SENNATE BILL 145
52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015
INTRODUCED BY
Bill B. O'Neill

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. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Prospective Employee Credit Information Privacy
Act".

SECTION 2. [NEW MATERIAL] 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. [NEW MATERIAL] 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, 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. [NEW MATERIAL] 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

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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. [NEW MATERIAL] 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, 2015.