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NATIONAL ASSEMBLY, REPUBLIC OF PANAMA

LAW No. 14

Dated 18 May 2006

Which amends and adds articles to Law 24 of 2002 whereby the service of providing information on consumers' or customers' credit records is regulated

THE NATIONAL ASSEMBLY DECREES

Article 1. A paragraph is inserted into article 3 of Law 24 of 2002 to become paragraph 8, and following paragraphs renumbered, with paragraph 8 to read:

Article 3. Definitions. For the purposes of this Law, the following terms will be defined as follows:

...

8. *Credit relationship.* A link or connection that a consumer or customer has had with an economic agent from the moment he made a credit operation until date of termination.

...

Article 2. Article 4 of Law 24 of 2002 will read as follows:

Article 4. Data Quality. Credit record data provided by consumers or customers or by economic agents that are handled by data information agencies and are generated by economic, financial, banking, commercial or industrial transactions, must be accurate and updated, in order to reflect accurately to the real situation of a given consumer or customer.

For this purpose, the data handled and communicated by economic agents and data information agencies shall reflect the payment movement, installments, and cancellation of obligations made by the consumer or customer, as well as any other information resulting from processing the consumer's or customer's data that will facilitate the understanding and analysis of his credit record.

Article 3. Article 5 of Law 24 of 2002 will read as follows:

Article 5. Data safety. Economic agents and credit record data information agencies must adopt the necessary technical measures and controls to avoid modification, loss, handling or unauthorized access to credit records that are handled or maintained within their respective databases or databanks.

Economic agents will guarantee that access to any database or databank, whether from a data information agency or another economic agent, will be with the consumer's or customer's express consent or authorization.

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Article 4. Paragraph 4 is added and the unnumbered paragraph of article 13 of Law 24 of 2002 is modified to read as follows:

Article 13. Documentation to be attached to the Application submitted by Natural Persons. This application must be submitted together with the following documentation:

...

4. Any other requirement established by the Directorate of Finance Companies of the Ministry of Commerce and Industries and approved by executive decree.

Paragraph. Police records must be requested and attached by the Directorate of Finance Companies of the Ministry of Commerce and Industries.

Article 5. Paragraph 7 is added and the unnumbered paragraph of article 15 of Law 24 of 2002 is modified to read as follows:

Article 15. Documentation to be attached to the Application submitted by Juridical Persons. This application must be submitted together with the following documentation:

...

7. Any other requirement established by the Directorate of Finance Companies of the Ministry of Commerce and Industries and approved by executive decree.

Paragraph. Police records must be requested and attached by the Directorate of Finance Companies of the Ministry of Commerce and Industries.

Article 6. Article 23 of Law 24 of 2002 will read as follows:

Article 23. Rights. Consumers or customers are entitled to the following rights:

1. *Access to information.* Consumers or customers are entitled to know all information about them that is maintained or managed by economic agents and data information agencies. The concerning data information agency must provide the consumer or customer, any information requested verbally, in writing or by any other means provided by the agency, as well as inform him of which credit agents had access to his credit record.

Furnishing information about their credit records to consumers or customers will be done pursuant to the provisions of paragraphs 1 and 2 of article 28 of this Law.

2. *Accuracy of information.* Data collected in a database administered by a data information agency must be accurate and must be updated pursuant to the type of credit relationship and/or operation maintained by the consumer or customer

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with the economic agent. The update referred to in this article shall in no case be made more than one calendar month after the modification of any information of a particular credit relationship. The updating of information by data information agencies shall be in accordance with the deadlines established in this Law, so as to accurately reflect the consumer's or customer's situation.

3. *Proper handling of information.* Data contained in a database administered by a data information agency must not be used for purposes other than those for which the data was collected. The handling of said data for historical, statistical or scientific purposes shall not be considered improper, nor shall its consultation by the economic agent that has granted a loan, when this agent is reviewing or performing supervisory tasks of the credit behavior of any consumer or customer during the term of the financing granted.
4. *Consent for collection and transmission of information.* Credit record data furnished by consumers or customers to economic agents should only be collected and/or transmitted to data information agencies and furnished by these agencies to the economic agents with the express consent or authorization of the consumers or customers, with the exception of economic, financial, banking, commercial or industrial obligations that relate to checks rejected because of lack of funds those drawn against a closed current account or those on which a request to stop payment was issued.

