Sponsored by:
Assemblywoman  L. GRACE SPENCER
District 29 (Essex)
Assemblywoman  MARLENE CARIDE
District 36 (Bergen and Passaic)
Assemblywoman  SHAVONDA E. SUMTER
District 35 (Bergen and Passaic)

SYNOPSIS
Prohibits employers from obtaining, requiring, or discriminating on the basis of credit reports.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning employment discrimination and supplementing Title 34 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. No employer or employer’s agent, representative, or designee shall:
   a. Seek to obtain or require a current or prospective employee to provide or consent to the creation of a credit report that contains information about the current or prospective employee’s credit history, credit score, credit account balances, payment history, savings or checking account balances, or savings or checking account numbers, unless the employer is required by law to obtain a credit report, or the employer reasonably believes that the employee has engaged in a specific activity that is financial in nature and constitutes a violation of law; or
   b. Discharge, demote, suspend, retaliate, refuse to hire, or otherwise discriminate against a current or prospective employee with regard to promotion, compensation, or the terms, conditions or privileges of employment, based on information in a credit report on the employee.

2. Nothing in section 1 of this act shall prevent a credit inquiry or employment action if credit history is an established bona fide occupational qualification of a particular position or employment classification. Credit history shall be considered a bona fide occupational qualification for any current or prospective employee being evaluated for a position that:
   a. Is a managerial position which involves setting the financial direction or control of the business;
   b. Involves access to customers’, employees’, or employers’ personal belongings, financial assets, or financial information other than information customarily provided in a retail transaction;
   c. Involves a fiduciary responsibility to the employer, including, but not limited to, the authority to issue payments, transfer money or enter into contracts or involves leases of real property;
   d. Provides an expense account for travel; or
   e. Is as a law enforcement officer for a law enforcement agency in this State, or is as governmental or non-governmental security personnel, including security personnel in homeland security agencies.

As used in this section:
“Financial asset” means a financial asset as defined in section N.J.S.12A:8-102;
“Law enforcement agency” means a department, division, bureau, commission, board or other authority of the State or of any
political subdivision thereof which employs law enforcement officers; and

“Law enforcement officer” means a person whose public duties include the power to act as an officer for the detection, apprehension, arrest and conviction of offenders against the laws of this State.

3. An employer shall not require an individual to waive or limit any protection granted under this act as a condition of applying for or receiving an offer of employment. An agreement to waive any right or protection under this act is against the public policy of this State and is void and unenforceable.

4. A person shall not retaliate or discriminate against an individual because the individual has done or was about to do any of the following:
   a. File a complaint under this act;
   b. Testify, assist, or participate in an investigation, proceeding, or action concerning a violation of this act; or
   c. Otherwise oppose a violation of this act.

5. Upon violation of any provision of this act, an aggrieved person may, in addition to any other available remedy, institute a civil action in a court of competent jurisdiction, within one year from the date of the alleged violation. In response to the action, the court may, as it deems appropriate, order or award any one or more of the following:
   a. With respect to a prospective employee:
      (1) injunctive relief;
      (2) compensatory and consequential damages incurred by the prospective employee as a result of the violation, taking into consideration any failure to hire in connection with a violation of this act; or
      (3) reasonable attorneys’ fees and court costs.
   b. With respect to a current or former employee:
      (1) injunctive relief as it deems appropriate, including reinstatement of the employee to the same position held before the violation or the position the employee would have held but for the violation, as well as the reinstatement of full fringe benefits and seniority rights;
      (2) compensatory and consequential damages incurred by the employee or former employee as a result of the violation, including compensation for lost wages, benefits and other remuneration; or
      (3) reasonable attorneys’ fees and court costs.

6. Any employer who violates any provision of this act shall be subject to a civil penalty in an amount not to exceed $2,000 for the first violation and $5,000 for each subsequent violation, collectible
by the Commissioner of Labor and Workforce Development in a
summary proceeding pursuant to the “Penalty Enforcement Law of

7. This act shall take effect immediately.

STATEMENT

This bill prohibits an employer from requiring a credit check on
a current or prospective employee, unless the employer is required
to do so by law, or reasonably believes that an employee has
engaged in a specific activity that is financial in nature and
constitutes a violation of law. It prohibits any employment
discrimination against a current or prospective employee based on
information in a credit report. The bill does not prevent an
employer from performing a credit inquiry or taking an employment
action if credit history is a bona fide occupational qualification of a
particular position or employment classification, including:

1. A managerial position which involves setting the financial
direction or control of the business;
2. A position which involves access to customers’, employees’,
or employers’ personal belongings or financial assets or financial
information, other than information customarily provided in a retail
transaction;
3. A position which involves a fiduciary responsibility to the
employer, including, but not limited to, the authority to issue
payments, transfer money or enter into contracts or involves leases
of real property;
4. A position which provides an expense account for travel; or
5. A law enforcement officer for a law enforcement agency, or
a governmental or non-governmental security personnel position,
including security personnel in a homeland security agency.

The bill prohibits an employer from requiring a prospective
employee to waive or limit any protection granted under the bill as
a condition of applying for or receiving an offer of employment.
The bill also prohibits retaliation or discrimination against an
individual because the individual has done or was about to do any
of the following:

1. File a complaint pursuant to provisions of the bill;
2. Testify, assist, or participate in an investigation, proceeding,
or action concerning a violation of the bill; or
3. Otherwise oppose a violation of the bill.

Any current, prospective, or former employee aggrieved under
the provisions of the bill may bring an action in a court of
competent jurisdiction for appropriate injunctive relief and
damages, including reasonable attorneys’ fees and court costs. In
addition, the bill provides for the imposition of civil penalties in an
amount not to exceed $2,000 for the first violation, and $5,000 for each subsequent violation, collectible by the Commissioner of Labor and Workforce Development.