

1 SENATE BILL 280

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Bill Tallman

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9  
10 AN ACT

11 RELATING TO CONSUMER CREDIT INFORMATION; PROHIBITING EMPLOYERS,  
12 PROSPECTIVE EMPLOYERS, EMPLOYMENT AGENCIES, LABOR ORGANIZATIONS  
13 AND JOINT APPRENTICESHIP COMMITTEES FROM DISCRIMINATING AGAINST  
14 ANY PERSON BASED ON CREDIT INFORMATION.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
18 through 4 of this act may be cited as the "Employee Credit  
19 Information Privacy Act".

20 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
21 Employee Credit Information Privacy Act:

22 A. "consumer reporting agency" means a person that,  
23 for monetary fees, dues or on a cooperative nonprofit basis,  
24 regularly engages, in whole or in part, in the practice of  
25 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  
5 regarding a person's creditworthiness, credit standing or  
6 credit capacity.

7 SECTION 3. [NEW MATERIAL] USE OF CREDIT INFORMATION  
8 PROHIBITED.--An employer shall not demote, promote or  
9 discriminate in matters of compensation, terms, conditions or  
10 privileges of employment against an employee based on that  
11 employee's credit information. A prospective employer shall  
12 not fail to or refuse to recruit or interview a prospective  
13 employee with respect to employment based on that person's  
14 credit information.

15 SECTION 4. [NEW MATERIAL] REMEDY.--A person who claims to  
16 be harmed by a violation of the Employee Credit Information  
17 Privacy Act may bring a civil action in a court of competent  
18 jurisdiction to obtain injunctive relief or damages or both.

19 SECTION 5. Section 28-1-7 NMSA 1978 (being Laws 1969,  
20 Chapter 196, Section 7, as amended) is amended to read:

21 "28-1-7. UNLAWFUL DISCRIMINATORY PRACTICE.--

22 A. It is an unlawful discriminatory practice for:

23 [~~A.-~~] (1) an employer, unless based on a bona  
24 fide occupational qualification or other statutory prohibition,  
25 to refuse to hire, to discharge, to promote or demote or to

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1 discriminate in matters of compensation, terms, conditions or  
2 privileges of employment against any person otherwise qualified  
3 because of race, age, religion, color, national origin,  
4 ancestry, sex, physical or mental handicap, [~~or~~] serious  
5 medical condition or credit information, or, if the employer  
6 has fifty or more employees, spousal affiliation; provided,  
7 however, that 29 U.S.C. Section 631(c)(1) and (2) shall apply  
8 to discrimination based on age; or, if the employer has fifteen  
9 or more employees, to discriminate against an employee based  
10 upon the employee's sexual orientation or gender identity;

11 [~~B-~~] (2) a labor organization to exclude a  
12 person or to expel or otherwise discriminate against any of its  
13 members or against any employer or employee because of race,  
14 religion, color, national origin, ancestry, sex, sexual  
15 orientation, gender identity, spousal affiliation, physical or  
16 mental handicap, [~~or~~] serious medical condition or credit  
17 information;

18 [~~G-~~] (3) any employer, labor organization or  
19 joint apprenticeship committee to refuse to admit or employ any  
20 person in any program established to provide an apprenticeship  
21 or other training or retraining because of race, religion,  
22 color, national origin, ancestry, sex, sexual orientation,  
23 gender identity, physical or mental handicap, [~~or~~] serious  
24 medical condition or credit information, or, if the employer  
25 has fifty or more employees, spousal affiliation;

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1                   [~~D-~~] (4) any person, employer, employment  
2 agency or labor organization to print or circulate or cause to  
3 be printed or circulated any statement, advertisement or  
4 publication, to use any form of application for employment or  
5 membership or to make any inquiry regarding prospective  
6 membership or employment that expresses, directly or  
7 indirectly, any limitation, specification or discrimination as  
8 to race, color, religion, national origin, ancestry, sex,  
9 sexual orientation, gender identity, physical or mental  
10 handicap, [~~or~~] serious medical condition or credit information,  
11 or, if the employer has fifty or more employees, spousal  
12 affiliation, unless based on a bona fide occupational  
13 qualification;

14                   [~~E-~~] (5) an employment agency to refuse to  
15 list and properly classify for employment or refer a person for  
16 employment in a known available job, for which the person is  
17 otherwise qualified, because of race, religion, color, national  
18 origin, ancestry, sex, sexual orientation, gender identity,  
19 spousal affiliation, physical or mental handicap, [~~or~~] serious  
20 medical condition or credit information, unless based on a bona  
21 fide occupational qualification, or to comply with a request  
22 from an employer for referral of applicants for employment if  
23 the request indicates, either directly or indirectly, that the  
24 employer discriminates in employment on the basis of race,  
25 religion, color, national origin, ancestry, sex, sexual

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1 orientation, gender identity, spousal affiliation, physical or  
2 mental handicap, ~~[or]~~ serious medical condition or credit  
3 information, unless based on a bona fide occupational  
4 qualification;

