

EDDIE BAZA CALVO  
Governor

RAY TENORIO  
Lieutenant Governor

*Office of the Governor of Guam.*

JUN 12 2015

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

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

2015 JUN 12 PM 1:01

33-15-0523

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

Date: 06-15-15  
Time: 11:13 AM  
Received By: [Signature]

0523

*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 29<sup>th</sup> day of May 2015, duly and regularly passed.



Judith T. Won Pat, Ed.D.  
Speaker

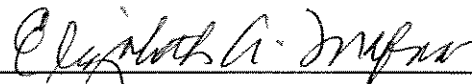
Attested:



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Tina Rose Muña Barnes  
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 18<sup>th</sup> day of June, 2015, at 5:20 o'clock P.M.



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Elizabeth A. Infante  
Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:



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EDWARD J.B. CALVO  
*I Maga'lahaen 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. McCreddie  
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

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

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

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

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

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