearing on a consumer's creditworthiness, credit standing or credit capacity, each of the following regarding consumers:

(1) public record information; or

(2) credit account information from persons who furnish that information regularly and in the ordinary course of business;

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

D. "division" means the financial institutions division of the regulation and licensing department;

E. "director" means the director of the division;

F. "installment loan" means a loan in an amount less than or equal to five thousand dollars (\$5,000) that is to be repaid in a minimum of four substantially equal payments of principal and interest to pay off a loan in its entirety with an initial stated maturity of not less than one hundred twenty days to maturity. "Installment loan" does not mean a refund anticipation loan;

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

H. "licensee" means a person to whom one or more licenses have been issued pursuant to the New Mexico Small Loan Act of 1955 upon the person's written application electing to become a licensee and consenting to exercise the privilege of a licensee solely in conformity with the New Mexico Small Loan Act of 1955 and the lawful regulations promulgated by the director under that act and whose name appears on the face of the license;

I. "make a loan" means to originate a new loan agreement or to make any change to the terms of an existing loan agreement, including the principal amount financed, the annual percentage rate, finance charge, fees or payment schedule;

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

K. "refund anticipation loan" means a loan that is secured by or that the creditor arranges or expects to be repaid, directly or indirectly, from the proceeds of the consumer's federal or state personal income tax refunds or tax credits, including any sale, assignment or purchase of a tax refund or tax credit at a discount or for a fee; and

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

History: 1953 Comp., § 48-17-31, enacted by Laws 1955, ch. 128, § 2; 1977, ch. 245, § 60; [2007, ch. 86, § 2](#); [2017, ch. 110, § 11](#); [2019, ch. 201, § 8](#).

58-15-3. Applicability of act; exemptions; evasions; penalty.

A. A person shall not engage in the business of lending in amounts of five thousand dollars (\$5,000) or less for a loan without first having obtained a license from the director. Nothing contained in this subsection shall restrict or prohibit a licensee under the New Mexico Small Loan Act of 1955 from making loans in any amount under the New Mexico Bank Installment Loan Act of 1959 in accordance with the provisions of Section [58-7-2](#) NMSA 1978.

B. Nothing in the New Mexico Small Loan Act of 1955 shall apply to a person making individual advances of five thousand dollars (\$5,000) or less under a written agreement providing for a total loan or line of credit in excess of five thousand dollars (\$5,000).

C. A banking corporation, savings and loan association or credit union operating under the laws of the United States or of a state shall be exempt from the licensing requirements of the New Mexico Small Loan Act of 1955, nor shall that act apply to business transacted by any person under the authority of and as permitted by any such law nor to any bona fide pawnbroking business transacted under a pawnbroker's license nor to bona fide commercial loans made to dealers upon personal property held for resale. Nothing contained in the New Mexico Small Loan Act of 1955 shall be construed as abridging the rights of any of those exempted from the operations of that act from contracting for or receiving interest or charges not in violation of an existing applicable statute of this state.

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

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

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

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

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

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

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

E. A person, copartnership, trust or a trustee or beneficiary thereof or an association or corporation or a member, officer, director, agent or employee thereof who violates or participates in the violation of a provision of Subsection A of this section is guilty of a petty misdemeanor and upon conviction shall be sentenced pursuant to the provisions of Subsection B of Section [31-19-1](#) NMSA 1978. A contract or loan

in the making or collection of which an act is done that violates Subsection A or D of this section or Section [58-15-17](#) or [58-15-20](#) NMSA 1978 is void and the lender has no right to collect, receive or retain any principal, interest or charges whatsoever.

F. A loan in an amount equal to five thousand dollars (\$5,000) or less shall be made only pursuant to the New Mexico Bank Installment Loan Act of 1959 or the New Mexico Small Loan Act of 1955.

G. A violation of a provision of the New Mexico Small Loan Act of 1955 that constitutes either an unfair or deceptive trade practice or an unconscionable trade practice pursuant to Section [57-12-2](#) NMSA 1978 is actionable pursuant to the Unfair Practices Act.

History: 1953 Comp., § 48-17-32, enacted by Laws 1955, ch. 128, § 3; 1973, ch. 18, § 1; 1977, ch. 245, § 61; 1983, ch. 95, § 1; 1987, ch. 127, § 1; [1993, ch. 210, § 4](#); [2007, ch. 86, § 3](#); [2017, ch. 110, § 12](#); [2019, ch. 201, § 9](#).

[58-15-4. Application, investigation and fee; agent for service of process.](#)

A. Application for a license and any annual license renewal shall be in writing under oath and in the form prescribed by the director, shall give the exact location where the business is to be conducted and shall contain such other relevant information as the director may require, including identification of all parties in interest and the names and addresses of all the partners, officers, directors, trustees and beneficiaries of any trust and of such principal owners and members as will provide the basis for an investigation and findings necessary under Section [58-15-5](#) NMSA 1978. The application shall also include a statement accepting the license, if granted, as a privilege to be enjoyed and exercised only under all the terms and conditions of the New Mexico Small Loan Act of 1955 and under all lawful regulations of the director promulgated in that act. The applicant shall pay to the director at the time of making application for an original license the sum of one thousand dollars (\$1,000).

B. The application shall be accompanied by, and every licensee shall at all times maintain on file with the director, a written power of attorney appointing some person, a resident of this state, as the licensee's agent for service of all judicial or other process or legal notice and notices provided for by the New Mexico Small Loan Act of 1955, unless the licensee has appointed an agent for service of process under another statute of this state. In case of noncompliance with this subsection, such service, including service of all notices provided for in the New Mexico Small Loan Act of 1955, may be made on the manager or person in charge of the registered office or place of business of the licensee, and the director may by order suspend the license pending compliance with this section.

History: Laws 1978, ch. 7, § 1; 1987, ch. 292, § 1.

[58-15-5. Licenses; investigation of application; issuance; denial; issuance of renewal license; denial of renewal license; fitness and character of applicant; license fees; licensee bound by act.](#)

A. Upon the filing of an application, whether it is an original or a renewal, the director shall investigate the facts concerning the application and the requirements provided in this section.

B. An applicant for license, upon written notice to do so by the director, shall, within twenty days after service of the notice, furnish in writing, under oath, to the director all additional information

required by the director that may be relevant or, in the opinion of the director, helpful in conducting the investigation.

C. Failure to comply with the director's requirement for supplemental information or the willful furnishing of false information is sufficient grounds for denial of license.

D. False or misleading information willfully and intentionally furnished to the director prior to the issuance of any license is grounds for suspension or revocation of any license in accordance with the procedures for suspension or revocation of license in the New Mexico Small Loan Act of 1955.

