

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2207 Session of 2024

INTRODUCED BY BOYD, GIRAL, KHAN, SAMUELSON, McANDREW, SCHLOSSBERG, SMITH-WADE-EL, McNEILL, NEILSON, HOHENSTEIN, HILL-EVANS, HOWARD, CERRATO, SANCHEZ, WARREN, CONKLIN, WAXMAN, DALEY, DELLOSO, SCOTT, YOUNG AND GREEN, APRIL 11, 2024

AS REPORTED FROM COMMITTEE ON LABOR AND INDUSTRY, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 17, 2024

AN ACT

1 Prohibiting employers from conducting credit check histories on
2 employees and prospective employees JOB APPLICANTS; <--
3 establishing the Employment Credit Check Prohibition
4 Enforcement Account; imposing duties on the Department of
5 Labor and Industry and the Secretary of Labor and Industry;
6 prescribing penalties; and establishing a private right of
7 action.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Short title.

11 This act shall be known and may be cited as the Credit Check
12 in Employment Prohibition Act.

13 Section 2. Definitions.

14 The following words and phrases when used in this act shall
15 have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Account." The Employment Credit Check Prohibition
18 Enforcement Account established under this act.

1 "Adverse employment action." A refusal to hire or a  
2 discharge, demotion, suspension, retaliation or unlawful  
3 discrimination against an employee or job applicant.

4 "Credit check history." A written, oral or other  
5 communication of information by a consumer reporting agency that  
6 bears on a consumer's creditworthiness, credit standing, credit  
7 capacity, character, general reputation, personal  
8 characteristics or mode of living.

9 "Department." The Department of Labor and Industry of the  
10 Commonwealth.

11 "Employ." To engage, suffer or permit to work.

12 "Employee." An individual who:

13 (1) is employed by an employer;

14 (2) is not free from the control and direction of the  
15 employer in connection with the performance of the work;

16 (3) does not perform work outside the usual course of  
17 the employer's business; and

18 (4) is not customarily engaged in an independently  
19 established trade, occupation or business of the same nature  
20 as that involved in the work performed.

21 "Employer." The term includes the Commonwealth, its  
22 political subdivisions and their instrumentalities or any  
23 person, association, entity, organization, partnership, business  
24 trust, limited liability company or corporation that directly or  
25 indirectly, or through an agent or any other person, employs or  
26 exercises control over the wages, hours or working conditions of  
27 an employee.

28 "Employment purpose." Evaluating an employee or job  
29 applicant for employment, hiring, promotion, demotion,  
30 reassignment, adjustment in compensation, adjustment in benefits

1 or retention as an employee.

2 "JOB APPLICANT." AN INDIVIDUAL WHO IS APPLYING WITH AN <--  
3 EMPLOYER TO BECOME AN EMPLOYEE.

4 "Secretary." The Secretary of Labor and Industry of the  
5 Commonwealth.

6 Section 3. Prohibiting credit checks in employment.

7 (a) General rule.--Except as provided in subsection (b), an  
8 employer may not obtain or use information contained in a credit  
9 check history for an employment purpose, ~~including refusal to~~ <--  
10 ~~hire, discharge, demote, suspend, retaliate or otherwise~~  
11 ~~discriminate against an employee with regard to promotion,~~  
12 ~~compensation or the terms, conditions or privileges of~~  
13 ~~employment.~~ OR ADVERSE EMPLOYMENT ACTION. <--

14 (b) Exception.--Subsection (a) shall not apply to:

15 (1) An employer that is a federally insured bank,  
16 savings bank, savings and loan association or credit union.

17 (2) An employer that is required by Federal, State or  
18 local law or ordinance to use an individual's credit check  
19 history for an employment purpose.

20 (3) The obtainment or use of information in the credit  
21 check history of an employee OR JOB APPLICANT when the <--  
22 information in the credit check history is substantially job-  
23 related and the employer's reason for the use of the  
24 information is disclosed in writing to the employee OR JOB <--  
25 APPLICANT prior to the employer obtaining a credit check  
26 history. The employer shall obtain consent from the employee  
27 OR JOB APPLICANT to obtain a credit check history. <--

28 (c) Use of credit check history information.--

29 (1) An employer that is identified under subsection (b)  
30 may not use an employee's OR JOB APPLICANT'S credit check <--

1 history as the sole factor in a decision regarding  
2 employment, compensation or a term, condition or privilege of  
3 employment.

