



# New Mexico Regulation and Licensing Department FINANCIAL INSTITUTIONS DIVISION

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**Susana Martinez**  
Governor

## REGULATORY ALERT

**Robert “Mike” Unthank**  
Superintendent

### “SMALL LOAN REFORMS”

**Alex Sanchez**  
Deputy Superintendent

**New Mexico Small Loan Act of 1955** (§58-15-1 NMSA 1978)  
**New Mexico Bank Installment Loan Act of 1959** (§58-7-1 NMSA 1978)  
**The Money, Interest, and Usury Statute** (§56-8-1 to §56-8-30 NMSA 1978)

**Claudia Armijo**  
Deputy General Counsel

During the 2017 legislative session, the New Mexico legislature enacted new small loan reforms through the passage of House Bill 347. The bill amended some provisions of the New Mexico Small Loan Act of 1955 (SLA), the New Mexico Bank Installment Loan Act of 1959 (BILA), and the Money, Interest, and Usury statute (Usury). House Bill 347 was signed into law by Governor Susana Martinez on April 6, 2017 and will become effective on January 1, 2018.

**Christopher Moya**  
Acting Director

Below is a brief summary of reforms to be enacted on January 1, 2018:

- Alcohol and Gaming Division  
(505) 476-4875
- Boards and Commissions Division  
(505) 476-4600
- Construction Industries Division  
(505) 476-4700
- Financial Institutions Division  
(505) 476-4885
- Manufactured Housing Division  
(505) 476-4770
- Securities Division  
(505) 476-4580
- Administrative Services Division  
(505) 476-4800

- A loan in an amount equal to five thousand dollars (\$5,000) or less shall be made only pursuant to the SLA or the BILA.
- No SLA licensee shall make a loan of five thousand dollars (\$5,000) or less with an initial stated maturity of less than one hundred twenty (120) days and repayable in a minimum of four (4) substantially equal installments. Initial maturity and installment terms do not apply to “refund anticipation loans.”
- No loan in an amount equal to five thousand dollars (\$5,000) or less shall be made with an annual percentage rate (APR) greater than 175%.
- All SLA licensees shall report the terms of any loan and the borrower’s performance of those terms to a consumer reporting agency (credit bureau).
- The lenders exchange provision of the SLA will be repealed.
- All payday loan provisions within the SLA will be repealed.
- All loans made pursuant to the BILA must be pre-computed loans repayable in installments and clearly identified on the loan documents as being made pursuant to the BILA.
- Lenders making loans pursuant to the BILA may charge a processing fee not to exceed the lesser of two hundred dollars (\$200.00) or ten percent (10%) of the original principal.

- In the event there are insufficient funds to pay a check or other type of debit on the date of presentment, the lender shall not debit a borrower's bank account more than once unless the consumer agrees in writing.
- A violation of the BILA or the SLA shall constitute an unfair or deceptive trade practice pursuant to the Unfair Practices Act, §57-12-1 NMSA 1978, *et seq.*
- All SLA licensees will be required to submit an annual report for all loan transactions entered into on January 1, 2018 or later. Reports will be due no later than April 15<sup>th</sup> of the following calendar year. ***For loan transactions made prior to January 1, 2018, licensees will be required to report on loans made with an annual percentage rate of one-hundred seventy-five percent (175%) or greater on or before March 31<sup>st</sup> of the following calendar year.***
- All SLA licensees will be required to pay an additional annual fee of \$200 to fund financial literacy programs developed and implemented by the Division and the Attorney General's Office. These programs may be offered through the New Mexico Higher Education Department and various nonprofit public organizations.
- The state has exclusive jurisdiction and authority regarding the terms and conditions of loans to which the BILA and the SLA is applicable. Local governments are preempted from any regulation of terms and conditions of permitted installment loans.

A finalized copy of the bill in its entirety is available to view on the Financial Institutions Division's website, [http://www.rld.state.nm.us/financialinstitutions/Small\\_Loan\\_Companies.aspx](http://www.rld.state.nm.us/financialinstitutions/Small_Loan_Companies.aspx). Should you have any questions or concerns, contact Industry Manager David Mora at (505) 476-4569.



Christopher Moya  
Acting Director  
Financial Institutions Division