

SENATE BILL No. 461

April 26, 2007, Introduced by Senators SCOTT, CLARKE, JACOBS, CLARK-COLEMAN, BASHAM, HUNTER, THOMAS, SCHAUER, BARCIA, WHITMER, CHERRY, BRATER, ANDERSON, PRUSI, SWITALSKI, GLEASON and OLSHOVE and referred to the Committee on Commerce and Tourism.

A bill to prohibit employers from inquiring about or making employment decisions based upon an individual's credit history; to prohibit retaliation; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "employee credit privacy act".

3 Sec. 3. As used in this act:

4 (a) "Employee" means an individual who receives compensation
5 for performing services for an employer under an express or implied
6 contract of hire.

7 (b) "Employer" means an individual or entity that permits 1 or
8 more individuals to work, or that accepts applications for
9 employment, or is an agent of an employer.

10 Sec. 5. (1) Except as provided in this section, an employer

1 shall not do either of the following:

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

6 (b) Inquire about an applicant for employment's or employee's
7 credit history.

8 (2) The prohibition in subsection (1) does not prevent an
9 inquiry or employment action if a good credit history is an
10 established bona fide occupational requirement of a particular
11 position or a particular group of an employer's employees.
12 Information concerning an individual's credit history is not a bona
13 fide occupational requirement unless at least 1 of the following
14 circumstances is present:

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

17 (b) The duties of the position include custody of or
18 unsupervised access to cash or marketable assets valued at
19 \$1,000.00 or more.

20 (c) The duties of the position include signatory power over
21 business assets of \$100.00 or more per transaction.

22 (d) The position meets criteria in administrative rules that
23 the department of labor and economic growth has promulgated to
24 establish the circumstances in which credit history information is
25 a bona fide occupational requirement.

26 Sec. 7. A person shall not retaliate or discriminate against a
27 person because the person has done or was about to do any of the

1 following:

2 (a) File a complaint under this act.

3 (b) Testify, assist, or participate in an investigation,
4 proceeding, or action concerning a violation of this act.

5 (c) Oppose a violation of this act.

6 Sec. 9. An employer shall not require an applicant or employee
7 to waive any right under this act. An agreement by an applicant or
8 employee to waive any right under this act is invalid and
9 unenforceable.

10 Sec. 11. (1) A person who is injured by a violation of this
11 act may bring a civil suit in a court of competent jurisdiction to
12 obtain injunctive relief or damages, or both.

13 (2) The court shall award costs and reasonable attorney fees
14 to a person who prevails as a plaintiff in a suit authorized under
15 subsection (1).