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09600HB4658ham001

LRB096 13351 DRJ 37655 a

1 AMENDMENT TO HOUSE BILL 4658

2 AMENDMENT NO. _____. Amend House Bill 4658 by replacing
3 everything after the enacting clause with the following:

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 "Credit score" means a numerical value or a categorization
8 derived from a statistical tool or modeling system used by a
9 person who makes or arranges a loan to predict the likelihood
10 of certain credit behaviors, including default (and the
11 numerical value or the categorization derived from such
12 analysis may also be referred to as a "risk predictor" or "risk
13 score"). "Credit score" does not include either of the
14 following:

15 (1) Any mortgage score or rating of an automated
16 underwriting system that considers one or more factors in

1 addition to credit information, including the loan to value
2 ratio, the amount of down payment, or the financial assets
3 of a consumer.

4 (2) Any other elements of the underwriting process or
5 underwriting decision.

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

9 "Employer" means an individual or entity that permits one
10 or more individuals to work or that accepts applications for
11 employment or is an agent of an employer. "Employer" does not,
12 however, include:

13 (1) Any bank holding company, financial holding
14 company, bank, savings bank, savings and loan association,
15 credit union, or trust company, or any subsidiary or
16 affiliate thereof, that is authorized to do business under
17 the laws of this State or of the United States.

18 (2) Any State law enforcement or investigative unit,
19 including, without limitation, any such unit within the
20 Office of any Executive Inspector General, the Department
21 of State Police, the Department of Corrections, the
22 Department of Juvenile Justice, or the Department of
23 Natural Resources.

24 (3) Any State or local government agency which
25 otherwise requires use of the employee's or applicant's
26 credit score.

1 Section 10. Employment based on credit score not permitted.

2 (a) Except as provided in this Section, an employer shall
3 not do either of the following:

4 (1) Fail or refuse to hire or recruit, discharge, or
5 otherwise discriminate against an individual with respect
6 to employment, compensation, or a term, condition, or
7 privilege of employment because of the individual's credit
8 score.

9 (2) Inquire about an applicant's or employee's credit
10 score.

11 (b) The prohibition in subsection (a) of this Section does
12 not prevent an inquiry or employment action if a good credit
13 score is an established bona fide occupational requirement of a
14 particular position or a particular group of an employer's
15 employees. Information concerning an individual's credit score
16 is not a bona fide occupational requirement unless at least one
17 of the following circumstances is present:

18 (1) State or federal law requires bonding or other
19 security covering an individual holding the position.

20 (2) The duties of the position include custody of or
21 unsupervised access to cash or marketable assets valued at
22 \$1,000 or more.

23 (3) The duties of the position include signatory power
24 over business assets of \$100 or more per transaction.

25 (4) The position meets criteria in administrative

1 rules that the Department of Labor has promulgated to
2 establish the circumstances in which credit score
3 information is a bona fide occupational requirement.

4 (5) The employee's or applicant's credit score is
5 otherwise required by federal or State law.

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

9 (1) File a complaint under this Act.

10 (2) Testify, assist, or participate in an
11 investigation, proceeding, or action concerning a
12 violation of this Act.

13 (3) Oppose a violation of this Act.

14 Section 20. Waiver. An employer shall not require an
15 applicant or employee to waive any right under this Act. An
16 agreement by an applicant or employee to waive any right under
17 this Act is invalid and unenforceable.

18 Section 25. Remedies.

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

22 (b) The court shall award costs and reasonable attorney's
23 fees to a person who prevails as a plaintiff in an action

1 authorized under subsection (a) of this Section."