



Sen. Don Harmon

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09600HB4658sam001

LRB096 13351 KTG 40338 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 history" means an individual's past borrowing and
8 repaying behavior, including paying bills on time and managing
9 debt and other financial obligations.

10 "Credit report" means any written or other communication of
11 any information by a consumer reporting agency that bears on a
12 consumer's creditworthiness, credit standing, credit capacity,
13 or credit history.

14 "Employee" means an individual who receives compensation
15 for performing services for an employer under an express or
16 implied contract of hire.

1 "Employer" means an individual or entity that permits one
2 or more individuals to work or that accepts applications for
3 employment or is an agent of an employer. "Employer" does not,
4 however, include:

5 (1) Any bank holding company, financial holding
6 company, bank, savings bank, savings and loan association,
7 credit union, or trust company, or any subsidiary or
8 affiliate thereof, that is authorized to do business under
9 the laws of this State or of the United States.

10 (2) Any company authorized to engage in any kind of
11 insurance or surety business pursuant to the Illinois
12 Insurance Code, including any employee, agent, or employee
13 of an agent acting on behalf of a company engaged in the
14 insurance or surety business.

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

21 (4) Any State or local government agency which
22 otherwise requires use of the employee's or applicant's
23 credit history or credit report.

24 (5) Any entity that is defined as a debt collector
25 under federal or State statute.

26 "Financial information" means information on the overall

1 financial direction of an organization, including, but not
2 limited to, company taxes or profit and loss reports.

3 "Marketable assets" means company property that is
4 specially safeguarded from the public and to whom access is
5 only entrusted to managers and select other employees. For
6 purposes of this Act, marketable assets do not include the
7 fixtures, furnishings, or equipment of an employer.

8 "Personal or confidential information" means sensitive
9 information that a customer or client of the employing
10 organization gives explicit authorization for the organization
11 to obtain, process, and keep; that the employer entrusts only
12 to managers and a select few employees; or that is stored in
13 secure repositories not accessible by the public or low-level
14 employees.

15 "State or national security information" means information
16 only offered to select employees because it may jeopardize the
17 security of the State or the nation if it were entrusted to the
18 general public.

19 "Trade secrets" means sensitive information regarding a
20 company's overall strategy or business plans. This does not
21 include general proprietary company information such as
22 handbooks, policies, or low-level strategies.

23 Section 10. Employment based on credit history or credit
24 report not permitted.

25 (a) Except as provided in this Section, an employer shall

1 not do any of the following:

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

7 (2) Inquire about an applicant's or employee's credit
8 history.

9 (3) Order or obtain an applicant's or employee's credit
10 report from a consumer reporting agency.

11 (b) The prohibition in subsection (a) of this Section does
12 not prevent an inquiry or employment action if a satisfactory
13 credit history is an established bona fide occupational
14 requirement of a particular position or a particular group of
15 an employer's employees. A satisfactory credit history is not a
16 bona fide occupational requirement unless at least one of the
17 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 \$2,500 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 is a managerial position which
26 involves setting the direction or control of the business.

1 (5) The position involves access to personal or
2 confidential information, financial information, trade
3 secrets, or State or national security information.

4 (6) The position meets criteria in administrative
5 rules, if any, that the U.S. Department of Labor or the
6 Illinois Department of Labor has promulgated to establish
7 the circumstances in which a credit history is a bona fide
8 occupational requirement.

9 (7) The employee's or applicant's credit history is
10 otherwise required by or exempt under federal or State law.

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

14 (1) File a complaint under this Act.

15 (2) Testify, assist, or participate in an
16 investigation, proceeding, or action concerning a
17 violation of this Act.

18 (3) Oppose a violation of this Act.

19 Section 20. Waiver. An employer shall not require an
20 applicant or employee to waive any right under this Act. An
21 agreement by an applicant or employee to waive any right under
22 this Act is invalid and unenforceable.

23 Section 25. Remedies.

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

4 (b) The court shall award costs and reasonable attorney's
5 fees to a person who prevails as a plaintiff in an action
6 authorized under subsection (a) of this Section.

7 Section 30. Fair Credit Reporting Act. Nothing in this Act
8 shall prohibit employers from conducting a thorough background
9 investigation, which may include obtaining a report without
10 information on credit history or an investigative report
11 without information on credit history, or both, as permitted
12 under the Fair Credit Reporting Act. This information shall be
13 used for employment purposes only.".