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

April 2, 2012

Introduced by M. of A. SKARTADOS -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to limiting an employer's access to consumer credit reports in connection with employment applications

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

Section 1. Paragraph 3 of subdivision (a) of section 380-b of the general business law, as amended by chapter 797 of the laws of 1984, is amended to read as follows:

(3) To a person whom it has reason to believe intends to use the information (i) in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer, or (ii) for employment purposes IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION (E) OF THIS SECTION, or (iii) in connection with the underwriting of insurance involving the consumer, or (iv) in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status, or (v) to a person in connection with a business transaction involving the consumer where the user has a legitimate business need for such information, or (vi) in connection with the rental or lease of a residence.

S 2. Section 380-b of the general business law is amended by adding a new subdivision (e) to read as follows:

(E) NO PERSON SHALL REQUEST A CONSUMER CREDIT REPORT OR A CONSUMER REPORT, OTHER THAN AN INVESTIGATIVE CONSUMER REPORT, IN CONNECTION WITH AN APPLICATION FOR EMPLOYMENT UNLESS THE POSITION FOR WHICH THE APPLICANT IS APPLYING OR INTERVIEWING ENTAILS DIRECT ACCESS TO FUNDS OR NEGOTIABLE INSTRUMENTS OR DIRECTLY INVOLVES FINANCIAL OVERSIGHT OR RESPONSIBILITY, OR IS OTHERWISE REQUIRED BY LAW.

S 3. Subdivision (d) of section 380-c of the general business law, as added by chapter 867 of the laws of 1977, is amended to read as follows:

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

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(d) If a person applying for credit, insurance, or employment refuses to authorize the procurement or preparation of an investigative consumer report, the prospective creditor, insurer or employer may decline to grant credit, insurance or employment on the grounds that the applicant refused to execute such authorization; PROVIDED THAT AN EMPLOYER MAY NOT DECLINE TO OFFER EMPLOYMENT ON THE GROUNDS THAT A PROSPECTIVE EMPLOYEE REFUSES TO AUTHORIZE THE PROCUREMENT OR PREPARATION OF A CONSUMER CREDIT REPORT OR CONSUMER REPORT TO WHICH THE EMPLOYER IS NOT ENTITLED PURSUANT TO SUBDIVISION (E) OF SECTION THREE HUNDRED EIGHTY-B OF THIS ARTICLE.

S 4. This act shall take effect immediately.