

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2014-68

INTRODUCED BY:

Councilor Peter Ives Mayor Javier M. Gonzales
Councilor Joseph Maestas Councilor Patti Bushee
Councilor Chris Rivera Councilor Carmichael Dominguez

A RESOLUTION

CALLING ON THE GOVERNOR, THE LEGISLATURE, THE ATTORNEY GENERAL AND THE REGULATION AND LICENSING DEPARTMENT TO TAKE IMMEDIATE ACTION, WITHIN THEIR RESPECTIVE POWERS, TO CAP INTEREST AND FEES ON NON-BANK LENDING INSTITUTIONS IN NEW MEXICO.

WHEREAS, Santa Fe has approximately 24 licensed small loan companies routinely charging 300% to 600% interest on loans lasting five months to an unlimited duration; and

WHEREAS, according to New Mexico’s Department of Regulation and Licensing statistics, during 2012, small loan companies in Santa Fe issued about 14,000 loans with interest rates over 175%; and

WHEREAS, studies by Consumer Finance Protection Agency, Center for Responsible Lending and Pew Charitable Trust have all shown high interest lending traps borrowers and their families in crippling cycles of debt; and

WHEREAS, studies conducted by the Consumer Financial Protection Bureau, the Pew Charitable Trust and others show high cost loans take money out of a consumer’s pockets, damaging

1 local businesses and reducing jobs in local economies; and

2 **WHEREAS**, the Governing Body of the City of Santa Fe desires that consumers utilize
3 credit that does not result in permanent financial damage to borrowers, their families and the
4 community, and desires to accomplish this in a manner that simplifies regulation and allows lending
5 businesses that benefit our community maximum flexibility to conduct business as they choose; and

6 **WHEREAS**, the victims of high interest loans are primarily the poor, single moms, veterans,
7 and the elderly, and these borrowers are seldom adequately vetted for ability to repay; and

8 **WHEREAS**, the US Department of Defense has determined that high cost lending puts
9 dangerous stresses on the families of active military personnel and harms military readiness, and is in
10 the process of expanding its 36% rate cap on short term loans to cover all categories of loans; and

11 **WHEREAS**, 18 states have implemented interest rate caps ranging from 17% to 36% and
12 have not reported any decreases in available credit; and

13 **WHEREAS**, Pew Charitable Trust surveys indicate that borrowers who lose access to
14 expensive credit as a result of interest rate caps are more than able to compensate through reduced
15 debt costs and cutting back on expenses; and

16 **WHEREAS**, measures other than across the board interest rate caps have proven ineffective
17 at limiting lending abuses because lenders modify their products to evade the law; and

18 **WHEREAS**, two recent polls show 86% of New Mexicans support interest rate caps of 36%
19 or less; and

20 **WHEREAS**, New Mexico Department of Regulation and Licensing statistics show
21 consumers were charged \$99 million in interest and fees on 175% APR and higher small loans in
22 2012, and the amount of additional fees charged for loans between 40% and 175% APR is unknown;
23 and

24 **WHEREAS**, the number of high interest small loan licensees in New Mexico has grown
25 from 582 at the end of 2011 to 656 at the end of 2013; and

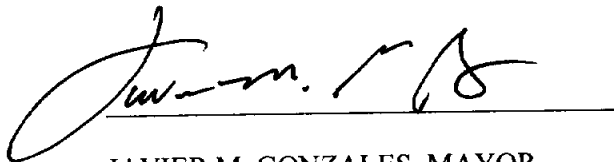
1 **WHEREAS**, the Federal Consumer Financial Protection Bureau has no authority to regulate
2 interest rates.

3 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
4 **CITY OF SANTA FE** that the Governing Body calls on the New Mexico Legislature and the
5 Governor to stop the high cost lending epidemic by enacting inflation indexed interest and fee caps of
6 36% or less across all loan products offered by small loan companies and non-chartered lenders.

7 **BE IT FURTHER RESOLVED** that the Governing Body hereby urges the New Mexico
8 Attorney General and the Secretary of the New Mexico Regulation and Licensing Department to
9 exercise their full rule making powers under the Unfair Trade Practices Act and the Small Loan Act
10 to end high cost lending abuses.

