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FISCAL IMPACT REPORT

ORIGINAL DATE 3/4/09

SPONSOR Rehm LAST UPDATED _____ HB 881

SHORT TITLE Removal Of Contested Credit Info From Reports SB _____

ANALYST Wilson

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Unknown See Below	Unknown See Below		Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Attorney General's Office (AGO)

Regulation & Licensing (RLD)

SUMMARY

Synopsis of Bill

House Bill 881 adds a new section to the Credit Report Security Act of New Mexico (CRSA), allowing any consumer to file a declaration of removal with a credit bureau operating within New Mexico. HB 881 defines declaration of removal as a statement that is delivered by mail, facsimile or electronically to a consumer reporting agency that operates within New Mexico. The statement states that the consumer is entitled to removal of information in the reporting agency's files because the consumer is a victim of identity theft or false reporting and that the consumer provides an identifying number such as a social security number and an address at which the consumer is available for service of process by the credit reporting agency.

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Operates within New Mexico is defined as accepting or maintaining a credit report on a person who resides within New Mexico.

The consumer reporting agency receiving a declaration of removal must remove the data that are the subject of declaration of removal within five) days of receiving declaration and payment of fee. Proof that the declaration was received can be made with an e-mail or facsimile confirmation. The consumer agency receiving a declaration of removal is held civilly liable to the consumer if it fails to remove or restores the data subject of the declaration in the following ways: (1) injunctive relief; (2) actual damages; (3) civil penalty of up to \$2,000 per violation; and (4) cost of action and reasonable attorney fees.

The data subject to the declaration can only be restored in the consumer's file upon request of the consumer or court adjudication in the judicial district of the consumer.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary will be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

The Credit Report Security Act of New Mexico presently allows for consumer to place a security freeze preventing credit reporting agencies from releasing any credit information of the consumer to anyone not authorized. HB 881 leaves intact the right to place a security freeze. However, it now adds a separate and distinct new right to the consumer: the ability to remove information contained in the consumer's file held and maintained by a credit reporting agency operating within New Mexico reported as a result of identity theft or false reporting.

The bill does not require that the consumer report the alleged identity theft to a law enforcement agency in order to have information removed.

HB 881 allows credit reporting agencies to charge a fee of \$10 for each declaration of removal. Also HB 881 allows the charge of \$5 for the release of a credit report upon which a declaration of removal has been placed and for the removal of the declaration of removal. These are the same charges presently allowed under the CRSA for a security freeze. HB 881 now requires a credit reporting agency to accept payment of these fees, for both security freeze and declaration of removal, via debit, credit card, phone payment and automatic clearing house online.

ADMINISTRATIVE IMPLICATIONS

The affected agencies should be able to handle the enforcement of the provisions in this bill as part of ongoing responsibilities.

TECHNICAL ISSUES

AOC notes HB 881 requires data must be removed within 5 days, but it is not clear whether those are calendar days or business days.

DW/mt