The right to consent to the collection and/or transmission of credit record information will be applied to data concerning the credit operations that are generated after the enactment of this Law.

Express consent or authorization given by the consumer or customer to collect and/or transmit data shall be maintained while said data remains in the database of the data information agency.

5. *Correction and deletion of information.* Any consumer or customer may request the data information agency include in his credit record the clarifications or disclaimers he deems advisable, related to one or more data points contained in said record. The insertion shall not be longer than one hundred words.

The consumer or customer that is aware that there is data recorded or furnished about his credit record that is incorrect, mistaken, incomplete, outdated or false with regard to any credit or economic, financial, banking, commercial or industrial transaction that may affect him may require a correction or cancellation pursuant to the procedure established in Title IV of this Law. This procedure will also be applied to those credit record references or data that are maintained or handled by the economic agents and data information agencies at the moment of the enactment of this Law.

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6. *Indemnification.* Consumers or customers suffering any damage or detriment due to the inclusion of one or more incorrect, mistaken, incomplete, outdated or false data in the database or databank of a data information agency will be entitled to be indemnified by whomever is responsible for the inclusion of said data, whether guilty or negligent, be this the economic agent or a data information agency. This right will be exercised before the concerned ordinary jurisdiction and according to the terms and conditions established in articles 9 and 10 of this Law.
7. *Updating.* Any consumer or customer is entitled to have his credit record updated in accordance with the terms established in this Law. Also, he will be entitled to request the concerning economic agent provide him with the update of his data when there is a modification, without the application of the time limit established in paragraph 2 of this article. In the event that the consumer or customer uses any of the rights established in this paragraph, the economic agent will have three business days to update the modified data and inform the data information agency.
8. *Inclusion of additional information.* The consumer or customer may request the data information agency include in his credit record, information additional to that which it gathers and transmits to the economic agents pursuant to this Law. For this, the consumer or customer must make the request for the addition in writing to the data information agency so that the agency may maintain this information in its records as of that point.

Article 7. Article 24 of Law 24 of 2002 will read as follows:

Article 24. Access to review information. The economic agent may only have access to existing information from the data information agency or from another economic agent with the consumer's or customer's express written consent or authorization. Exempt from this provision are cases where the economic agent has to consult data included in the database or databank before the enactment of this Law, and when the consultation is aimed at the supervision and follow-up on a current credit during the time that the credit relation that originated that data lasts.

The consent or authorization by the consumer or customer will allow the economic agent to consult the database of the data information agency whenever he requires in order to grant financing or supervise the credit behavior of the consumer during the term of the credit granted.

The economic agent must retain the express consent or authorization to consult the database of the data information agency during the period said consultation remains in the database, in accordance with the provisions of article 26 of this Law.

Article 8. Article 25 of Law 24 of 2002 will read as follows:

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Article 25. Access to information of a database or databank. If credit record data of a consumer or customer is in a database or databank to which different economic agents have access the consumer or customer can request a copy of said information from the economic agent as long as he has a credit relationship with that economic agent and has expressed his consent or authorization to consult said information.

Article 9. Article 26 of Law 24 of 2002 will read as follows:

Article 26. Expiration and final depuration of data. The credit record data of consumers or customers incorporated into a database administered by a data information agency will expire seven years from the date of receipt of the final payment on the corresponding obligation or, if the consumer has not made any payments, seven years after the due date of the first payment. After this period, the data will be excluded from the credit record system, databank or database held by the data information agency.

The consumer or customer may request that the data information agency keep reporting in his credit record the references related to cancelled operations and those that have already expired, according to the provisions of this article.

To this end, the consumer or customer must make his request in writing to the data information agency, so that it may keep the relevant information on file as of that date.

Consultations of credit records of consumers or customers with whom the economic agents have not entered into any credit relationship, made by economic agents on a data information agency's system will be maintained in that system for a one-year period, counted from the date in which the relevant consultation was made.

