



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4658

Introduced 10/21/2009, by Rep. Jack D. Franks

SYNOPSIS AS INTRODUCED:

New Act

Creates the Employee Credit Privacy Act. Prohibits employers from inquiring about or using an employee's or prospective employee's credit history as a basis for employment, recruitment, discharge, or compensation with some exceptions. Prohibits an employer from retaliating or discriminating against a person who files a complaint under the Act, participates in an investigation, proceeding, or action concerning a violation of the Act, or opposes a violation of the Act. Contains provisions concerning waiver and remedies.

LRB096 13351 KTG 28052 b

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Employee Credit Privacy Act.

6 Section 5. Definitions. As used in this Act:

7 "Employee" means an individual who receives compensation
8 for performing services for an employer under an express or
9 implied contract of hire.

10 "Employer" means an individual or entity that permits one
11 or more individuals to work or that accepts applications for
12 employment or is an agent of an employer.

13 Section 10. Employment based on credit history not
14 permitted.

15 (1) Except as provided in this Section, an employer shall
16 not do either of the following:

17 (a) Fail or refuse to hire or recruit, discharge, or
18 otherwise discriminate against an individual with respect
19 to employment, compensation, or a term, condition, or
20 privilege of employment because of the individual's credit
21 history.

22 (b) Inquire about an applicant's or employee's credit

1 history.

2 (2) The prohibition in subsection (1) of this Section does
3 not prevent an inquiry or employment action if a good credit
4 history is an established bona fide occupational requirement of
5 a particular position or a particular group of an employer's
6 employees. Information concerning an individual's credit
7 history is not a bona fide occupational requirement unless at
8 least one of the following circumstances is present:

9 (a) State or federal law requires bonding or other
10 security covering an individual holding the position.

11 (b) The duties of the position include custody of or
12 unsupervised access to cash or marketable assets valued at
13 \$1,000 or more.

14 (c) The duties of the position include signatory power
15 over business assets of \$100 or more per transaction.

16 (d) The position meets criteria in administrative
17 rules that the Department of Labor has promulgated to
18 establish the circumstances in which credit history
19 information is a bona fide occupational requirement.

20 Section 15. Retaliatory or discriminatory acts. A person
21 shall not retaliate or discriminate against a person because
22 the person has done or was about to do any of the following:

23 (a) File a complaint under this Act.

24 (b) Testify, assist, or participate in an
25 investigation, proceeding, or action concerning a

1 violation of this Act.

2 (c) Oppose a violation of this Act.

3 Section 20. Waiver. An employer shall not require an
4 applicant or employee to waive any right under this Act. An
5 agreement by an applicant or employee to waive any right under
6 this Act is invalid and unenforceable.

7 Section 25. Remedies.

8 (1) A person who is injured by a violation of this Act may
9 bring a civil action in circuit court to obtain injunctive
10 relief or damages, or both.

11 (2) The court shall award costs and reasonable attorney's
12 fees to a person who prevails as a plaintiff in an action
13 authorized under subsection (1) of this Section.