

Legislative Analysis



PROHIBIT USE OF CREDIT HISTORY IN RECRUITING AND HIRING PROCESS

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House Bill 4528

Sponsor: Rep. Jon Switalski

Committee: Labor

Complete to 3-16-10

A SUMMARY OF HOUSE BILL 4528 AS INTRODUCED 3-10-09

House Bill 4528 would create a new act to be known as the Job Applicant Credit Privacy Act that would prohibit employers from making certain recruiting or hiring decisions based upon an individual's credit history.

More specifically, the bill would prohibit an employer from failing or refusing either to hire or recruit an individual because of the individual's credit history; and from inquiring about a job applicant's or potential job applicant's credit history.

Under the bill, the prohibition would *not* apply to prevent an inquiry or employment action if a good credit history were an established *bona fide* occupation requirement of a particular position or employment classification. Further, good credit history would be considered a *bona fide* job qualification for any employee of any of the following: (1) a state or nationally chartered bank, bank holding company, or its affiliate or subsidiary; (2) a state or federally chartered savings and loan, savings bank, or credit union or credit union affiliate or subsidiary; (3) an individual or firm licensed or registered under article 7 of the Occupational Code [which concerns public accounting], and (4) a casino.

The bill prohibits a person from retaliating or discriminating against an individual because the individual has done, or was about to do, any of the following: (a) filed a complaint under this act; (b) testified, assisted, or participated in an investigation, proceeding, or action concerning a violation of this act; or (c) opposed a violation of this act.

The bill also prohibits an employer from requiring an individual to waive or limit any protection granted under this act as a condition of applying for or receiving an offer of employment. Further, the bill specifies that an agreement to waive any right or protection under the act would be contrary to public policy and would be void and unenforceable.

Finally, the bill specifies that an individual injured by a violation of the act could bring a civil suit to obtain damages or injunctive relief, or both. And under the bill, the court would award costs and reasonable attorney fees to an individual who prevailed as a plaintiff in a suit authorized under this section.

The bill defines "credit history" to mean information that is generally used in evaluating an individual's creditworthiness, credit standing, or credit capacity, such as a debt payment record or a credit score compiled by a consumer credit agency. "Employer" is defined to mean an individual or entity, or the agent of an individual or entity that permits one or more individuals to work or accepts applications for employment.

FISCAL IMPACT:

The bill does not appear to have a fiscal impact on state or local government.

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