Article 10. Paragraphs 1, 2, 3, and 6 are amended and paragraphs 7, 8, 9, 10, and 11 are added to article 28 of Law 24 of 2002, which will read as follows:

Article 28. Duties of data information agencies. Natural or juridical persons acting as data information agencies have the following rights and duties:

1. To provide information to the consumer or customer, verbally and free of charge, upon his request. To obtain this information, the consumer must go personally to the offices of the data information agency and show his personal identification card. The consumer or customer may receive, free of charge, and as many times as he wishes, a simple and unofficial report of his credit record in the format that the data information agency establishes for these purposes.
2. To furnish information about his credit record by means of a certificate to the consumer or customer that may require one. To obtain this information, the consumer or customer must request it verbally if he goes personally to the

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offices of the data information agency; or in writing or by any other means the agency places at his disposal, by means of a request addressed to the agency, where the consumer or customer states the manner in which he wants the credit record certification to be furnished to him, whether in writing or by any other means the data information agency places at his disposal. The agency will implement systems that will allow the verification of the consumer's or customer's identity. The costs that could be generated by said certification shall be covered by the consumer or customer according to market practices.

3. To keep the credit record information sent by economic agents updated.
- ...
6. To provide, free of charge upon consumer or customer request, a copy of the relevant part of the record, in cases where the consumer or customer has formalized a data correction or deletion request at the Free Competition and Consumer Affairs Commission (CLICAC). If there were to be a new data correction or deletion request filed at said Commission, the consumer or customer may also obtain, free of charge, a copy of the updated record, as long as a six-month period has elapsed since the previous use of this right by the consumer or customer. The right consigned in this paragraph must only be exercised in person at the data information agency.
7. To use, at his discretion, scientific models to guarantee an objective evaluation of the consumers' or customers' credit record by the economic agents. These systems may generate values that could be presented in a credit record report of consumers or customers. The Directorate of Finance Companies of the Ministry of Commerce and Industries and the Free Competition and Consumer Affairs Commission must be advised of the use of these scientific models so that they may be aware of their nature and application.
8. To promote orientation programs that would help the consumer or customer to correctly manage his credit.
9. To add into his database or databank all explanation or disclaimer applications submitted by consumers or customers regarding the data in their credit record, pursuant to the provisions in paragraph 5 of article 23 of this Law, whether in writing or by any other means made available by the data information agency, in a period no longer than three business days from the date of the application.
10. To add into the database or databank additional information that the consumer or customer requires to the included pursuant to the provisions of paragraph 8 of article 23 of this Law, in a period no longer than three business days from the date of the application.

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11. To ensure that micro and small enterprises maintain relevant information in the database or databank of data information agencies, so that said information will be part of their credit record and serve as a reference of their operations.

Data information agencies may use scientific models ensuring an objective evaluation of the data included in the database containing information on the commercial activity of micro and small companies and entrepreneurs.

Article 11. Paragraphs 1 and 3 of article 29 of Law 24 of 2002 will read as follows:

Article 29. Rights and duties of economic agents. Economic agents are entitled to the following rights and duties:

1. To provide updated, accurate and reliable information to data information agencies of which they are a member. In addition, economic agents have the obligation of informing consumers or customers of the data information agencies and/or economic agents with whose databases or databanks they have affiliation agreements; of how they input the information into the database or databank of the data information agencies, including the period or timeframe for updating the information, according to the type of credit operation they have with the consumer or customer, but which in no case shall exceed one calendar month after any data amendment; and of what criteria they use for delinquency or delay in complying with a credit obligation.
...
3. To update credit record information of consumers or customers within the term established in paragraphs 2 and 7 of article 23 of this Law.
...

Article 12. Article 29-A is added to Law 24 of 2002 as follows:

Article 29-A. Analysis and Prohibition. Credit information agencies may, by means of scientific and objective methods, analyze the credit records or data kept in their files for the purpose of providing economic agents that may request it, a credit record evaluation of the consumer or customer that will allow them to calculate the recovery risk of the credit they will be granting.

Data information agencies are prohibited from issuing in their report, any type of information, remarks, comments, opinions or recommendations to grant or deny a credit, and/or to tell the economic agent to grant or deny a credit.

Article 13. Paragraphs 1, 3, 4, and 6 are amended and Paragraph 8 is added to article 30 of Law 24 of 2002 as follows:

Article 30. Prohibitions. Without prejudice to other prohibitions contained within this Law, the following is expressly forbidden:

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1. To include within the credit record of consumers or customers, businessmen from the micro and small enterprises or entrepreneurs, the payment record of basic residential utilities, such as phone services, electricity, water, sewage, and garbage collection.

