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AN ACT

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

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

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

SECTION 2. DEFINITIONS.--As used in the Prospective
Employee Credit Information Privacy Act:

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

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

SECTION 3. USE OF CREDIT INFORMATION IN DECISIONS TO
RECRUIT OR INTERVIEW PROHIBITED.--Except as provided in
Section 4 of the Prospective Employee Credit Information

1 Privacy Act, a prospective employer shall not fail to or
2 refuse to recruit or interview a prospective employee with
3 respect to employment based on that person's credit
4 information.

5 SECTION 4. EXCEPTIONS TO THE PROHIBITION ON THE USE OF
6 CREDIT INFORMATION IN DECISIONS TO RECRUIT OR INTERVIEW.--The
7 prohibition in Section 3 of the Prospective Employee Credit
8 Information Privacy Act does not prevent a prospective
9 employer from using a prospective employee's credit
10 information to make a decision to recruit or interview that
11 person if good credit information is an established bona fide
12 occupational requirement of a particular position or a
13 particular group of the prospective employer's employees.
14 Information regarding a prospective employee's credit
15 information is not a bona fide occupational requirement
16 unless that person applies for employment:

17 A. that requires federal deposit insurance
18 corporation clearance;

19 B. at a financial service institution, including
20 insurance companies, agents and adjusters;

21 C. that requires United States security clearance;

22 or

23 D. that requires a fiduciary responsibility to the
24 employer, including the authority to issue payments, collect
25 debts, transfer money or enter into contracts.

1 SECTION 5. REMEDY.--A person who claims to be harmed by
2 a violation of the Prospective Employee Credit Information
3 Privacy Act may bring a civil action in a court of competent
4 jurisdiction to obtain injunctive relief or damages or both.

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

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