

2022 -- H 7509

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- CONSUMER CREDIT HISTORY
EMPLOYMENT PROTECTION ACT -- DECEPTIVE TRADE PRACTICES

Introduced By: Representatives Morales, Williams, Bennett, Vella-Wilkinson, Felix,
Alzate, Caldwell, Craven, Batista, and Ranglin-Vassell

Date Introduced: February 16, 2022

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 28 of the General Laws entitled "LABOR AND LABOR RELATIONS"

2 is hereby amended by adding thereto the following chapter:

3 CHAPTER 6.15

4 CONSUMER CREDIT HISTORY EMPLOYMENT PROTECTION ACT

5 **28-6.15-1. Prohibition of the use of credit history in hiring process.**

6 Employers are prohibited from asking questions about a job applicant's financial past

7 during job interviews or pose questions about the applicant's credit history on its job application.

8 Employers shall not seek or use credit checks while making a hiring decision.

9 **28-6.15-2. Exceptions.**

10 (a) The prohibitions contained in § 28-6.15-1 shall not apply to employment which:

11 (1) Requires a credit check pursuant to the provisions of federal or state law;

12 (2) Requires a national security clearance;

13 (3) Has signatory authority over third-party funds or assets worth ten thousand dollars

14 (\$10,000) or more;

15 (4) Are non-clerical positions with regular access to trade secrets, intelligence information

16 or national security information; or

17 (5) Are positions with regular duties allowing the employee to modify digital security

18 systems, which are established to prevent the unauthorized use of the employer's or client's

1 networks or databases.

2 (b) If the available position falls within one of the exceptions listed in subsection (a) of this
3 section, prior to conducting a credit check on the applicant, an employer shall:

4 (1) Provide notice to the job applicant that the employer shall seek their credit report; and

5 (2) Obtain written authorization/consent from that job applicant authorizing the credit
6 check.

7 **28-6.15-3. Administrative investigations and penalties.**

8 (a) Whenever a job applicant alleges a violation of this chapter, the applicant may file a
9 complaint with the department of labor and training and describe in detail the nature and basis of
10 their claim, along with providing any supporting written documentation.

11 (b) Pursuant to an adjudicatory proceeding, the department shall investigate the alleged
12 violations, and may impose an administrative penalty of up to ten thousand dollars (\$10,000) for
13 each violation. During its penalty determination phase, the department shall be guided by the
14 following factors:

15 (1) The severity of the violation;

16 (2) The existence of prior violations;

17 (3) The employer's size, considering both the total number of employees and its revenue;
18 and

19 (4) The employer's actual or constructive knowledge of this chapter.

20 (c) The assessed penalty shall be equally divided between the department and the
21 complainant.

22 **28-6.15-4. Civil action.**

23 (a) Any employee or former employee, or any organization representing such an employee
24 or former employee aggrieved by a violation of this chapter may, within three (3) years after the
25 occurrence of the alleged violation, file a civil action in any court of competent jurisdiction to
26 obtain relief. An aggrieved party shall be entitled to recover up to ten thousand dollars (\$10,000),
27 in liquid damages, as well as reasonable attorneys' fees and court costs.

28 (b) In assessing what damages to award, a court shall consider the factors enumerated in §
29 28-6.15-3(b).

30 (c) A civil action filed under this section may be instituted instead of, but not in addition
31 to, the director of labor and training enforcement procedures authorized by § 28-6.15-3.

32 SECTION 2. Section 6-13.1-21 of the General Laws in Chapter 6-13.1 entitled "Deceptive
33 Trade Practices" is hereby amended to read as follows:

34 **6-13.1-21. Credit reports -- Notice to individual -- Requirements of users of credit**

1 **reports.**

2 (a) No person or business shall request a credit report in connection with a consumer's
3 application for credit, ~~employment~~, or insurance unless a consumer is first informed that a credit
4 report may be requested in connection with the application.

5 (b) Whenever credit or insurance for personal, family, or household purposes, ~~or~~
6 ~~employment~~ involving a consumer is denied or the charge for that credit or insurance is increased
7 either wholly or partly because of information contained in a credit report from a credit bureau, the
8 user of the credit report shall advise the consumer against whom the adverse action has been taken
9 and supply the name and address of the credit bureau making the report.

10 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- CONSUMER CREDIT HISTORY
EMPLOYMENT PROTECTION ACT -- DECEPTIVE TRADE PRACTICES

1 This act would prohibit employers from seeking or using credit reports in making hiring
2 decisions concerning prospective employees, asking questions about the applicant's financial past
3 during its interviews, or including credit history questions within their job applications. It would
4 authorize the department of labor and training to impose administrative fines against the offending
5 employer. Finally, it would also allow the aggrieved employee to seek civil financial damages and
6 attorneys' fees.

7 This act would take effect upon passage.

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