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SENATE 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

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1 information on consumers for the purpose of furnishing consumer
2 reports to third parties; and

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

8 SECTION 3. [NEW MATERIAL] USE OF CREDIT INFORMATION IN
9 DECISIONS TO RECRUIT OR INTERVIEW PROHIBITED.--Except as
10 provided in Section 4 of the Prospective Employee Credit
11 Information Privacy Act, a prospective employer shall not fail
12 to or refuse to recruit or interview a prospective employee
13 with respect to employment based on that person's credit
14 information.

15 SECTION 4. [NEW MATERIAL] EXCEPTIONS TO THE PROHIBITION
16 ON THE USE OF CREDIT INFORMATION IN DECISIONS TO RECRUIT OR
17 INTERVIEW.--The prohibition in Section 3 of the Prospective
18 Employee Credit Information Privacy Act does not prevent a
19 prospective employer from using a prospective employee's credit
20 information to make a decision to recruit or interview that
21 person if good credit information is an established bona fide
22 occupational requirement of a particular position or a
23 particular group of the prospective employer's employees.
24 Information regarding a prospective employee's credit
25 information is not a bona fide occupational requirement unless

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1 that person applies for employment:

2 A. that requires federal deposit insurance
3 corporation clearance;

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

6 C. that requires United States security clearance;
7 or

8 D. that requires a fiduciary responsibility to the
9 employer, including the authority to issue payments, collect
10 debts, transfer money or enter into contracts.

11 SECTION 5. [NEW MATERIAL] REMEDY.--A person who claims to
12 be harmed by a violation of the Prospective Employee Credit
13 Information Privacy Act may bring a civil action in a court of
14 competent jurisdiction to obtain injunctive relief or damages
15 or both.

16 SECTION 6. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2015.