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PROPOSED AMENDMENTS TO HB-4528

EMPLOYER USE OF CONSUMER CREDIT REPORTS

1. An employer shall not use a consumer credit report for employment purposes unless any of the following criteria are satisfied:

(A) The information contained in the report is needed to assess a person for a bona fide occupational qualification, meaning that the position of the person for whom the report is sought has access to an employer's or customer's tangible or intangible assets, including but not limited to, money or other financial assets, customer account records, or confidential propriety information such as trade secrets.

(B) The position of the person for whom the report is sought is any of the following:
(1) The position is highly compensated or a managerial or supervisory position which requires the exercise of judgment, control, or direction of the employer's business;
(2) A position that requires a government authorized security clearance;
(3) A position in any court, law enforcement or correctional agency;
(4) A position of public trust in a city, county, municipal or tribal government agency;
(5) A position in any financial institution that is subject to compliance oversight by a state or federal regulatory agency;
(6) An individual licensed to practice in any jurisdiction as an attorney or certified public accountant.
(7) A position for which the information contained in the report is required to be disclosed or to be obtained by the employer by federal, state or tribal law.

2. For the purposes of this section:

(A) "Highly compensated means compensation of $100,000 or more per year;

(B) "Managerial employee" means a corporate officer or individual who formulates and effectuates management policies by expressing and making operative the decisions of the individual's employer.

(C) "Supervisory employee" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

3. An employer's reasons for the use of such information shall be disclosed to the employee or prospective employee in writing.

4. Inquiry into and consideration of a prospective employee's credit history or credit report may take place only after the prospective employee has received a conditional offer of employment, which may be withdrawn if information in the credit history or credit report is directly related to a bona fide occupational qualification.

5. In using a consumer report for employment purposes, before taking any adverse action based in whole or part on the report, a person shall provide to the consumer to whom the report relates:
(A) The name, address, and telephone number of the consumer reporting agency providing the report;
(B) a description of the consumer's rights under federal and state law pertaining to consumer reports obtained for employment purposes; and
(C) a reasonable opportunity to respond to any information in the report that is disputed by the consumer.