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

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

A. that requires federal deposit insurance
corporation clearance;

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

C. that requires United States security clearance;
or

D. that requires a fiduciary responsibility to the
employer, including the authority to issue payments, collect
debts, transfer money or enter into contracts.
SECTION 5. REMEDY.--A person who claims to be harmed by a violation of the Prospective Employee Credit Information Privacy Act may bring a civil action in a court of competent jurisdiction to obtain injunctive relief or damages or both.

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