4 (2) If the employer that is identified under subsection  
5 (b) seeks to obtain or act upon an employee's OR JOB <--  
6 APPLICANT'S credit check history, the employer shall:

7 (i) Disclose the reason for the use of the  
8 information to the employee OR JOB APPLICANT. <--

9 (ii) Obtain the employee's OR JOB APPLICANT'S <--  
10 written consent each time the employer seeks to obtain  
11 the employee's OR JOB APPLICANT'S credit check history. <--

12 (iii) Not require the employee OR JOB APPLICANT to <--  
13 pay for any cost associated with obtaining the employee's  
14 OR JOB APPLICANT'S credit check history. <--

15 (iv) If an adverse employment action is taken based  
16 in whole or in part upon the credit check history,  
17 disclose the reason for the action in writing.

18 (3) The employer shall maintain the confidentiality of  
19 the information contained in the employee's OR JOB <--  
20 APPLICANT'S credit check history and, if the employment is  
21 terminated or the job applicant is not hired, provide the  
22 employee OR JOB APPLICANT with the credit check history or <--  
23 have the credit check history destroyed in a secure manner  
24 that ensures the confidentiality of the information in the  
25 credit check history.

26 Section 4. Penalties.

27 (a) Duty of department.--The department shall establish a  
28 system for adjudicating complaints received under this act. The  
29 system shall be promulgated by the department through  
30 regulations.

1 (b) Right to file complaint.--An employee OR JOB APPLICANT <--  
2 may file a complaint with the department, on a form and in a  
3 manner prescribed by the department, for an alleged violation of  
4 this act.

5 (c) Administrative penalty.--An employer that is found in  
6 violation of this act shall pay an administrative penalty of  
7 \$500 for each violation.

8 (d) Restricted account established.--The penalties collected  
9 under this act shall be paid to the department and deposited  
10 into a restricted account within the General Fund which shall be  
11 known as the Employment Credit Check Prohibition Enforcement  
12 Account. The money in the account is appropriated on a  
13 continuing basis to the department for the purpose of  
14 administering and enforcing this act.

15 Section 5. Enforcement powers of secretary.

16 The secretary may take any of the following actions under  
17 this act:

18 (1) Enter and inspect a worksite or place of business at  
19 any reasonable time to examine and inspect records that  
20 relate to compliance with this act.

21 (2) Subpoena witnesses, administer oaths, examine  
22 witnesses and copy or compel the production of records,  
23 contracts and other documents that are necessary and  
24 appropriate to the enforcement of this act.

25 (3) Petition the Commonwealth Court to enforce any  
26 subpoena or order issued by the department under this act.

27 Section 6. Private right of action.

28 (a) General rule.--An employee OR JOB APPLICANT who received <--  
29 an adverse employment ~~decision~~ ACTION based on a credit check <--  
30 history in violation of this act, or has been discharged, been

1 threatened or has otherwise suffered retaliation, discrimination  
2 or other adverse action as a result of participating in an  
3 investigation or reporting a violation of this act, may bring an  
4 action in a court of common pleas in accordance with established  
5 civil procedures of this Commonwealth.

6 (b) Limitation.--An action under this section must be  
7 brought within three years from the date that the employee OR <--  
8 JOB APPLICANT knew of the violation, discharge, threat,  
9 retaliation or discrimination.

10 (c) Relief.--~~If an employee prevails in an action brought~~ <--  
11 ~~under this section, the employee~~ AN EMPLOYEE OR JOB APPLICANT <--  
12 WHO PREVAILS IN AN ACTION BROUGHT UNDER THIS SECTION shall be  
13 entitled to the following relief:

14 (1) Reinstatement of the employee without a loss in  
15 seniority status, if applicable.

16 (2) Reasonable attorney fees and costs of the action.

17 (3) Other legal and equitable relief the court deems  
18 appropriate.

19 Section 7. Construction.

20 Nothing in this act shall be construed to supersede or  
21 preempt a local ordinance or regulation that prohibits an  
22 employer from obtaining a credit check history or similar credit  
23 worthiness report of an employee or ~~prospective employee~~ JOB <--  
24 APPLICANT consistent with the provisions of this act.

25 Section 8. Effective date.

26 This act shall take effect in one year.