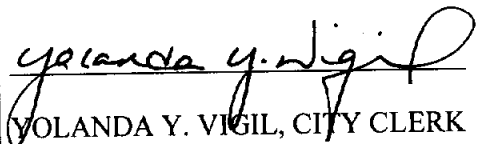
11 **BE IT FURTHER RESOLVED** that the City Clerk is directed to send a copy of this
12 resolution to the Governor, the Speaker of the New Mexico House of Representatives, the President
13 Pro Tempore of the New Mexico Senate, the City's State Legislative Delegation, the New Mexico
14 Attorney General, the Secretary of the New Mexico Regulation and Licensing Department and the
15 City's lobbyist.

16 PASSED, APPROVED, and ADOPTED this 27th day of August, 2014.

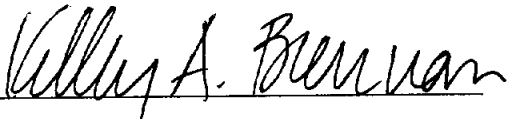
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JAVIER M. GONZALES, MAYOR

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20 ATTEST:

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23 VOLANDA Y. VIGIL, CITY CLERK

1 APPROVED AS TO FORM:

2 
3 Kelley A. Brennan

4 KELLEY A. BRENNAN, CITY ATTORNEY

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25 *M/Melissa/Resolutions 2014/2014-68 High Interest Loans Cap*

Sources:

1. **New Mexico Regulation and Licensing Department Website Published Data**
<http://www.rld.state.nm.us/financialinstitutions/>
2. **Consumer Financial Protection Bureau (CFPB) Finds Four Out Of Five Payday Loans Are Rolled Over Or Renewed**
http://files.consumerfinance.gov/f/201403_cfpb_report_payday-lending.pdf
3. **Department of Defense Report on Predatory Lending Practices**
http://www.defense.gov/pubs/pdfs/report_to_congress_final.pdf
4. **Louisiana Budget Project**
<http://www.labudget.org/lbp/wp-content/uploads/2011/07/Payday-Lenders.pdf>

(Excerpt below)

In 2006, North Carolina banned payday lending entirely. According to a consumer survey (Conducted by the PEW Charitable Trust), most former borrowers reported that the ban had a positive effect on their personal finances, indicating they had the means to handle financial crises without access to payday loans.

5. **State of Lending Report 2013**
<http://www.responsiblelending.org/state-of-lending/State-of-Lending-report-1.pdf>
6. **Interest Rate Caps, State Legislation, and Public Opinion: Does the law Reflect the Public's Desires? Timothy E. Goldsmith* and Nathalie Martin****
<http://scholarship.kentlaw.iit.edu/cgi/viewcontent.cgi?article=3992&context=cklawreview>
7. **Public Policy Polling, Jan 21-22, 2014, survey of 601 New Mexico Voters.**
8. **Believe it or not outlawing payday loans will not lead to looting and pillaging**
<http://consumerist.com/2014/04/06/believe-it-or-not-outlawing-payday-loans-will-not-lead-to-looting-pillaging/>

(Excerpts below)

The Consumer Financial Protection Bureau found that in 2011 the U.S. economy took a net loss of \$774 million due to the payday loan industry. *"The economic activity generated by payday lending firms receiving interest payments is less than the lost economic activity from reduced household spending. Specifically, each dollar in interest paid subtracts \$1.94 from the economy through reduced household spending while only adding \$1.70 to the economy through spending by payday lending establishments."* (Payday loans are less than 15% of the high interest loans in NM)

(Regarding creation of affordable loan products) New York offers two products. The Credit Builder Loan for low-income borrowers with little or no credit, and a Score Builder Loan for those with low credit scores. Both options have a 14.25% interest rate and no fees

* Timothy Goldsmith is a research psychologist in the Department of Psychology, University of New Mexico.

** Frederick M. Hart Chair in Consumer and Clinical Law, University of New Mexico School of Law. The author thanks the University of New Mexico School of Law for its financial support, Brian Parrish, Ernesto Longa, Sherri Thomas, and Jennifer Laws for their superb research assistance, and Frederick M. Hart, Jim Hawkins, and Jason Arvisu for their helpful editorial assistance. This paper was written in connection with a panel entitled *Aberrant Contracts*, at the 2013 AALS Meeting in Washington, D.C.

for a six-month loan. In North Carolina, the State Employee Credit Union offers a Salary Advance of up to \$500 at 12% APR with no fees. The loan must be paid back in full by automatic payments on the next payday. Borrowers in Connecticut can find help in the form of personal loans from the First New England Federal Credit Union. The loans feature APRs between 10.25% and 17.99% depending on a borrower's credit score.