E. The director shall grant or deny each application for an original license within sixty days from the filing of the application with the required information and fees, unless the period is extended by written agreement between the applicant and the director.

F. In the event the director finds that:

(1) the financial responsibility, character and general fitness of the applicant for an original license and of the individual members and beneficiaries thereof, if the applicant is a copartnership, association or trust, and of the officers and directors thereof, if the applicant is a corporation, are such as to command the confidence of the public and to warrant belief that the business will be operated lawfully, honestly, fairly and efficiently within the declared purposes and spirit of the New Mexico Small Loan Act of 1955;

(2) allowing the applicant to engage in business will promote the convenience and advantage of the community in which the business of the applicant is to be conducted; and

(3) the applicant has available for operation of the business at the specified location cash or its equivalent, convertible securities or receivables of thirty thousand dollars (\$30,000) or any combination thereof; the director shall enter an order granting the application, file the director's findings and, upon payment of the license fee of five hundred dollars (\$500), issue and deliver a license to the applicant.

G. If the director does not make the findings enumerated in Subsection F of this section, the director shall enter an order denying the application, notify the applicant of the denial and retain the application fee. Within thirty days after the entry of such an order, the director shall prepare written findings and shall deliver a copy to the applicant.

H. A written application for license renewal shall be filed on or before March 31 of each year, and thereupon the director shall investigate the facts and review the files of examinations of the applicant made by the director's office and of complaints filed by borrowers, if any. The director shall deliver a renewal license to the applicant if the director finds that:

(1) no valid complaints of violations or abuses of the New Mexico Small Loan Act of 1955 or of the regulations of the director promulgated under that act have been filed by borrowers;

(2) examinations of the affairs of the applicant indicate that the business has been conducted and operated lawfully and efficiently within the declared purposes and spirit of the New Mexico Small Loan Act of 1955; and

(3) the financial responsibility, experience and general fitness and character of the applicant remain such as to command the confidence of the public and to warrant the belief that the business will

continue to be operated lawfully and efficiently within the purposes and spirit of the New Mexico Small Loan Act of 1955.

I. If the director does not make the findings enumerated in Subsection H of this section, the director may grant a temporary extension of the license not exceeding sixty days pending a hearing; shall enter an order fixing a date for hearing upon the application; shall notify the licensee thereof, specifying the particular complaints, violations or abuses or other reasons for the director's contemplated refusal to renew the license; and shall afford to the applicant an opportunity to be heard. At the hearing, the director shall produce evidence to establish the truth of the charges of violation or other grounds specified in the notice, and the applicant shall be accorded the right to produce evidence or other matters of defense. If after the hearing the director finds that the complaints of violations or other grounds specified in the notice are not well-founded, the director shall issue the renewal license. If the director finds that the complaints of violations or other grounds are well-founded, the director shall enter an order denying the renewal application and notify the applicant of the denial, returning the renewal license fee tendered with the application. Within thirty days after the entry of such an order, the director shall prepare written findings and shall deliver a copy of the findings to the applicant. The order shall be subject to review as provided in Section [58-15-25](#) NMSA 1978. The court in its discretion and upon proper showing may order a temporary extension of the license pending disposition of the review proceedings.

J. In connection with the determination of fitness and character of an applicant pursuant to the provisions of this section, the fact that the applicant or licensee is a member of or interested financially in, connected or affiliated with, controls or is controlled by or owns or is owned by other corporations, partnerships, trusts, associations or other legal entities engaged in the lending of money whose policies and practices as to rates of interest, charges and fees and general dealing with borrowers are questionable or would constitute violation of the general usury statutes of this state or of the declared purposes and spirit of the New Mexico Small Loan Act of 1955 shall be given such consideration and weight as the director determines.

K. At the time of issuance of original license and each annual renewal thereof, the licensee for each licensed office shall pay to the director as a license fee for the period covered by the license the sum of five hundred dollars (\$500) as a minimum, plus an additional seventy-five cents (\$.75) for each one thousand dollars (\$1,000) or fraction thereof of loans outstanding as of December 31 next preceding, as shown on the applicant's annual report. In the event that the application for annual renewal of the license is delinquent, the licensee shall also pay a delinquency fee of ten dollars (\$10.00) per day for each day the licensee is delinquent in filing the application for renewal.

L. In addition to the fees provided for in Subsection K of this section, at the time of issuance of original license and each annual renewal thereof, the licensee for each licensed office shall pay to the director as an additional fee for the period covered by the license the sum of two hundred dollars (\$200), which fee shall be deposited into the financial literacy fund.

M. A licensee by accepting a license that is issued or renewed or by continuing to operate a licensed office under the New Mexico Small Loan Act of 1955 shall by such action be deemed to have consented to be bound by the lawful provisions of that act and all lawful requirements, regulations and orders of the director promulgated or issued pursuant to any authorization granted in that act.

History: 1978 Comp., § 58-15-5, enacted by Laws 1978, ch. 6, § 1; 1987, ch. 292, § 2; [1993, ch. 210, § 5](#); [2007, ch. 86, § 4](#); [2017, ch. 110, § 13](#).

58-15-6. Contents and posting of license; limitation of authority granted by license; effective date of license; minimum assets.

A. Each license shall state the address at which the business is to be conducted and shall state fully the name of the licensee if an individual, and if a corporation the name, date and place of incorporation, and if a copartnership, trust or association or other legal entity, the names of all the copartners and all the members and beneficiaries thereof, and the trade name under which the licensee may desire to conduct such business. Each license shall be kept conspicuously posted in the licensed place of business and shall not be transferable or assignable.

B. No licensee hereunder, except a national or state banking corporation, shall use the words "bank", "banker" or "banking" in its name or refer to itself as a bank or banker in any of its advertising.

No licensee hereunder, except a national or state banking corporation, shall accept deposits or issue certificates of deposit, provided, however, that the foregoing prohibition shall not limit the right of any licensee to borrow money or to issue notes, bonds, debentures or similar evidences of indebtedness labeled as such for the purpose of obtaining capital for use in its business.

Except as a stockholder in a licensed corporation, no person whose name does not specifically appear on the face of the license shall have or hold any interest direct or otherwise in any license and shall not be deemed a licensee hereunder.

C. Each license shall remain in full force until June 30 next following its date of issue, unless sooner surrendered, revoked or suspended as herein provided, but shall expire and terminate on June 30 following its issue unless renewed and reissued as herein provided. Such license shall entitle the person or persons whose names appear on the face of the license, and no others, to enjoy and exercise the revocable privileges and immunities provided for in the New Mexico Small Loan Act of 1955, but only in the manner and subject to the restrictions herein provided for.

