

1 SENATE BILL 128

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Bill B. O'Neill

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10 AN ACT

11 RELATING TO CONSUMER CREDIT INFORMATION; PROHIBITING  
12 PROSPECTIVE EMPLOYERS FROM USING A PROSPECTIVE EMPLOYEE'S  
13 CREDIT INFORMATION AS A BASIS FOR REFUSING TO RECRUIT OR  
14 INTERVIEW THE PROSPECTIVE EMPLOYEE, WITH SOME EXCEPTIONS.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. SHORT TITLE.--This act may be cited as the  
18 "Prospective Employee Credit Information Privacy Act".

19 SECTION 2. PURPOSE OF ACT.--The purpose of the  
20 Prospective Employee Credit Information Privacy Act is to  
21 prevent a prospective employee's credit information from being  
22 used by a prospective employer to deny that person an  
23 interview.

24 SECTION 3. DEFINITIONS.--As used in the Prospective  
25 Employee Credit Information Privacy Act:

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1           A. "consumer reporting agency" means a person that,  
2 for monetary fees, dues or on a cooperative nonprofit basis,  
3 regularly engages, in whole or in part, in the practice of  
4 assembling or evaluating consumer credit information or other  
5 information on consumers for the purpose of furnishing consumer  
6 reports to third parties; and

7           B. "credit information" means a written, oral or  
8 other communication prepared by a consumer reporting agency or  
9 provided by a prospective employee to a prospective employer,  
10 bearing on the prospective employee's creditworthiness, credit  
11 standing or credit capacity.

12           **SECTION 4. USE OF CREDIT INFORMATION IN DECISIONS TO**  
13 **RECRUIT OR INTERVIEW PROHIBITED.**--Except as provided in Section  
14 5 of the Prospective Employee Credit Information Privacy Act, a  
15 prospective employer shall not fail to or refuse to recruit or  
16 interview a prospective employee with respect to employment  
17 based on that person's credit information.

18           **SECTION 5. EXCEPTIONS TO THE PROHIBITION ON THE USE OF**  
19 **CREDIT INFORMATION IN DECISIONS TO RECRUIT OR INTERVIEW.**--The  
20 prohibition in Section 4 of the Prospective Employee Credit  
21 Information Privacy Act does not prevent a prospective employer  
22 from using a prospective employee's credit information to make  
23 a decision to recruit or interview that person if good credit  
24 information is an established bona fide occupational  
25 requirement of a particular position or a particular group of

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1 the prospective employer's employees. Information regarding a  
2 prospective employee's credit information is not a bona fide  
3 occupational requirement unless:

4 A. that person applies for employment that requires  
5 federal deposit insurance corporation clearance;

6 B. that person applies for employment at a  
7 financial service institution; or

8 C. that person applies for employment that requires  
9 United States security clearance.

10 SECTION 6. EFFECTIVE DATE.--The effective date of the  
11 provisions of this act is July 1, 2013.