

HOUSE BILL No. 4363

March 2, 2011, Introduced by Reps. Switalski, Liss, Barnett, Tlaib, Segal, Oakes, Kandrevas, Stanley, Dillon, Durhal, Ananich, Stapleton, Lipton, Meadows and Brown and referred to the Committee on Commerce.

A bill to prohibit employers from making certain recruiting or hiring decisions based upon an individual's credit history; to prohibit employers from making certain inquiries; to prohibit certain waivers; 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 "job
2 applicant credit privacy act".

3 Sec. 3. As used in this act:

4 (a) "Credit history" means financial information that is
5 generally used in evaluating an individual's creditworthiness,
6 credit standing, or credit capacity, such as a debt payment record
7 or a credit score compiled by a consumer credit agency.

8 (b) "Employer" means an individual or entity, or the agent of
9 an individual or entity, that permits 1 or more individuals to work

1 or accepts applications for employment.

2 Sec. 5. (1) Except as provided in this section, an employer
3 shall not do either of the following:

4 (a) Fail or refuse to hire or to recruit an individual for
5 employment because of the individual's credit history.

6 (b) Inquire about a job applicant's or potential job
7 applicant's credit history.

8 (2) The prohibition in subsection (1) does not apply to
9 prevent an inquiry or employment action if a good credit history is
10 an established bona fide occupational requirement of the particular
11 position or employment classification. Good credit history is
12 presumed to be a bona fide job qualification for any of the
13 following:

14 (a) An employee of a state or nationally chartered bank, bank
15 holding company, or its affiliate or subsidiary.

16 (b) An employee of a state or federally chartered savings and
17 loan, savings bank, or credit union or credit union affiliate or
18 subsidiary.

19 (c) An employee of an individual or firm licensed or
20 registered under article 7 of the occupational code, 1980 PA 299,
21 MCL 339.720 to 339.736.

22 (d) An employee of a casino.

23 (e) An employee of an insurer that is required to operate
24 under a certificate of authority under section 402 of the insurance
25 code of 1956, 1956 PA 218, MCL 500.402, if the employee's duties
26 include either of the following:

27 (i) Working in a fiduciary capacity and engaging in life

1 insurance transactions.

2 (ii) A requirement to be licensed under federal securities law
3 or under the uniform securities act (2002), 2008 PA 551, MCL
4 451.2101 to 451.2703.

5 Sec. 7. A person shall not retaliate or discriminate against
6 an individual because the individual does or is about to do any of
7 the following:

8 (a) File a complaint under this act.

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

11 (c) Oppose a violation of this act.

12 Sec. 9. An employer shall not require an individual to waive
13 or limit any protection granted under this act as a condition of
14 applying for or receiving an offer of employment. An agreement to
15 waive any right or protection under this act is contrary to public
16 policy and is void and unenforceable.

17 Sec. 11. (1) An individual who is injured by a violation of
18 this act may bring a civil suit to obtain damages or injunctive
19 relief, or both.

20 (2) The court shall award costs and reasonable attorney fees
21 to an individual who prevails as a plaintiff in a suit authorized
22 under this section.