D. Every licensee shall maintain at all times cash or its equivalent, convertible securities or receivables of thirty thousand dollars (\$30,000), or any combination thereof, as set forth in Subsection B of Section [58-15-5](#) NMSA 1978.

History: 1953 Comp., § 48-17-35, enacted by Laws 1955, ch. 128, § 6; 1977, ch. 307, § 3.

58-15-7. Place of business; change; residence of borrower.

A. Not more than one place of business shall be maintained under the same license, but the director may issue additional licenses to the same licensee upon compliance with all the provisions of the New Mexico Small Loan Act of 1955 governing issuance of a single license, provided that when more than one license is issued to any person, each licensed office of such person shall be operated under the same trade name.

B. No change in the place of business of a licensee to a location outside of the municipality for which such license was issued shall be permitted under the same license. When a licensee wishes to change his place of business within the same municipality, he shall give written notice thereof to the director who shall investigate the facts and, if he shall find:

(1) that allowing the licensee to engage in business in the proposed location is not detrimental to the convenience and advantage of the community; and

(2) that the proposed location is reasonably accessible to borrowers under existing loan contracts, he shall enter an order permitting the change and shall amend the license accordingly. If the director shall not so find he shall enter an order denying the licensee such permission in the manner specified in and subject to the provisions of Section [58-15-5](#) NMSA 1978.

C. Nothing in this act shall be construed to limit the loans of any licensee to residents of the community in which the licensed place of business is located; nor to prohibit accommodations to individual borrowers in sickness or in connection with hours of employment or other such situations; nor to prohibit making loans by mail to residents of New Mexico.

History: 1953 Comp., § 48-17-36, enacted by Laws 1955, ch. 128, § 7; 1977, ch. 245, § 64.

58-15-8. Revocation, suspension and reinstatement of licenses.

A. The director shall revoke no license issued hereunder unless he shall first serve upon the licensee a written notice which states in general the grounds therefor, together with the time and place of hearing, which shall be held not less than fifteen days after the mailing of such notice to the licensee by registered mail as provided in Subsection G of this section. Upon such hearing the director shall revoke any license issued hereunder if he finds that:

(1) the licensee, either knowingly or without the exercise of due care to prevent the same, has violated any provision of the New Mexico Small Loan Act of 1955 or any regulation or order made pursuant to and within the authority of the New Mexico Small Loan Act of 1955; or

(2) any fact or condition exists at the time of the proposed revocation which if it had existed at the time of the original application for such license, or any renewal thereof, clearly would have justified the director in refusing originally to issue such license.

B. If the director finds that probable cause for revocation of any license exists and that enforcement of the act requires immediate suspension of such license pending investigation, he may, upon three days' written notice by registered mail and a hearing, enter an order suspending such license for a period not exceeding thirty days.

C. Whenever the director shall revoke or suspend a license issued pursuant to the New Mexico Small Loan Act of 1955, he shall enter an order to that effect and forthwith in writing notify the licensee of such revocation or suspension by registered mail, which notice shall state the grounds therefor.

D. Any licensee may surrender any license by delivering it to the director with written notice of its surrender, but such surrender shall not affect his civil or criminal liability for acts committed prior thereto.

E. No revocation, suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any obligor thereon.

F. The director may reinstate any suspended license or issue a new license to a person whose license or licenses have been revoked if no fact or condition then exists which clearly would have justified the director in refusing originally to issue such license under the New Mexico Small Loan Act of 1955.

G. Wherever in the New Mexico Small Loan Act of 1955 provision is made for service of any notice by registered mail, such service shall be deemed complete upon deposit of such notice in the post office. For the purpose of this section, mailing of notice addressed to the person designated as the agent for service of process under Section [58-15-4](#) NMSA 1978 or the manager or person in charge of the licensed office shall be sufficient.

History: 1953 Comp., § 48-17-37, enacted by Laws 1955, ch. 128, § 8; 1977, ch. 245, § 65.

58-15-9. Examination of licensee's books and records; witnesses.

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

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

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

- (1) any licensee;
- (2) any other person engaged in the business described in Subsection A of Section [58-15-3](#) NMSA 1978 or participating in such business as principal, agent, broker or otherwise; and
- (3) any person whom the director has reasonable cause to believe is violating any provision of the New Mexico Small Loan Act of 1955, whether the person claims to be within the authority or beyond the scope of that act.

D. For the purposes of this section, a person who advertises, solicits or makes any representation as being willing to make loan transactions in any amount, except persons, financial institutions or lending agencies operating under charters or licenses issued by a state or federal agency or under any special statute, shall be subject to investigation under the New Mexico Small Loan Act of 1955 and shall be presumed to be engaged in the business described in Subsection A of Section [58-15-3](#) NMSA 1978 as to any loans of five thousand dollars (\$5,000) or less.

E. To facilitate the examinations and investigations by the director and fully disclose the operations and methods of operation of each licensed office, the licensee shall, in each licensed office, keep on file as part of the records of the office all office manuals, communications or directives containing statements of loan policy to office managers and employees. If the licensee is an individual, corporation, trust or association, the licensee shall keep in at least one office for information of the director a record of the several individuals, firms, beneficiaries of any trust and corporations deriving or receiving any part of the benefits, net income or profits from the operation of the licensee within New Mexico.

F. For the purposes of this section, the director or the director's authorized representative shall have and be given free access to the offices and places of business, files, safes and vaults of all licensees and shall have authority to require the attendance of any person and to examine the person under oath relative to such loans or business or to the subject matter of any examination, investigation or hearing as provided in the New Mexico Small Loan Act of 1955. Notices to appear before the director for examination under oath may be served by registered mail. If the party notified to appear is the licensee, any person named on the face of the license being investigated or any agent, employee or manager participating in the licensee's business and the party fails to appear for examination or refuses to answer questions submitted, the director may, forthwith and without further notice to the licensee, suspend the license involved pending compliance with the notice. Upon failure of any other person to appear or to answer questions, the director may apply to and invoke the aid of any district court of New Mexico in compelling the attendance and testimony of any such person and the production of books, records, written instruments and documents relating to the business of the licensee. The district court whose aid is so invoked by the director may, in case of contumacy or refusal to obey any order of the district court issued to compel the attendance of the person or the production of books, records, written instruments and documents, punish the person as for contempt of court.

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

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

I. Depositions may be taken with or without a commission, and written interrogatories may be submitted in the same manner and on the same grounds provided by law for the taking of depositions or submission of written interrogatories in civil actions pending in the district courts of this state.

