S T A T E O F N E W Y O R K

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I N A S S E M B L Y

(PREFILED)

January 6, 2010

Introduced by M. of A. KAVANAGH, P. RIVERA, COLTON, WRIGHT, ZEBROWSKI, PAULIN, GALEF, PHEFFER -- Multi-Sponsored by -- M. of A. GABRYSZAK, GOTTFRIED, REILLY, SCARBOROUGH, TITONE -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to the use of credit risk scores

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

Section 1. Section 380-j of the general business law is amended by adding a new subdivision (h) to read as follows:

(H) IN CONNECTION WITH PROVIDING A HOME MORTGAGE OR AUTO LOAN TO A CONSUMER, NO USER OF A CONSUMER REPORT IN THIS STATE SHALL USE A CREDIT RISK SCORE CREATED BY A CREDIT REPORTING AGENCY OR A CREDIT SCORE PROVIDER IF SUCH CREDIT RISK SCORE USES ANY OF THE FOLLOWING AS A NEGATIVE FACTOR IN ITS CREDIT SCORING METHODOLOGY:

(1) CREDIT INQUIRIES NOT INITIATED BY THE CONSUMER OR INQUIRIES REQUESTED BY THE CONSUMER FOR HIS OR HER OWN CREDIT INFORMATION; OR

(2)(I) USER INQUIRIES IN CONNECTION WITH A HOME MORTGAGE OR AUTO LOAN INITIATED BY A CONSUMER, IF CODED BY THE CONSUMER REPORTING AGENCY ON THE CONSUMER'S CREDIT REPORT AS BEING FROM THE HOME MORTGAGE INDUSTRY OR THE AUTO LENDING INDUSTRY, AND

(II)(A) MADE DURING THE PERIOD OF THIRTY DAYS PRIOR TO EACH SCORING DATE (THE "BUFFER PERIOD"); OR

(B) MADE DURING THE ELEVEN MONTH PERIOD IMMEDIATELY PRECEDING THE BUFFER PERIOD, UNLESS ALL SUCH INQUIRIES MADE WITHIN ANY PERIOD OF AT LEAST FOURTEEN DAYS DURING SUCH ELEVEN MONTH PERIOD (EACH SUCH PERIOD OF AT LEAST FOURTEEN DAYS IS REFERRED TO AS A "DE-DUPLICATION PERIOD") ARE COUNTED AS A SINGLE INQUIRY, AS FOLLOWS:

(I) THE FIRST DE-DUPLICATION PERIOD SHALL START ON THE DATE OF THE FIRST INQUIRY OF THE HOME MORTGAGE INDUSTRY OR THE AUTO LENDING INDUSTRY PRIOR TO THE BUFFER PERIOD; AND

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

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(II) ADDITIONAL DE-DUPLICATION PERIODS, IF ANY, SHALL START WITH THE FIRST INQUIRY OF THE HOME MORTGAGE INDUSTRY OR THE AUTO LENDING INDUSTRY PRIOR TO THE END OF THE PREVIOUS DE-DUPLICATION PERIOD, IF ANY.

HOME MORTGAGE INQUIRIES AND AUTO LOAN INQUIRIES MAY BE COUNTED, IN ACCORDANCE WITH THE TERMS OF THIS SUBPARAGRAPH, TOGETHER IN THE SAME DE-DUPLICATION PERIOD OR PERIODS OR SEPARATELY IN DIFFERENT DE-DUPLICATION PERIOD OR PERIODS, ONE SERIES FOR THE HOME MORTGAGE INDUSTRY AND ANOTHER SERIES FOR THE AUTO LENDING INDUSTRY.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law.