

LAW NO. 150

OCTOBER 8, 2019

[Translated]

To create the “Law on the Protection of Employee Credit Information” in order to prohibit employers from using credit reports in employment evaluations; and for other purposes.

STATEMENT OF MOTIVES

There is currently a practice by some employers or future employers of requiring employees or job applicants a credit report. This has often caused extremely qualified people not to be considered for employment because they reflect unfavorable indications in their credit history. It is important to note that sometimes bad credit is the result of identity theft or having the credit committed after making student loans in search of a better future.

In times where there is a global economic crisis, this type of practice further limits access to decent employment for our citizens and young professionals who are looking for a better future and livelihood for their home.

At the federal level there is the “Fair Credit Reporting Act” which, among other things, states that anyone who uses a credit report to deny a credit, insurance or employment application has to notify the person if the credit report was used in against him This Law also requires that the potential or current employer obtain the written consent of the applicant for employment, or employee, prior to any inquiry.

At the state level, many states have also regulated this practice, to provide additional protections to consumers, including California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maryland, Nevada and Washington. These laws seek to provide a greater opportunity to compete for employment for citizens. When this legislation is passed in Puerto Rico, we guarantee that no person is discriminated against because it reflects unfavorable indications in their credit history when applying for employment.

It is for all the above, that this Legislature, in search of making access to the labor market more flexible, understands this legislation.

BE DECLARED BY THE PUERTO RICO LEGISLATIVE ASSEMBLY:

Article 1.- Definitions:

- a) "Credit History" - historical repayment and debt assumption behavior of an individual, including timely payment of accounts, debt management, as well as any financial obligation.
- b) "Credit Report" - written communication that contains information about an individual provided by a credit agency, which establishes their credit capacity, credit history or economic solvency.
- c) "Employee" - any person who receives financial compensation for performing any task or providing a service for an employer through an express or implied contract.
- d) "Employer or Employer" - natural or legal person who provides economic compensation or salary to an employee in exchange for a designated service or task.

Article 2.- Prohibited Conduct

An employer, or potential employer, may not perform any of the following actions:

- a) Dismiss, deny benefits or compensation, refuse to hire, provide a promotion or discriminate against an employee or applicant for a job because of his report or credit history.
- b) Verify or investigate the credit history or report of an employee or job applicant.
- c) Order or obtain a credit report from an employee or job applicant from a credit agency.

Article 3.- Exceptions

An employer or potential employer will not be subject to the prohibitions established in Article 2 of this Law, if the position being evaluated is one of the following:

- a) Management position.
- b) Position in the Department of Justice.
- c) Position as public order agent of the State or municipality.
- d) Position in the Judicial Branch.
- e) Position by which by some provision of law, regulation, activities that are regulated by the Office of the Commissioner of Financial Institutions or agreement with any federal agency, as this is required or permitted by the rules of the Government of the United States of America is required The credit report.
- f) Since it implies access to other people's financial or personal information, and that is not the information normally provided for the purposes of a purchase transaction.

g) Since it implies a fiduciary responsibility to the employer, including, but not limited to, the authority to issue payments, collect debts, transfer money or enter into any contract.

h) A position that implies access to trade secrets as defined in Law 80-2011.

i) A position that implies regular access to cash, or other values that can be appropriated, for a total of ten thousand dollars (\$ 10,000) or more than one employer or client, during the workday.

Article 4.- Notification

The employer who is going to request the report or credit history of an employee, or job applicant, must obtain the prior written consent of the employee. Provided that it will be null and void that consent given by an employee, or applicant for employment, in those cases in which an employer, or potential employer, requires the credit history of a person in contravention of the provisions of this Law will not take effect.

Article 5.– Powers of the Secretary of Labor

This Act empowers the Secretary, or his representative, to receive complaints, statements or complaints from persons alleging violations of this Act, as well as to begin motu proprio, all investigations, inspections and actions deemed necessary to determine whether an employer has failed or ceased to comply with the provisions of this Law.

Article 6.– Penalties

The violation of the provisions of this Law will entail an administrative fine of one thousand dollars (\$ 1,000) for the first infraction and two thousand five hundred dollars (\$ 2,500) for each subsequent infraction, which will be assigned to the Department of Labor for the administration of this Law.

Article 7.- Severability Clause

This Law shall be interpreted in such a way to make it valid, to the extent practicable, in accordance with the Constitution of Puerto Rico and the Constitution of the United States of America. If any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, section or part of this Law were annulled or declared unconstitutional, the resolution, opinion or ruling for such purpose issued shall not affect, impair, or invalidate the remainder of this Act. The effect of said judgment shall be limited to the clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, section or part of it that has thus been annulled or declared unconstitutional. If the application to a person or a circumstance of any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section,

subsection, title, chapter, subchapter, section or part of this Law is invalidated or declared unconstitutional, the Resolution, opinion or ruling for this purpose will not affect or invalidate the application of the remainder of this Law to those persons or circumstances in which it can be validly applied. It is the express and unequivocal will of this Legislative Assembly that the courts enforce the provisions and application of this Law to the fullest extent possible, even if it is nullified, annulled, invalidated, damaged or declared unconstitutional by any of its parts, or, even if it is left without effect, invalidates or declares its application unconstitutional to any person or circumstance.

Article 8.– Validity

This Law will take effect immediately after its approval.