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

K. Whenever the director has reasonable cause to believe that a person is violating a provision of the New Mexico Small Loan Act of 1955, the director may, in addition to all actions provided for in that act and without prejudice thereto, enter an order requiring the person to desist or to refrain from the violation. An action may be brought on the relation of the attorney general and the director to enjoin the person from engaging in or continuing the violation or from doing any act in furtherance of the violation. In any such action, an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper. In addition to all other means provided by law for the enforcement of a temporary restraining order, temporary injunction or final injunction, the court in which such action is brought shall have power and jurisdiction to impound and to appoint a receiver for the property and business of the defendants, including books, papers, documents and records pertaining thereto or so much thereof as the

court may deem reasonably necessary to prevent further violations of the New Mexico Small Loan Act of 1955 through or by means of the use of the property and business. The receiver, when appointed and qualified, shall have powers and duties as to custody, collection, administration, winding up and liquidation of the property and business as are from time to time conferred upon the receiver by the court.

History: 1953 Comp., § 48-17-38, enacted by Laws 1955, ch. 128, § 9; 1973, ch. 18, § 2; 1977, ch. 245, § 66; 1977, ch. 307, § 4; 1987, ch. 292, § 3; **2007, ch. 86, § 5; 2017, ch. 110, § 14.**

58-15-10. Books and records; annual reports; additional information.

A. Each licensee shall keep and use in the business such books, accounts and records in accordance with sound accounting practices that will enable the director to determine whether the licensee is complying with the provisions of the New Mexico Small Loan Act of 1955 and with the orders and regulations lawfully made by the director pursuant to the provisions of that act. Each licensee shall preserve the books, accounts and records for at least two years after making the final entry on a loan recorded therein.

B. Each licensee shall, annually on or before March 31, file a report with the director giving such relevant information as the director may reasonably require concerning the business and operations during the preceding calendar year for each licensed place of business conducted by the licensee within the state pursuant to the provisions of the New Mexico Small Loan Act of 1955. The report shall be made under oath and shall be in the form prescribed by the director. A summary of the reports shall be included in the published annual report of the director.

C. At the time of filing each annual report, at the time of the annual examination or at any other time when a license is in effect, the director may, upon written notice, require a licensee to furnish within twenty days in writing, and under oath if so specified by any written notice issued and served by the director upon the licensee, additional information as to ownership of any office; operation of any office; books, records, files and papers; and affiliation or relationship with any other person, firm, trust, association or corporation as, in the opinion of the director, may be helpful in the discharge of the director's official duties.

D. False or misleading information willfully furnished to the director by a licensee in an annual report or pursuant to a notice or requirement of the director is sufficient grounds for suspension and revocation of license in accordance with the procedures for suspension or revocation of license set forth in the New Mexico Small Loan Act of 1955.

History: 1953 Comp., § 48-17-39, enacted by Laws 1955, ch. 128, § 10; 1977, ch. 245, § 67; **1993, ch. 210, § 6; 2007, ch. 86, § 6.**

58-15-10.1. Licensee reporting requirements; penalties.

A. Licensees shall file with the director each year reports containing at least the following information for the preceding calendar year ending December 31 in an aggregated, nonidentifying consumer manner as specified below:

- (1) a description of each loan product offered by the licensee, including:
 - (a) whether the loan product was secured or unsecured;

(b) whether the loan product was made pursuant to the New Mexico Small Loan Act of 1955 or the New Mexico Bank Installment Loan Act of 1959;

(c) the total dollar amount of principal loaned for that product;

(d) the percentage of the total dollar amount of all principal for that product that was repaid;
and

(e) the total number of individual borrowers who took out this type of loan product;

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

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

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

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

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

(3) for each loan product, the number of loans made and the total dollar amount of interest and fees charged on the contracts for loans made within the following categories of annual percentage rate calculated pursuant to 12 CFR Part 1026, known as "Regulation Z":

(a) less than or equal to thirty-six percent;

(b) more than thirty-six percent through one hundred percent;

(c) more than one hundred percent through one hundred fifty percent; and

(d) more than one hundred fifty percent through one hundred seventy-five percent;

(4) for each loan product, the following aggregate amounts of fees and interest:

(a) a list of each fee charged by the lender and a description of each fee product or type, including fees charged for loan origination and credit insurance;

(b) the total dollar amount of each fee product charged by the lender and paid by the borrower; and

(c) the total dollar amount of interest charged by the lender and paid by the borrower;

(5) for each loan product:

(a) the number of loans for which the original term of the loan was: 1) less than one hundred twenty days; 2) between one hundred twenty days and three hundred sixty-five days; 3) between three hundred sixty-five days and seven hundred thirty-one days; 4) between seven hundred thirty-one days and five years; and 5) longer than five years;

(b) for each item set forth in Subparagraph (a) of this paragraph, the average actual repayment time for the given loan product and loan term; and

(c) for each item set forth in Subparagraph (a) of this paragraph, the number of loans for which payments were due: 1) every two weeks; 2) every four weeks; and 3) monthly;

(6) the number of borrowers who took out one or two loans with the lender in the previous calendar year, and the percentage of all borrowers who took out one or two loans with the lender in the previous calendar year;

(7) the number of borrowers who took out three or more loans with the lender in the previous calendar year, and the percentage of all borrowers who took out three or more loans with the lender in the previous calendar year;

(8) for each loan product, the number of loans that have been repaid in full without an extension, renewal, refinance, rollover or new loan within thirty days of repaying that loan, and for each loan product, the percentage of all borrowers who have repaid their loans in full without an extension, renewal, refinance, rollover or new loan within thirty days of repaying that loan;

(9) for each loan product, the number of borrowers who extended, renewed, refinanced or rolled over their loans prior to or at the same time as paying their loan balance in full, or took out a new loan within thirty days of repaying that loan, and for each loan product, the percentage of all borrowers who extended, renewed, refinanced or rolled over their loans prior to or at the same time as paying the loan balance in full, or took out a new loan within thirty days of repaying that loan;

(10) for each loan product, the total number of loans for which a late payment fee was charged and the percentage of the total loans for which a late payment fee was charged;

(11) for each loan product, the total number of loans for which a late payment fee was charged more than once over the term of the contract, and the percentage of the total loans for which a late payment fee was charged more than once over the term of the contract;

(12) for each loan product, the number of loans for which a borrower has defaulted on a loan, and for each loan product, the percentage of total loans of that product for which the borrower has defaulted on a loan;

(13) for each loan product, the dollar amount of loan principal and accrued interest that was charged-off or written-off, and the number of borrowers for which the lender charged-off or wrote-off loan principal and accrued interest;

(14) the number of loans and percentage of all borrowers the lender filed action against for default;

(15) the total number of loans secured by a motor vehicle and the number of those loans for which the motor vehicle was repossessed;

(16) the total number of loans secured by non-motor vehicle personal property and the number of those loans for which the non-motor vehicle personal property was repossessed;

(17) the total number and percentage of borrowers of all loan products whose sources of income, as provided by borrowers in the loan origination process, included a means-tested public benefit as defined by 8 U.S.C. Section 1613(c);

(18) the total number and percentage of borrowers of all loan products who are aged sixty-five or older;

(19) the total number of loans of all loan products that were made to borrowers in each county in New Mexico; and

(20) the percentage of all borrowers who took out a refund anticipation loan who were eligible for a federal earned income tax credit.

