

111TH CONGRESS
1ST SESSION

H. R. 3149

To amend the Fair Credit Reporting Act to prohibit the use of consumer credit checks against prospective and current employees for the purposes of making adverse employment decisions.

IN THE HOUSE OF REPRESENTATIVES

JULY 9, 2009

Mr. COHEN (for himself, Mr. GUTIERREZ, Mr. MEEK of Florida, Ms. EDWARDS of Maryland, Mr. CONYERS, Mr. AL GREEN of Texas, Ms. WATERS, Ms. CLARKE, Mr. JOHNSON of Georgia, Ms. KILPATRICK of Michigan, Ms. WATSON, Ms. MOORE of Wisconsin, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DAVIS of Illinois, Mr. ELLISON, Mr. MCGOVERN, Mr. GRIJALVA, Mr. TOWNS, Ms. VELÁZQUEZ, Mr. THOMPSON of Mississippi, Mr. JACKSON of Illinois, Ms. SUTTON, Mr. LEWIS of Georgia, Ms. JACKSON-LEE of Texas, Mr. HASTINGS of Florida, Mr. RUSH, and Mr. MEEKS of New York) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Fair Credit Reporting Act to prohibit the use of consumer credit checks against prospective and current employees for the purposes of making adverse employment decisions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Equal Employment
3 for All Act”.

4 **SEC. 2. USE OF CREDIT CHECKS PROHIBITED FOR EMPLOY-**
5 **MENT PURPOSES.**

6 (a) PROHIBITION FOR EMPLOYMENT AND ADVERSE
7 ACTION.—Section 604 of the Fair Credit Reporting Act
8 (15 U.S.C. 1681b) is amended—

9 (1) in subsection (a)(3)(B), by inserting “within
10 the restrictions set forth in subsection (b)” after
11 “purposes”;

12 (2) by redesignating subsections (b) through (g)
13 as subsections (c) through (h), respectively; and

14 (3) by inserting after subsection (a) the fol-
15 lowing new subsection:

16 “(b) USE OF CERTAIN CONSUMER REPORT PROHIB-
17 ITED FOR EMPLOYMENT PURPOSES OR ADVERSE AC-
18 TION.—

19 “(1) GENERAL PROHIBITION.—Except as pro-
20 vided in paragraph (3), a person, including a pro-
21 spective employer or current employer, may not use
22 a consumer report or investigative consumer report,
23 or cause a consumer report or investigative con-
24 sumer report to be procured, with respect to any
25 consumer where any information contained in the re-

1 port bears on the consumer’s creditworthiness, credit
2 standing, or credit capacity—

3 “(A) for employment purposes; or

4 “(B) for making an adverse action, as de-
5 scribed in section 603(k)(1)(B)(ii).

6 “(2) SOURCE OF CONSUMER REPORT IRRELE-
7 VANT.—The prohibition described in paragraph (1)
8 shall apply even if the consumer consents or other-
9 wise authorizes the procurement or use of a con-
10 sumer report for employment purposes or in connec-
11 tion with an adverse action with respect to such con-
12 sumer.

13 “(3) EXCEPTIONS.—Notwithstanding the prohi-
14 bitions set forth in this subsection, and consistent
15 with the other sections of this Act, an employer may
16 use a consumer report with respect to a consumer
17 in the following situations:

18 “(A) When the consumer applies for, or
19 currently holds, employment that requires na-
20 tional security or FDIC clearance.

21 “(B) When the consumer applies for, or
22 currently holds, employment with a State or
23 local government agency which otherwise re-
24 quires use of a consumer report.

1 “(C) When the consumer applies for, or
2 currently holds, a supervisory, managerial, pro-
3 fessional, or executive position at a financial in-
4 stitution.

5 “(D) When otherwise required by law.

6 “(4) EFFECT ON DISCLOSURE AND NOTIFICA-
7 TION REQUIREMENTS.—The exceptions described in
8 paragraph (3) shall have no effect upon the other re-
9 quirements of this Act, including requirements in re-
10 gards to disclosure and notification to a consumer
11 when permissibly using a consumer report for em-
12 ployment purposes or for making an adverse action
13 against such consumer.”.

14 (b) CONFORMING AMENDMENTS AND CROSS REF-
15 ERENCES.—Such Act is further amended as follows:

16 (1) In section 603 (15 U.S.C. 1681a)—

17 (A) in subsection (d)(3), by striking
18 “604(g)(3)” and inserting “604(h)(3)”; and

19 (B) in subsection (o), by striking “A” and
20 inserting “Subject to the restrictions set forth
21 in section 604(b), a”.

22 (2) In section 604 (15 U.S.C. 1681b)—

23 (A) in subsection (a), by striking “sub-
24 section (c)” and inserting “subsection (d)”; and

1 (B) in subsection (c), as redesignated by
2 subsection (a)(2) of this section—

3 (i) in paragraph (2)(A), by inserting
4 “and subject to the restrictions set forth in
5 subsection (b)” after “subparagraph (B)”;
6 and

7 (ii) in paragraph (3)(A), by inserting
8 “and subject to the restrictions set forth in
9 subsection (b)” after “subparagraph (B)”;

10 (C) in subsection (d)(1), as redesignated
11 by subsection (a)(2) of this section, by striking
12 “subsection (e)” in both places it appears and
13 inserting “subsection (f)”;

14 (D) in subsection (f), as redesignated by
15 subsection (a)(2) of this section—

16 (i) in paragraph (1), by striking “sub-
17 section (c)(1)(B)” and inserting “sub-
18 section (d)(1)(B)”;

19 (ii) in paragraph (5), by striking
20 “subsection (c)(1)(B)” and inserting “sub-
21 section (d)(1)(B)”.

22 (3) In section 607(e)(3)(A) (15 U.S.C.
23 1681e(e)(3)(A)), by striking “604(b)(4)(E)(i)” and
24 inserting “604(c)(4)(E)(i)”.

25 (4) In section 609 (15 U.S.C. 1681g)—

1 (A) in subsection (a)(3)(C)(i), by striking
2 “604(b)(4)(E)(i)” and inserting
3 “604(c)(4)(E)(i)”; and

4 (B) in subsection (a)(3)(C)(ii), by striking
5 “604(b)(4)(A)” and inserting “604(c)(4)(A)”.

6 (5) In section 613(a) (15 U.S.C. 1681k(a)) by
7 striking “section 604(b)(4)(A)” and inserting “sec-
8 tion 604(c)(4)(A)”.

9 (6) In section 615 (15 U.S.C. 1681m)—

10 (A) in subsection (d)(1), by striking “sec-
11 tion 604(c)(1)(B)” and inserting “section
12 604(d)(1)(B)”;

13 (B) in subsection (d)(1)(E), by striking
14 “section 604(e)” and inserting “section
15 604(f)”; and

16 (C) in subsection (d)(2)(A), by striking
17 “section 604(e)” and inserting “section
18 604(f)”.

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