

2572--D

2009-2010 Regular Sessions

I N S E N A T E

February 24, 2009

Introduced by Sens. MONSERRATE, DIAZ, HASSELL-THOMPSON, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to prohibiting providers of service from solely relying upon consumer credit reports for the purpose of determining whether to provide consumers with service, or for the purpose of requiring the payment of a deposit, fee or higher rate

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The general business law is amended by adding a new section
2 391-q to read as follows:
3 S 391-Q. SERVICE PROVIDERS; USE OF CONSUMER CREDIT REPORTS. 1. AS
4 USED IN THIS SECTION, THE TERM "SERVICE PROVIDER" SHALL INCLUDE, BUT NOT
5 BE LIMITED TO, PUBLIC UTILITIES AND INSURANCE COMPANIES.
6 2. NO PERSON OR ENTITY ENGAGED IN THE BUSINESS OF PROVIDING ANY
7 SERVICE IN THIS STATE SHALL RELY SOLELY UPON THE CONSUMER CREDIT REPORT,
8 AS DEFINED IN SUBDIVISION (L) OF SECTION THREE HUNDRED EIGHTY-A OF THIS
9 CHAPTER, OF ANY POTENTIAL CUSTOMER OR CUSTOMERS IN THE DETERMINATION OF
10 WHAT RATES OR PRICES TO CHARGE A CUSTOMER OR CUSTOMERS. NOTHING HEREIN
11 SHALL PROHIBIT A SERVICE PROVIDER FROM REVIEWING OR UTILIZING A CONSUMER
12 CREDIT REPORT IN DETERMINING WHETHER AN APPLICANT MUST PROVIDE SURETY
13 PRIOR TO PROVIDING SERVICES.
14 3. NO PERSON OR ENTITY ENGAGED IN THE BUSINESS OF PROVIDING ANY
15 SERVICE IN THIS STATE SHALL SOLELY UTILIZE THE CONSUMER CREDIT REPORT,

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

LBD00652-16-9

1 AS DEFINED IN SUBDIVISION (1) OF SECTION THREE HUNDRED EIGHTY-A OF THIS
2 CHAPTER, OF ANY POTENTIAL CUSTOMER OR CUSTOMERS FOR THE PURPOSE OF
3 REQUIRING THE POTENTIAL CUSTOMER OR CUSTOMERS TO PAY AN ADDITIONAL FEE
4 OR HIGHER RATE FOR THE PROVISION OR CONTINUANCE OF THE PROVISION OF
5 SERVICE. ANY DEPOSIT REQUIRED BY A SERVICE PROVIDER SHALL NOT EXCEED A
6 MONTHLY PAYMENT AS REQUIRED BY SUCH SERVICE PROVIDER, OR IF THE CONSUM-
7 ER'S MONTHLY PAYMENT IS VARIABLE, AN AVERAGE FOR SUCH CONSUMER'S MONTHLY
8 BILLING.

9 4. ANY PERSON OR ENTITY FOUND BY A COURT OF COMPETENT JURISDICTION TO
10 HAVE VIOLATED SUBDIVISION TWO OR THREE OF THIS SECTION SHALL BE SUBJECT
11 TO A PENALTY OF NOT LESS THAN FIVE HUNDRED DOLLARS NOR MORE THAN ONE
12 THOUSAND DOLLARS FOR EACH SUCH VIOLATION.

13 5. (A) WHENEVER THERE SHALL BE A VIOLATION OF SUBDIVISION TWO OR THREE
14 OF THIS SECTION, AN APPLICATION MAY BE MADE BY THE ATTORNEY GENERAL IN
15 THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK TO A COURT OF COMPETENT
16 JURISDICTION BY A SPECIAL PROCEEDING FOR THE IMPOSITION OF A FINE OR THE
17 ISSUANCE OF AN INJUNCTION AGAINST ANY VIOLATION OF THIS SECTION, UPON
18 NOTICE TO THE SERVICE PROVIDER OF NOT LESS THAN FIVE DAYS, TO ENJOIN AND
19 RESTRAIN THE CONTINUANCE OF SUCH VIOLATIONS.

20 (B) IF THE COURT FINDS THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS
21 SECTION, AN INJUNCTION MAY BE ISSUED BY SUCH COURT, ENJOINING AND
22 RESTRAINING ANY FURTHER VIOLATION, WITHOUT REQUIRING PROOF THAT ANY
23 PERSON HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY.

24 (C) IN ANY PROCEEDING PURSUANT TO THIS SUBDIVISION, THE COURT MAY
25 DIRECT RESTITUTION AND MAKE ALLOWANCES TO THE ATTORNEY GENERAL AS
26 PROVIDED IN SECTION SIXTY-THREE OF THE EXECUTIVE LAW.

27 (D) IN SUPPORT OF ANY APPLICATION PURSUANT TO THIS SUBDIVISION, THE
28 ATTORNEY GENERAL IS AUTHORIZED TO TAKE PROOF, DETERMINE RELEVANT FACTS
29 AND ISSUE SUBPOENAS IN ACCORDANCE WITH THE CIVIL PRACTICE LAW AND RULES.

30 S 2. This act shall take effect immediately.