B. The reports required pursuant to Subsection A of this section shall be submitted to the director on or before the fifteenth day of April each year.

C. The reports required pursuant to Subsection A of this section shall be accompanied by a sworn statement by the licensee under penalty of perjury that the report is complete and accurate.

D. A licensee that fails to timely submit complete and accurate reports as required pursuant to Subsection A of this section on or before the fifteenth day of April may:

(1) be fined an amount not to exceed one thousand five hundred dollars (\$1,500) per day for each day after the fifteenth day of April, a complete and accurate report is not filed; and

(2) have a license required pursuant to the New Mexico Small Loan Act of 1955 suspended pursuant to Section [58-15-8 NMSA 1978](#).

History: [Laws 2011, ch. 105, § 1](#); [2013, ch. 221, § 1](#); [2017, ch. 110, § 15](#); [2019, ch. 201, § 10](#).

[58-15-10.2. Reporting of credit required.](#)

For each installment loan and refund anticipation loan made pursuant to the New Mexico Small Loan Act of 1955, a lender shall report to a consumer reporting agency the terms of the loan and the borrower's performance pursuant to those terms.

History: [Laws 2017, ch. 110, § 21](#).

[58-15-11. Regulations and orders; certified copies.](#)

A. The director has authority to make reasonable regulations and orders for the administration and enforcement of the New Mexico Small Loan Act of 1955 and is expressly authorized to make regulations and orders governing the conduct of all licensees' operations, including the method and manner of selling, handling and writing, in connection with any loan, any form of insurance by the licensee or any agent or employee in the office of the licensee or of any other firm, person or corporation associated or affiliated with the licensee or operating in the same building in which the business of the licensee is conducted. Every regulation shall be promulgated by an order, and any ruling, demand, requirement or similar administrative act may be promulgated by an order. Every order shall be in writing, referenced to the section under which it is issued, shall state its effective date and the date of its promulgation and shall be

entered in an indexed permanent book that shall be a public record. A copy of every order promulgating a regulation and of every other order containing a requirement of general application shall be mailed to each licensee at least fifteen days before the effective date of the order.

B. The director is expressly authorized to make regulations and orders, in accordance with the provisions of Subsection A of this section, governing the conduct of licensees in making loans to consumers. Such regulations may address, consistent with the provisions of Sections 58-15-32 through **58-15-38** NMSA 1978, all aspects of loans to consumers and shall specifically address:

- (1) the cost of loans, including fees and interest rates;
- (2) the terms of loans, including amount, length, renewals, rescission, payments and security;
- (3) required disclosures to consumers;
- (4) methods of collection on loans in default; and
- (5) methods of verifying consumer eligibility for loans and licensee compliance with the New Mexico Small Loan Act of 1955 and regulations promulgated pursuant to that act.

C. On application of any person and payment of the cost thereof, the director shall furnish, under the director's seal and signed by the director or the director's deputy, a certified copy of any license, regulation or order. In any court or proceeding, the copy shall be prima facie evidence of the fact of the issuance of a license, regulation or order.

History: 1953 Comp., § 48-17-40, enacted by Laws 1955, ch. 128, § 11; 1977, ch. 245, § 68; **2007, ch. 86, § 7.**

58-15-12. Advertising.

A licensee or other person subject to the New Mexico Small Loan Act of 1955 shall not advertise, display, distribute or broadcast or cause or permit to be advertised, displayed, distributed or broadcast in any manner whatsoever a false, misleading or deceptive statement or representation with regard to the charges, terms or conditions for loans in the amount or of the value of five thousand dollars (\$5,000) or less. The director may require that charges or rates of charge, if stated by a licensee, be stated fully and clearly in such manner as the director deems necessary to prevent misunderstanding by prospective borrowers. The director may permit or require licensees to refer in their advertising to the fact that their business is under state supervision, subject to conditions imposed by the director to prevent erroneous impressions as to the scope or degree of protection provided by the New Mexico Small Loan Act of 1955.

History: 1953 Comp., § 48-17-41, enacted by Laws 1955, ch. 128, § 12; 1973, ch. 18, § 3; 1977, ch. 245, § 69; **2007, ch. 86, § 8; 2017, ch. 110, § 16.**

58-15-13. Licensed offices; other business.

A. No licensee shall conduct the business of making loans provided for by the New Mexico Small Loan Act of 1955 under any name, or at any place of business within this state, other than that stated in the license.

B. No licensee shall conduct the business of making loans under the New Mexico Small Loan Act of 1955 within any building, office, suite, room or place of business in which any other business is solicited, or engaged in, by the licensee or any employee, agent or associate, or in association or conjunction with any other business, unless authority to do so is specifically given in writing by the director upon written application for such authority submitted by the licensee.

Upon receipt of written application for such authority which shall be accompanied by or have included therein, if the other business is the sale of insurance in connection with loans made under the New Mexico Small Loan Act of 1955, the written consent of the licensee to abide by and be bound by all regulations then in effect or thereafter promulgated by the director relating to tie-in sales of such insurance and small loans, the director shall investigate the facts and circumstances and if he finds that the character of the licensee and the nature of the other business warrants the belief that the conduct of such business would not tend to conceal violation or evasion of the New Mexico Small Loan Act of 1955, or of regulations lawfully made hereunder, including regulations relating to tie-in sales of insurance, he shall enter an order granting such authority. If he shall not so find he shall enter an order denying such authority in the manner specified in and subject to the provisions of Section 58-15-5 NMSA 1978.

History: 1953 Comp., § 48-17-42, enacted by Laws 1955, ch. 128, § 13; 1977, ch. 245, § 70.

58-15-14.1. Charges; method of computation.

The simple interest method shall be used for loans made under the New Mexico Small Loan Act of 1955. Interest charges shall not be paid, deducted or received in advance. Interest charges shall not be compounded. However, if part or all of the consideration for a loan contract is the unpaid principal balance of a prior loan, then the principal amount payable under the loan contract may include any unpaid charges that have accrued within sixty days on the prior loan. Such charges shall be computed on the basis of the number of days actually elapsed.

History: Laws 1983, ch. 95, § 2; 2007, ch. 86, § 9.

