

2012 -- S 2727

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- FAIR EMPLOYMENT PRACTICES

Introduced By: Senators Pichardo, Ruggerio, Goodwin, Metts, and Perry

Date Introduced: March 06, 2012

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Chapter 28-5 of the General Laws entitled "Fair Employment Practices" is  
2 hereby amended by adding thereto the following section:

3           **28-5-7.4. Job applicant's credit history.** – (a) This section does not apply to an  
4 employer that is:

5           (1) Required to inquire into an applicant's or employee's credit report or credit history  
6 under federal law or any provision of state law for the purpose of employment;

7           (2) A financial institution that accepts deposits that are insured by a federal agency, or an  
8 affiliate or subsidiary of the financial institution;

9           (3) A credit union the share guaranty corporation that is approved by the banking division  
10 of the department of business regulation; or

11           (4) An entity, or an affiliate of the entity, that is registered as an investment advisor with  
12 the United States Securities and Exchange Commission.

13           (b) Except as provided in subsection (c) of this section, an employer may not use an  
14 applicant's or employee's credit report or credit history in determining whether to:

15           (1) Deny employment to the applicant;

16           (2) Discharge the employee; or

17           (3) Determine compensation or the terms, conditions, or privileges of employment.

18           (c)(1) An employer may request or use an applicant's or employee's credit report or  
19 credit history if:

1           (i) The applicant has received an offer of employment; and  
2           (ii) The credit report or credit history will be used for a purpose other than a purpose  
3 prohibited by subsection (b) of this section; or  
4           (iii) The employer has a bona fide purpose for requesting or using information in the  
5 credit report or credit history that is:  
6           (A) Substantially job-related; and  
7           (B) Disclosed in writing to the employee or applicant.  
8           (2) For the purposes of this subsection, a position for which an employer has a bona fide  
9 purpose that is substantially job-related for requesting or using information in a credit report or  
10 credit history includes a position that:  
11           (i) Is managerial and involves setting the direction or control of a business, or a  
12 department, division, unit, or agency of a business;  
13           (ii) Involves access to personal information as defined in subdivision 6-52.1(3) of a  
14 customer, employee, or employer, except for personal information customarily provided in a  
15 retail transaction;  
16           (iii) Involves a fiduciary responsibility to the employer, including the authority to issue  
17 payments, collect debts, transfer money, or enter into contracts;  
18           (iv) Is provided an expense account or a corporate debit or credit card; or  
19           (v) Has access to:  
20           (A) Information, including a formula, pattern, compilation, program, device, method,  
21 technique, or process, that:  
22           (I) A derives independent economic value, actual or potential, from not being generally  
23 known to, and not being readily ascertainable by proper means by, other persons who can obtain  
24 economic value from the disclosure or use of the information; and  
25           (II) Is the subject of efforts that are reasonable under the circumstances to maintain its  
26 secrecy; or  
27           (B) Other confidential business information.  
28           (d)(1) If an employer violates subsection (b) of this section, the applicant or employee  
29 may file a written complaint with the Rhode Island commission for human rights, hereinafter  
30 referred to as the “commission”.  
31           (2) If the commission receives a written complaint under subdivision (1) of this  
32 subsection, the commission shall investigate the matter promptly.  
33           (3) If the commission determines that the employer has willfully or negligently violated  
34 subsection (b) or (c) of this section, the commission shall try to resolve the matter informally.

- 1           (4) If the commission is unable to resolve the matter informally, the commission may:
- 2           (i) Assess a civil penalty of:
- 3           (A) Up to five hundred dollars (\$500) for an initial violation of subsection (b) or (c) of  
4 this section; or
- 5           (B) Up to two thousand five hundred dollars (\$2,500) for a repeat violation of subsection  
6 (b) or (c) of this section; and
- 7           (C) Send an order to pay the civil penalty to the complainant and the employer.
- 8           (5) Within thirty (30) days after an employer receives an order to pay a civil penalty the  
9 employer may request a de novo administrative hearing pursuant to this chapter.
- 10          (i) On receipt of a request for a hearing, the commission shall schedule a hearing.
- 11          (ii) If a hearing is not requested, the order to pay a civil penalty becomes a final order of  
12 the commission.
- 13          (e) This section may not be construed to prohibit an employer from performing an  
14 employment-related background investigation that:
- 15          (1) Includes use of a consumer report or investigative consumer report;
- 16          (2) Is authorized under the federal fair credit reporting act; and
- 17          (3) Does not involve investigation of credit information.

18          SECTION 2. This act shall take effect on December 1, 2012.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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RELATING TO LABOR AND LABOR RELATIONS -- FAIR EMPLOYMENT PRACTICES

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1           This act would prevent a prospective employer from using or requesting a job applicant's  
2 credit report history unless certain conditions or circumstances are met.

3           This act would take effect on December 1, 2012.

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