

AN ACT concerning employment.

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

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

Section 5. Definitions. As used in this Act:

"Credit history" means an individual's past borrowing and repaying behavior, including paying bills on time and managing debt and other financial obligations.

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

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

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

- (1) Any bank holding company, financial holding company, bank, savings bank, savings and loan association, credit union, or trust company, or any subsidiary or

affiliate thereof, that is authorized to do business under the laws of this State or of the United States.

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

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

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

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

"Financial information" means non-public information on the overall financial direction of an organization, including, but not limited to, company taxes or profit and loss reports.

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

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

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

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

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

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

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

(2) Inquire about an applicant's or employee's credit

history.

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

(b) The prohibition in subsection (a) of this Section does not prevent an inquiry or employment action if a satisfactory credit history is an established bona fide occupational requirement of a particular position or a particular group of an employer's employees. A satisfactory credit history is not a bona fide occupational requirement unless at least one of the following circumstances is present:

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

(2) The duties of the position include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more.

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

(4) The position is a managerial position which involves setting the direction or control of the business.

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

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

occupational requirement.

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

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

(1) File a complaint under this Act.

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

(3) Oppose a violation of this Act.

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

Section 25. Remedies.

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

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

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