58-15-15.1. No prepayment penalty on small loans.

No provision in a loan or the evidence of indebtedness of a loan made under the New Mexico Small Loan Act of 1955 requiring a penalty or premium for prepayment of the balance of the indebtedness is enforceable.

History: 1978 Comp., § 58-15-15.1, enacted by Laws 1980, ch. 73, § 3.

58-15-16. Loan insurance allowable; financing certain premiums prohibited.

A. It is unlawful for any person licensed under the New Mexico Small Loan Act of 1955, in connection with the making of a loan under that act:

- (1) to sell life insurance other than a term policy or credit life insurance on the principal borrowers;
- (2) to sell term or credit life insurance the coverage of which exceeds the amount of the loan or extends beyond the term for which the loan is made;

(3) after having made a loan, to finance any premiums of any life insurance policies, other than credit life insurance, sold to the borrower by the licensee or the licensee's agent in any manner for a period of ninety days;

(4) after having made a loan, to finance any premium of any single-interest property insurance policy sold to the borrower by the licensee or the licensee's agent whereby the premium would be charged to the borrower in any manner. Nothing in this section shall preclude the sale and purchase of an insurance policy covering the dual interest of borrower and lien holder; or

(5) to sell property insurance on unsecured loans.

B. A lender may charge for only the actual cost of any insurance; provided that all insurance shall be written by a company licensed to operate within the state and at a rate not higher than those approved by the superintendent of insurance; and provided further that the lender shall not require any insurance to be written or provided by or through a particular agent, broker or insurer as a condition to making the loan, but shall, at the borrower's option, permit the insurance to be procured from any insurer or agent authorized by law to provide the insurance.

History: 1953 Comp., § 48-17-43.2, enacted by Laws 1969, ch. 58, § 1; 1977, ch. 272, § 1; 1979, ch. 367, § 1; 2019, ch. 201, § 11.

58-15-17. Requirements for making and paying of loans; incomplete instruments; limitations on charges after judgment and interest.

A. Every licensee shall:

(1) at the time a consumer becomes contractually obligated on a loan pursuant to the New Mexico Small Loan Act of 1955, deliver to the borrower or, if there are two or more borrowers on the same obligation, to one of them, a statement on which shall be printed a copy of Section **58-15-14.1** NMSA 1978 and which shall disclose in clear and distinct terms:

(a) the amount of the loan;

(b) the date the loan was made;

(c) a schedule or a description of the payments;

(d) the type of the security, if any, for the loan;

(e) the name and address of the licensee;

(f) the name of the person primarily obligated for the loan;

(g) the amount of principal;

(h) the annual percentage rate as disclosed pursuant to 12 CFR Part 1026, known as "Regulation Z", and the amount in dollars and cents;

(i) all other disclosures required pursuant to state and federal law; and

(j) the charge for any other item allowable and included pursuant to the New Mexico Small Loan Act of 1955, so stated as to clearly show the allocation of each item included;

(2) for each payment made on account of a loan, give to the person making the payment a plain and complete receipt specifying the date and amount of the payment, the amount applied to interest and principal and the balance unpaid. When payment is made in any other manner than by the borrower in person, by an agent of the borrower or by check or money order, the licensee shall mail the receipt to the borrower's last known address or retain and deliver the receipt upon request of the borrower. A licensee may deliver the receipt electronically to the borrower via text message or email, if requested to do so in writing by the borrower. A borrower may withdraw authorization for electronic delivery of receipts in writing at any time. A licensee shall not require a borrower to receive receipts electronically. The licensee shall maintain a copy of each receipt in the office of the licensee as a part of the licensee's records; and

(3) upon repayment of the loan in full, mark plainly every note and promise to pay signed by any borrower with the word "paid" or "canceled" and promptly file or record a release of any mortgage if the mortgage has been recorded, restore any pledge and cancel and return any note and any assignment given to the licensee. A licensee may mark and return a copy of the note, promise to pay or any assignment if the copy accurately reproduces the complete original.

B. A licensee shall not take a note or promise to pay that does not disclose the amount of the loan, a schedule of payments, or a description thereof, and the agreed charge or rate of charge or any instrument in which blanks are left to be filled in after execution.

C. A judgment against a party on a loan made pursuant to the New Mexico Small Loan Act of 1955 shall not include, and the loan shall not include, from the date of the judgment, charges against a party to the loan other than costs, attorney fees and post-judgment interest as provided by law.

D. A loan made pursuant to the New Mexico Small Loan Act of 1955 that is filed and approved as a claim in any bankruptcy proceeding shall bear interest at the rate of ten percent per year beginning on the ninetieth day following the date of adjudication. This limitation shall not apply when the bankrupt is not discharged in bankruptcy or to any obligation not dischargeable under the provisions of the United States Bankruptcy Code presently in force.

E. A loan made pursuant to the provisions of the New Mexico Small Loan Act of 1955 shall not bear interest in excess of ten percent per year on the unpaid principal balance of a loan after ninety days following the date of the death of the borrower.

F. A loan made pursuant to the New Mexico Small Loan Act of 1955 shall not bear interest in excess of ten percent per year upon the unpaid principal balance of the loan after twelve months following the date of maturity of the loan.

G. A lender shall not make a loan pursuant to the New Mexico Small Loan Act of 1955 if a loan has an initial stated maturity of less than one hundred twenty days unless the loan is a refund anticipation loan.

H. A lender shall not make a loan pursuant to the New Mexico Small Loan Act of 1955 unless the loan is an installment loan or a refund anticipation loan.

I. A lender shall not make a loan pursuant to the New Mexico Small Loan Act of 1955, other than a refund anticipation loan, unless the loan is repayable in a minimum of four substantially equal installment payments of principal and interest.

J. A lender shall not make a loan pursuant to the New Mexico Small Loan Act of 1955 that has an annual percentage rate greater than one hundred seventy-five percent, calculated pursuant to 12 CFR Part 1026, known as "Regulation Z".

K. Upon request from the borrower, all lenders licensed pursuant to the New Mexico Small Loan Act of 1955 shall give or forward to the borrower copies of all loan agreements concerning that borrower, a copy of all receipts maintained in that borrower's loan file and a written statement of that borrower's loan history, including all fees charged, amortization schedules, that borrower's payment history, including the dates and amounts of payments made, and the total amount unpaid pursuant to each contract. All lenders shall retain for seven years from the date of loan file origination or loan payoff, whichever is the later, the documentation specified in this subsection.

L. Any rollover, renewal, refinance or modification of an existing loan agreement with a licensee, except a modification without any additional cost to the borrower, shall constitute a new loan and shall require new disclosures pursuant to the Truth in Lending Act.

