EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

JUN 1 2 2015

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Tres Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

2015 JUN 15 PM 1:01

Dear Madame Speaker:

Transmitted herewith is Bill No. 44-33 (COR) **"AN ACT TO *ADD* A NEW SUBSECTION (h) TO § 5201 OF ARTICLE 2, CHAPTER 5 OF TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO THE USE OF AN INDIVIDUAL'S CREDIT HISTORY IN THE EMPLOYMENT PROCESS"** which I signed into law on June 10, 2015, as **Public Law 33-35.**

Senseramente,

EDDIE BAZA CALVO

33-15-0523

Office of the Speaker
Judith T. Won Pat, Ed.D

Date: 06-15-15
Time: 11:13 AM
Received By:

0523

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I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that **Substitute Bill No. 44-33 (COR), "AN ACT TO *ADD* A NEW SUBSECTION (h) TO § 5201 OF ARTICLE 2, CHAPTER 5 OF TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO THE USE OF AN INDIVIDUAL'S CREDIT HISTORY IN THE EMPLOYMENT PROCESS,"** was on the 29th day of May 2015, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 1st day of June, 2015, at 5:20 o'clock P.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: JUN 10 2015

Public Law No. 33-35

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

Bill No. 44-33 (COR)
As substituted by the Committee on Rules, Federal, Foreign and Micronesian Affairs, Human and Natural Resources, Election Reform and Capitol District; and amended on the Floor.

Introduced by:

James V. Espaldon
T. C. Ada
V. Anthony Ada
Frank F. Blas, Jr.
FRANK B. AGUON, JR.
B. J.F. Cruz
Brant T. McCreadie
Tommy Morrison
T. R. Muña Barnes
R. J. Respicio
Dennis G. Rodriguez, Jr.
Michael F.Q. San Nicolas
Mary Camacho Torres
N. B. Underwood, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *ADD* A NEW SUBSECTION (h) TO § 5201 OF ARTICLE 2, CHAPTER 5 OF TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO THE USE OF AN INDIVIDUAL'S CREDIT HISTORY IN THE EMPLOYMENT PROCESS.

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that consumer credit scores and credit reports often exclude relevant information or
4 include inaccurate information. A 2011 study conducted by the Policy and
5 Economic Research Council suggests that more than twenty million Americans

have material errors on their credit reports. According to researchers at the Center for Economic Justice and the National Consumer Law Center, there is evidence that racial and ethnic disparities exist in, and are perpetuated by, consumer credit scoring and credit reporting. In its 2011 report, "Discrediting America", the nonpartisan public policy research and advocacy organization, Demos, concluded that consumer credit scores and credit reports are being used more often and in more contexts than ever before, including by employers, utility companies, and insurers. Despite a lack of evidence showing that consumer credit history correlates to an individual's job performance or likelihood to commit fraud, the number of employers relying on consumer credit information to evaluate employees or potential employees has increased dramatically. The National Conference of State Legislatures reports that forty-six bills in twenty-six states and the District of Columbia were introduced or pending in the 2013 legislative session relating to the use of credit information in employment decisions. Out of the total forty-six bills, forty-two address restrictions on the use of credit information in employment decisions.

It is, therefore, the intent of *I Liheslaturan Guåhan* to limit an employer's use of an individual's credit history *unless* a particular job or licensed activity requires such an examination prior to, or during, employment.

Section 2. A new Subsection (h) is *added* to § 5201 of Article 2, Chapter 5 of Title 22, Guam Code Annotated, to read:

"(h) For any employer to use the circumstances of an individual's credit history as a reason for denial of employment, or as a reason for termination of employment, *unless* the circumstances are substantially related to the requirements of a particular job or licensed activity. An employer may request a credit history background check as part of the application process where it is shown to be directly related to the position

sought by the applicant under at least one of the following circumstances: (1) the position requires bonding or other security under state or federal law for an individual holding the position; (2) the position is managerial and involves setting the direction or control of the business; (3) the position meets criteria in specified federal or state administrative rules to establish the circumstances when a credit history is a bona fide occupational requirement; (4) the duties of the position involve access to customers', employees', or the employer's personal or financial information other than information customarily provided in a retail transaction; (5) the duties of the position involve a fiduciary responsibility to the employer; or (6) the position includes an expense account. Any employer who chooses, consistent with this Subsection, to use an individual's credit history as a part of the hiring process, or an individual's credit history as part of the retention process, *shall* disclose this fact to the individual, and *shall* obtain written consent from the individual *prior to* requesting a credit history background check. The employer *shall* follow all of the legal rules set out in the federal Fair Credit Reporting Act for any subsequent determination(s) or action(s) taken as a result of information contained in an individual's credit history background check. For the purposes of this Subsection, the term "*fiduciary responsibility*" *shall* refer to a relationship in which an employee has a responsibility of care for the property or funds of the employer or its customers."