



August 29, 2019

## NEVADA AMENDS ANTI-CREDIT DISCRIMINATION LAW

The Nevada legislature has recently amended the Nevada Equal Opportunity for Credit statute in two material respects. See 2019 Nev. S.B. 311. First, the bill expands the prohibited bases for credit discrimination to now include race, color, creed, religion, disability, national origin or ancestry, sex, sexual orientation, gender identity or expression, or marital status.

Second, the bill provides that if an applicant for credit (i) has no credit history, (ii) was or is married and (iii) requests that the creditor deem the credit history of the applicant to be identical to the credit history of the applicant's spouse established during a marriage, then the creditor must deem the credit history of the applicant to be identical to the credit history of the applicant's spouse during the marriage. A creditor may request, with regard to the marriage, evidence of (i) the existence of the marriage and (ii) the date of the marriage, and if applicable, the date the marriage ended. A violation of the requirement by a creditor will be deemed to be discrimination based on marital status.

The new law applies to married or formerly married applicants with no credit history, which might limit the law's impact on a credit program. The law does not define the term "credit history" and does not explain how a creditor accesses the credit history of a current or former spouse (other than through the creditor's own prior experience) when the non-applicant spouse is un-involved in the credit transaction. Unlike under the federal Equal Credit Opportunity Act ("ECOA"), an applicant does not have to demonstrate that his/her spouse's or former spouse's creditworthiness accurately reflects the applicant's creditworthiness as a prerequisite to the creditor considering the spouse's or former spouse's creditworthiness under Nevada law as amended.

The Nevada Equal Opportunity for Credit statute defines "creditor" to include certain persons other than the person that extends credit to an applicant. "Applicant" includes a person who applies to a creditor for a credit extension, renewal, continuation or a credit limit increase. Nevada is a community property state.

The new law becomes effective on October 1st. When determining how to comply with the new law, creditors should consider the federal ECOA and the federal Fair Credit Reporting Act,

among other laws. We are happy to provide counsel on state compliance questions. ☐

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