5 ~~[F-]~~ (6) any person in any public  
6 accommodation to make a distinction, directly or indirectly, in  
7 offering or refusing to offer its services, facilities,  
8 accommodations or goods to any person because of race,  
9 religion, color, national origin, ancestry, sex, sexual  
10 orientation, gender identity, spousal affiliation or physical  
11 or mental handicap; provided that the physical or mental  
12 handicap is unrelated to a person's ability to acquire or rent  
13 and maintain particular real property or housing accommodation;

14 ~~[G-]~~ (7) any person to:  
15 ~~[+]~~ (a) refuse to sell, rent, assign,  
16 lease or sublease or offer for sale, rental, lease, assignment  
17 or sublease any housing accommodation or real property to any  
18 person or to refuse to negotiate for the sale, rental, lease,  
19 assignment or sublease of any housing accommodation or real  
20 property to any person because of race, religion, color,  
21 national origin, ancestry, sex, sexual orientation, gender  
22 identity, spousal affiliation or physical or mental handicap;  
23 provided that the physical or mental handicap is unrelated to a  
24 person's ability to acquire or rent and maintain particular  
25 real property or housing accommodation;

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1                    [~~2~~] (b) discriminate against any  
2 person in the terms, conditions or privileges of the sale,  
3 rental, assignment, lease or sublease of any housing  
4 accommodation or real property or in the provision of  
5 facilities or services in connection therewith because of race,  
6 religion, color, national origin, ancestry, sex, sexual  
7 orientation, gender identity, spousal affiliation or physical  
8 or mental handicap; provided that the physical or mental  
9 handicap is unrelated to a person's ability to acquire or rent  
10 and maintain particular real property or housing accommodation;  
11 or

12                    [~~3~~] (c) print, circulate, display or  
13 mail or cause to be printed, circulated, displayed or mailed  
14 any statement, advertisement, publication or sign or use any  
15 form of application for the purchase, rental, lease, assignment  
16 or sublease of any housing accommodation or real property or to  
17 make any record or inquiry regarding the prospective purchase,  
18 rental, lease, assignment or sublease of any housing  
19 accommodation or real property that expresses any preference,  
20 limitation or discrimination as to race, religion, color,  
21 national origin, ancestry, sex, sexual orientation, gender  
22 identity, spousal affiliation or physical or mental handicap;  
23 provided that the physical or mental handicap is unrelated to a  
24 person's ability to acquire or rent and maintain particular  
25 real property or housing accommodation;

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1                   [~~H-~~] (8) any person to whom application is  
2 made either for financial assistance for the acquisition,  
3 construction, rehabilitation, repair or maintenance of any  
4 housing accommodation or real property or for any type of  
5 consumer credit, including financial assistance for the  
6 acquisition of any consumer good as defined by Section 55-9-102  
7 NMSA 1978, to:

8                               [~~(1)~~] (a) consider the race, religion,  
9 color, national origin, ancestry, sex, sexual orientation,  
10 gender identity, spousal affiliation or physical or mental  
11 handicap of any individual in the granting, withholding,  
12 extending, modifying or renewing or in the fixing of the rates,  
13 terms, conditions or provisions of any financial assistance or  
14 in the extension of services in connection with the request for  
15 financial assistance; or

16                               [~~(2)~~] (b) use any form of application  
17 for financial assistance or to make any record or inquiry in  
18 connection with applications for financial assistance that  
19 expresses, directly or indirectly, any limitation,  
20 specification or discrimination as to race, religion, color,  
21 national origin, ancestry, sex, sexual orientation, gender  
22 identity, spousal affiliation or physical or mental handicap;

23                   [~~F-~~] (9) any person or employer to:

24                               [~~(1)~~] (a) aid, abet, incite, compel or  
25 coerce the doing of any unlawful discriminatory practice or to

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1 attempt to do so;

2 [~~(2)~~] (b) engage in any form of threats,  
3 reprisal or discrimination against any person who has opposed  
4 any unlawful discriminatory practice or has filed a complaint,  
5 testified or participated in any proceeding under the Human  
6 Rights Act; or

7 [~~(3)~~] (c) willfully obstruct or prevent  
8 any person from complying with the provisions of the Human  
9 Rights Act or to resist, prevent, impede or interfere with the  
10 commission or any of its members, staff or representatives in  
11 the performance of their duties under the Human Rights Act; or

12 [~~(4)~~] (10) any employer to refuse or fail to  
13 accommodate a person's physical or mental handicap or serious  
14 medical condition, unless such accommodation is unreasonable or  
15 an undue hardship.

16 B. As used in this section, "credit information"  
17 means a written, oral or other communication prepared by a  
18 consumer reporting agency regarding a person's  
19 creditworthiness, credit standing or credit capacity."

20 **SECTION 6. EFFECTIVE DATE.**--The effective date of the  
21 provisions of this act is July 1, 2017.

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