History: 1953 Comp., § 48-17-44, enacted by Laws 1955, ch. 128, § 15; 1996, ch. 50, § 1; 2007, ch. 86, § 10; 2017, ch. 110, § 17; 2019, ch. 201, § 12.

58-15-19. Loans under other laws.

Any licensee hereunder may make loans in accordance with and not in violation of the general laws of this state governing money and usury to any borrower not having a loan with the lender under this act, provided no charge authorized to be made under the provisions hereof shall be made, collected or received by the lender in connection with any such loan; and provided further, that any such loan shall not be converted into a loan under this act after once made or after it is reduced to a sum less than the maximum herein provided for.

History: 1953 Comp., § 48-17-46, enacted by Laws 1955, ch. 128, § 17.

58-15-20. Fees and costs.

A. Notwithstanding any provision of the New Mexico Small Loan Act of 1955, lawful fees, if any, actually and necessarily paid out by the licensee to a public officer for the filing, recording or releasing in a public office of an instrument securing the loan may be charged to the borrower.

B. Notwithstanding any provision in a note or other loan contract taken or received under the New Mexico Small Loan Act of 1955, attorney fees shall not be charged or collected unless the note or other contract has been submitted in good faith to an attorney for collection who is not a salaried employee of the holder of the contract, after the licensee has made a diligent and good faith effort to collect and has failed.

C. Notary fees incident to the taking of a lien to secure a small loan or releasing such a lien shall not be charged or collected by a licensee, an officer, agent or employee of a licensee or anyone within an office, room or place of business in which a small loan office is conducted.

D. Delinquency fees shall not exceed five cents (\$.05) for each one dollar (\$1.00) of each installment more than ten days in arrears; provided that the total of delinquency charges on any such installment shall not exceed ten dollars (\$10.00) and that only one delinquency charge shall be made on any one installment regardless of the period during which the installment remains unpaid.

History: 1953 Comp., § 48-17-47, enacted by Laws 1955, ch. 128, § 18; 2007, ch. 86, § 11; 2019, ch. 201, § 13.

58-15-20.1. Installment loans; refund anticipation loans; insufficient funds; permitted charges.

A. If there are insufficient funds to pay a check or other type of debit on the date of presentment by the licensee, a check or debit authorization request shall not be presented to a financial institution by a licensee for payment more than one time per payment due unless the consumer agrees in writing, after a check or other type of debit has been dishonored, to one additional presentment or deposit.

B. A licensee shall not charge a consumer for fees, interest or charges of any kind other than those permitted pursuant to Sections 58-15-16, 58-15-17 and 58-15-20 NMSA 1978.

History: Laws 2017, ch. 110, § 20; 2019, ch. 201, § 14.

58-15-21. What constitutes loan of money; wage purchases.

The payment of five thousand dollars (\$5,000) or less in money, credit, goods or things in action, as consideration for any sale or assignment of or order for the payment of wages, salary, commission or other compensation for services, whether earned or to be earned, shall, for the purposes of regulation under the New Mexico Small Loan Act of 1955, be deemed a loan of money secured by such sale, assignment or order. The amount by which compensation so sold, assigned or ordered paid exceeds the amount of consideration actually paid shall for the purpose of regulation under the New Mexico Small Loan Act of 1955 be deemed interest or charges upon the loan from the date of payment to the date the compensation is payable. Such transaction shall be governed by and subject to the provisions of the New Mexico Small Loan Act of 1955.

History: 1953 Comp., § 48-17-48, enacted by Laws 1955, ch. 128, § 19; 1973, ch. 18, § 5; 2017, ch. 110, § 18.

58-15-22. [Assignments; validity; amount collectible.]

A. Validity and payment of assignment. No assignment of or order for payment of any salary, wages, commissions or other compensation for services earned or to be earned, given to secure any loan made by any licensee, shall be valid unless the amount of such loan is paid to the borrower, simultaneously with its execution, nor shall any such assignment or order, or any chattel mortgage or other lien on household furniture then in the possession and use of the borrower, be valid unless it is in writing, signed in person by the borrower, or if the borrower is married unless it is signed in person by both husband and wife, provided that written assent of a spouse shall not be required when husband and wife have been living separate and apart for a period of at least two months prior to the making of such assignment, order, mortgage or lien.

B. Amount collectible under assignment. A valid assignment or order for the payment of future salary, wages, commissions or other compensation for services, may be given as security for a loan made by any licensee or licensees and under such assignment or order, a sum not to exceed ten (10%) percent of the borrower's salary, wages, commissions or other compensation for services shall be collectible from the employer of the borrower by the licensee at the time of each payment to the borrower of such salary, wages, commissions or other compensation for services, from the time that a copy of such assignment, verified by the oath of the licensee or his agent, together with a similarly verified statement of the amount unpaid upon such loan and a printed copy of this section, is served upon the employer. Not more than one such assignment of wages shall be valid hereunder or acceptable by an employer.

History: 1953 Comp., § 48-17-49, enacted by Laws 1955, ch. 128, § 20.

58-15-23. Violation of general usury laws.

The violation by a licensee or by an officer, manager, director, trustee, executive or employee directly engaged in operating a small loan office under the provisions of the New Mexico Small Loan Act of 1955 of any usury statute of this state within an office, room or place of business in which the making of loans as a licensee is solicited or engaged or in association or conjunction therewith is grounds for suspension and revocation of license in accordance with the applicable procedures set forth in that act.

History: 1953 Comp., § 48-17-50, enacted by Laws 1955, ch. 128, § 21; 2007, ch. 86, § 12.

58-15-24. Loans made elsewhere.

No loan made outside this state to a resident of New Mexico in the amount or of the value of five thousand dollars (\$5,000) or less for which a greater rate of interest, consideration, charge or compensation to the lender than is permitted by the general laws of New Mexico in force governing money, interest and usury has been charged, contracted for or received shall be enforced in this state. Every person in any way participating in such a loan in this state is subject to the provisions of the New Mexico Small Loan Act of 1955. Any loan made to a nonresident of New Mexico in conformity with the law of the state where made may be enforced in this state.

History: 1953 Comp., § 48-17-51, enacted by Laws 1955, ch. 128, § 22; 1973, ch. 18, § 6; 2017, ch. 110, § 19.

58-15-25. Review.

Any licensee or any person aggrieved by any act or order of the director pursuant to the New Mexico Small Loan Act of 1995 may file and appeal in the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

History: 1953 Comp., § 48-17-52, enacted by Laws 1955, ch. 128, § 23; 1977, ch. 245, § 74; 1998, ch. 55, § 57; 1999, ch. 265, § 61.

