City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 16 **Ordinance/Resolution#** 15-016

For Meeting of _____ (Ordinance First Reading Date)

For Meeting of August 18, 2014 (Adoption Date)

Please check box that applies to this item:

☐ QUASI JUDICIAL ☐ LEGISLATIVE ☒ ADMINISTRATIVE

TITLE: A RESOLUTION IN SUPPORT OF INTEREST FEE CAPS ON SMALL LOAN COMPANIES IN NEW MEXICO.

PURPOSE(S) OF ACTION:

To support small loan interest fee caps.

COUNCIL DISTRICT: N/A		
Drafter/Staff Contact: Monica Campbell	**Department/Section:** Legal/City Attorney	**Phone:** 541-2128
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The City of Las Cruces ("the City") has at least 45 licensed small loan companies, some of which routinely charge 300% to 600% interest on loans which last from five months to an unlimited duration. According to statistics from the New Mexico Regulation and Licensing Department, during 2012 small loan companies in the City issued approximately 24,000 loans with interest rates over 175%.

Studies conducted by organizations such as the Consumer Financial Protection Bureau, the Center for Responsible Lending, and The Pew Charitable Trusts have all shown that high interest lending on small loans trap borrowers and their families in crippling cycles of debt. The studies also show that high interest loans take money out of consumer's pockets, thus damaging local businesses and reducing jobs in local economies. The victims of high interest loans are seldom adequately evaluated for their ability to repay a loan, and further, are primarily the poor, single mothers, military veterans and the elderly.

The United States Department of Defense is in the process of expanding its 36% rate cap on short term loans to cover all categories of loans, because it has determined that high interest lending places dangerous stressors on the families of active military personnel and harms military readiness.

(Continue on additional sheets as required)

Other measures, such as across-the-board interest rate caps, have proven ineffective at limiting lending abuses because lenders may modify their products to evade the law.

Statistics from the New Mexico Regulation and Licensing Department show that in 2012 consumers were charged $99 million in interest and fees on small loans with an annual percentage rate of 175% and higher, and that the amount of additional fees charged for small loans with an annual percentage rate between 40% and 175% is unknown.

The Consumer Financial Protection Bureau has no authority to regulate interest rates; however, the New Mexico Legislature does have the authority to control high interest rate loans made by small loan companies in New Mexico.

SUPPORT INFORMATION:

1. Resolution.

SOURCE OF FUNDING:

Is this action already budgeted? N/A			
	Yes	☐	See fund summary below
	No	☐	If No, then check one below:
	Budget Adjustment Attached	☐	Expense reallocated from: _____.
		☐	Proposed funding is from a new revenue source (i.e. grant; see details below)
		☐	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue? N/A			
	Yes	☐	Funds will be deposited into this fund: _____ in the amount of $_____for FY__.
	No	☐	There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

(Continue on additional sheets as required)

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will indicate the City Council's support of interest fee caps on small loan companies in New Mexico.
2. Vote "No"; this will indicate that the City Council does not support interest fee caps on small loan companies in New Mexico.
3. Vote to "Amend"; this could include further direction to staff.
4. Vote to "Table"; this could delay indication of the City Council's support for interest fee caps on small loan companies in New Mexico.

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

N/A

(Continue on additional sheets as required)

RESOLUTION NO. 15-016

A RESOLUTION IN SUPPORT OF INTEREST FEE CAPS ON SMALL LOAN COMPANIES IN NEW MEXICO.

The City Council is informed that:

WHEREAS, the City of Las Cruces ("the City") has at least 45 licensed small loan companies, some of which routinely charge 300% to 600% interest on loans which last from five months to an unlimited duration; and

WHEREAS, according to statistics from the New Mexico Regulation and Licensing Department, during 2012 small loan companies in the City issued approximately 24,000 loans with interest rates over 175%; and

WHEREAS, studies completed by the Consumer Financial Protection Bureau, the Center for Responsible Lending, and The Pew Charitable Trusts have all shown that high interest lending on small loans trap borrowers and their families in crippling cycles of debt; and

WHEREAS, studies conducted by the Consumer Financial Protection Bureau and other organizations show that high interest loans take money out of consumer's pockets, thus damaging local businesses and reducing jobs in local economies; and

WHEREAS, the victims of high interest loans are seldom adequately evaluated for their ability to repay a loan, and further, are primarily the poor, single mothers, military veterans and the elderly; and

WHEREAS, the United States Department of Defense is in the process of expanding its 36% rate cap on short term loans to cover all categories of loans, because it has determined that high interest lending places dangerous stressors on the families of active military personnel and harms military readiness; and

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

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

WHEREAS, other measures, such as across-the-board interest rate caps, have proven ineffective at limiting lending abuses because lenders may modify their products to evade the law; and

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

WHEREAS, statistics from the New Mexico Regulation and Licensing Department show that in 2012 consumers were charged $99 million in interest and fees on small loans with an annual percentage rate of 175% and higher, and that the amount of additional fees charged for small loans with an annual percentage rate between 40% and 175% is unknown; and

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

WHEREAS, the Consumer Financial Protection Bureau has no authority to regulate interest rates; and

WHEREAS, the New Mexico Legislature has the authority to control high interest rate loans made by small loan companies in New Mexico.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the Las Cruces City Council urges the New Mexico Legislature and the Governor of New Mexico to cease the high cost lending epidemic by enacting statutes with inflation indexed interest and fee caps of 36% or less across all loan products offered by small loan companies and non-chartered lenders in New Mexico.

(II)

THAT the City Council further urges the New Mexico Attorney General and the Director of the New Mexico Regulation and Licensing Department to exercise their full rule making powers under the Unfair Trade Practices Act and the Small Loan Act to end high cost lending abuses.

(III)

THAT a copy of this resolution will be forwarded to the Governor of the State of New Mexico, the New Mexico Attorney General, the Dona Ana County legislators, and other entities or persons as designated by the City Manager and the City Council.

(IV)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED on this _____ day of _____, 20____.

APPROVED:

_____

Mayor

ATTEST:

_____
City Clerk

(SEAL)

VOTE:
Mayor Miyagishima: ____
Councillor Silva: ____
Councillor Smith: ____
Councillor Pedroza: ____
Councillor Small: ____
Councillor Sorg: ____
Councillor Levatino: ____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

City Attorney