Economic agents that provide public services mentioned in this paragraph may submit to the data information agencies the payment information of the public services in order that it be part of the relevant database only upon request of consumers or customers, businessmen from the micro and small enterprises and entrepreneurs. In order to do this, they must request in writing that the relevant economic agent maintain this information in its files and provide this data to the data information agency. Nevertheless, in no case will the economic agent condition service provision on the consumer or customer, businessmen from the micro and small enterprises or entrepreneurs signing the authorization referred to in this paragraph. For the public services, the payment record must reflect whether the account is still active or if the service was disconnected due to delinquency.

...

3. To include in the databases of data information agencies the name of the persons acting as guarantors. In this case, the guarantor may be included only if he was previously informed of the noncompliance on an obligation by the principal debtor and by the co-debtor, and if he was required in writing to pay, and the annotation in the credit information system must include a warning that he is a guarantor.
4. To include within the credit record databases or databanks any type of pejorative comment about consumer or customer epithet about their experience, behavior or management in complying with their credit obligations. The pejorative comments should be understood as any adjective that, subjectively, refers specifically to the consumer as person or denigrates him. For the purposes of this paragraph, the values resulting from the use of systems based on scientific models referred to in paragraphs 7 and 11 of article 28 will not be considered pejorative comments.

...

6. To include within the databases or databanks of data information agencies the telephone numbers and the domicile or residential address. However, the consumer or customer may request that his phone number, his domicile or residential address and any other data he wishes be included in the database or databank of data information agencies, as proof of his identity. These data will not be disclosed in the credit record report send to economic agents. Consumers or customers should request, in writing, that the relevant data agency include such information, so the data information agency may keep a record of the

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information. Notwithstanding the above, in no case, will the economic agent require the consumer or customer to include data discussed in this paragraph as a precondition for evaluating a credit application.

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8. For economic agents to request the consumer or customer obtain the certification discussed in paragraph 2 of article 28, issued by the data information agency, as a precondition for starting a commercial and/or credit relationship.

Article 14. Paragraph 9 is amended and paragraphs 14 and 15 are added to article 40 of Law 24 of 2002, as follows:

Article 40. Serious Violations. The following are serious violations:

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9. Accessing the database or databank of a credit record data information agency without the consumer's express consent or authorization to obtain information about this credit record.

...

14. Not including in the credit record the explanations or disclaimers presented by consumers or customers to the data information agencies, according to the terms and conditions established in paragraph 5 of article 23 of this Law.
15. Not including in the credit record of consumers or customers the additional information that they have requested that the data information agencies add according to the terms and conditions established in paragraph 8 of article 23 of this Law.

Article 15. Article 43-A was added to Law 24 of 2002 as follows:

Article 43-A. Powers. The Financial Analysis Unit for the Prevention of Money Laundering and Financing of Terrorism (UAF) is empowered to request that data information agencies provide the credit references or data of customers or consumers, according to the provisions of this Law. These data should be provided by information agents free of charge through appropriate means of communication at the disposal of this Unit.

Article 16 (transitory). Reference. For the purposes of Law 24 of 2002, once Decree Law 9 of 20 February 2006 enters into effect, the references to the Free Competition and Consumer Affairs Commission (CLICAC) will be understood to refer to the Authority for Consumer Protection and Defense of Competition.

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Article 17. Amendment and addition. This Law amends articles 4 and 5, the unnumbered paragraphs of article 13 and article 15, articles 23, 24, 25, and 26, paragraphs 1, 2, 3, and 6 of article 28, paragraphs 1 and 3 of article 29, paragraphs 1, 3, 4, and 6 of article 30 and paragraph 9 of article 40; adds a paragraph to article 3 to become paragraph 8, paragraph 4 to article 13, paragraph 7 to article 15, paragraphs 7, 8, 9, 10, and 11 to article 28, article 29-A, paragraph 8 to article 30, paragraphs 14 and 15 to article 40, and article 43-A to Law 24 of 22 May 2002.

Article 18. Entry into Force. This law shall become effective as of its enactment.

LET IT BE PUBLISHED AND ENFORCED.