58-15-26. Status of preexisting licensees.

Notwithstanding the repeal thereof by the New Mexico Small Loan Act of 1955, any licensee having a license under Chapter 174, New Mexico Session Laws of 1947, which is valid and in force and against which no revocation or suspension proceedings are pending on the date of the passage and approval of the

New Mexico Small Loan Act of 1955, may within thirty days after the effective date of the New Mexico Small Loan Act of 1955 file with the director an application pursuant to Section 58-15-4 NMSA 1978 for an original license under the New Mexico Small Loan Act of 1955 and such applicants so filing shall be deemed to have a temporary license under the New Mexico Small Loan Act of 1955 for a period expiring sixty days after the filing of such application, and such additional period as the director by order may provide. All such existing licenses except as in this section provided shall terminate on the effective date of the New Mexico Small Loan Act of 1955. One-half of the amount of any license fees paid under Chapter 174, New Mexico Session Laws of 1947, by licensees thereunder for the calendar year 1955 shall be credited upon the application fee payable under the New Mexico Small Loan Act of 1955.

History: 1953 Comp., § 48-17-53, enacted by Laws 1955, ch. 128, § 24; 1977, ch. 245, § 75.

58-15-27. Amendment.

This act, or any part thereof, may be modified, amended or repealed so as to effect a cancellation or alteration of any license or right of a license hereunder; provided, that such cancellation or alteration shall not impair or affect the obligation of any preexisting lawful contract between any licensee and any borrower.

History: 1953 Comp., § 48-17-54, enacted by Laws 1955, ch. 128, § 25.

58-15-28. Status of preexisting obligations.

Nothing herein contained shall be so construed as to impair or affect the obligation of any contract of loan between any licensee, under Chapter 174, New Mexico Session Laws of 1947 (Article 17, Chapter 48, New Mexico Statutes Annotated 1953), and any borrower, which was lawfully entered into prior to the effective date of this act.

History: 1953 Comp., § 48-17-55, enacted by Laws 1955, ch. 128, § 26.

58-15-29. Director to keep record of fees, expenses and disposition of money.

The director shall keep a detailed record of all fees, expenses and costs collected by him and a detailed record of all expenses and disbursements of his office in the administration of laws regulating the small loan business. He shall, at the end of each month, turn over to the state treasurer all such money for deposit and transfer as provided in Section 9-16-14 NMSA 1978. The director may incur such expense, pay mileage and per diem and employ and fix the compensation of such employees as may be necessary for the enforcement of laws regulating the small loan business.

The record in the director's office of all receipts and disbursements shall be a public record.

History: 1953 Comp., § 48-17-56, enacted by Laws 1955, ch. 128, § 27; 1957, ch. 9, § 1; 1977, ch. 245, § 76; 1987, ch. 298, § 5.

58-15-30. Penalties; general.

Any person, copartnership, trust, association or corporation and the several members, beneficiaries, officers, directors, agents and employees thereof who violate or participate in the violation of any provision of the New Mexico Small Loan Act of 1955 are guilty of a misdemeanor and upon conviction

shall be punished by a fine of not less than five hundred dollars (\$500) or more than one thousand dollars (\$1,000) or by imprisonment of not more than six months or both in the discretion of the court.

History: 1953 Comp., § 48-17-57, enacted by Laws 1955, ch. 128, § 28; 2007, ch. 86, § 13.

58-15-31. Short title.

Chapter 58, Article 15 NMSA 1978 may be cited as the "New Mexico Small Loan Act of 1955".

History: 1953 Comp., § 48-17-58, enacted by Laws 1955, ch. 128, § 29; 1987, ch. 292, § 4.

58-15-39. Duties of division.

A. The division shall:

- (1) maintain a list of licensees, which list shall be available to interested persons and the public; and
- (2) establish a complaint process whereby an aggrieved consumer or other person may file a complaint against a licensee.

B. The division shall compile from reports filed by licensees pursuant to Section 58-15-10.1 NMSA 1978 an annual report by July 1 of each year containing data regarding loans entered into by licensees, which data shall be aggregated for all licensees and non-identifiable by licensee. Annual reports shall be made available to interested parties and the general public and published on the division's website. Consistent with state law, the report shall include, at a minimum, nonidentifying consumer data from the preceding calendar year, including each of the specific categories of information set forth in Subsection A of Section 58-15-10.1 NMSA 1978.

C. The division shall, in cooperation with the office of the attorney general, develop and implement curriculum for a financial literacy program with elements that shall include a basic understanding of budgets, checking and savings accounts, credit and interest and considerations in deciding how and when to use financial services, including installment loans and refund anticipation loans. The financial literacy program developed pursuant to this subsection may be implemented through the adult basic education division of the higher education department and nonprofit public interest organizations.

History: Laws 2007, ch. 86, § 21; 2011, ch. 105, § 2; 2013, ch. 221, § 2; 2017, ch. 110, § 23; 2019, ch. 201, § 15.

58-15-40. Financial literacy fund.

The "financial literacy fund" is created in the state treasury. The fund shall consist of appropriations, gifts, grants, donations and bequests made to the fund and fees received pursuant to Subsection L of Section 58-15-5 NMSA 1978. Income from the fund shall be credited to the fund, and money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year. Money in the fund is appropriated to the regulation and licensing department for the purposes of developing and implementing financial literacy programs as provided for in Subsection C of Section 58-15-39 NMSA 1978.

Expenditures from the fund shall be made on warrant of the secretary of finance and administration pursuant to vouchers signed by the superintendent of regulation and licensing.

History: Laws 2017, ch. 110, § 22.

58-15-41. Preemption.

The state has exclusive jurisdiction and authority regarding the terms and conditions of permitted installment loans and refund anticipation loans, and counties, municipalities and other political subdivisions of the state are preempted from any regulation of terms and conditions of permitted installment loans and refund anticipation loans by ordinance, resolution or otherwise.

History: Laws 2017, ch. 110, § 24.

58-15-42. Right of rescission.

All loan agreements shall include a provision granting the borrower the right to rescind the transaction by returning in cash, or through certified funds, one hundred percent of the amount advanced by the lender under the New Mexico Small Loan Act of 1955 no later than the close of business New Mexico time or, if the loan was made online, no later than midnight New Mexico time on the first day of business conducted by the lender following the date of execution of the loan agreement. If a borrower exercises the right of rescission pursuant to this section, no fee for the rescinded transaction shall be charged to the borrower, and the lender shall not charge or impose on the borrower a fee for exercising the right of rescission pursuant to this section. If a borrower exercises the right of rescission pursuant to this section, any fee collected by the lender shall be returned in full to the borrower.

History: Laws 2019, ch. 201, § 16.