

House Bill 1132

By: Representatives Mainor of the 56th, Jackson of the 128th, and Lim of the 98th

A BILL TO BE ENTITLED

AN ACT

1 To amend Titles 8, 10, 33, and 34 of the Official Code of Georgia Annotated, relating to
2 buildings and housing, commerce and trade, insurance, and labor and industrial relations,
3 respectively, so as to prohibit the misuse of consumer reports for housing, employment, and
4 insurance purposes; to prohibit the use of a consumer report in discriminatory housing
5 practices; to prohibit the use of a consumer report for employment purposes except under
6 certain circumstances; to provide for definitions; to provide for civil enforcement and
7 penalties; to provide for class actions; to require an insurer to disclose that it may obtain
8 credit information from a consumer report for an insurance renewal; to require an insurer to
9 notify an applicant or insured prior to taking an adverse action based on credit information
10 in a consumer report; to provide an opportunity for an applicant or insured to inform the
11 insurer of extenuating circumstances; to require an insurer to address any response from an
12 applicant or insured regarding extenuating circumstances; to provide for a public awareness
13 campaign; to provide for a complaint procedure and information sharing; to provide for
14 related matters; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 Title 8 of the Official Code of Georgia Annotated, relating to buildings and housing, is
18 amended in Code Section 8-3-201, relating to definitions, by revising paragraph (8) as
19 follows:

20 "(8) 'Discriminatory housing practice' means an act that is unlawful under Code
21 Section 8-3-202, 8-3-203, 8-3-204, 8-3-205, ~~or 8-3-222,~~ or 8-3-224."

22 **SECTION 2.**

23 Said title is further amended by adding a new Code section to read as follows:

24 "8-3-224.

25 (a) As used in this Code section, the term 'consumer report' means any written, oral, or
26 other communication of any information by a consumer reporting agency bearing on a
27 consumer's credit worthiness, credit standing, credit capacity, character, general reputation,
28 personal characteristics, or mode of living which is used or expected to be used or collected
29 in whole or in part for the purpose of serving as a factor in establishing a consumer's
30 eligibility for purposes of credit, insurance, or employment.

31 (b) It shall be unlawful to use a consumer report to commit a discriminatory housing
32 practice.

33 (c) A consumer report may only be used as permitted in the federal Fair Credit Reporting
34 Act, 15 U.S.C. Section 1681, et seq."

35 **SECTION 3.**

36 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is
37 amended by revising Code Section 10-1-393.14, relating to consumer report for employment
38 purposes, as follows:

39 "10-1-393.14.

40 (a) As used in this Code section, the term:

- 41 (1) 'Adverse effect' means:
- 42 (A) A denial of employment;
- 43 (B) Any other decision for employment purposes that negatively affects any current
44 or prospective employee; or
- 45 (C) A denial or cancellation of, an increase in any charge for, or any other adverse or
46 unfavorable change in the terms of any license.
- 47 (2) 'Consumer report' means any written, oral, or other communication of any
48 information bearing on a consumer's credit worthiness, credit standing, credit capacity,
49 character, general reputation, personal characteristics, or mode of living which is used or
50 expected to be used or collected in whole or in part for the purpose of serving as a factor
51 in establishing the consumer's eligibility for purposes of credit, insurance, or
52 employment.
- 53 (3) 'Consumer reporting agency' means any person or entity which, for monetary fees or
54 dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the
55 practice of assembling or evaluating consumer credit information or other information
56 on consumers for the purpose of furnishing consumer reports to third parties.
- 57 (3.1) 'Employee' means any person engaged in service to an employer in a business of
58 the employer. Such term includes an applicant for a position.
- 59 (3.2) 'Employer' means any person engaged in business who has one or more employees.
60 Such term includes the state and any political subdivision of the state.
- 61 (4) 'Employment purposes' means used for the purpose of evaluating a consumer for
62 employment, promotion, reassignment, retention as an employee, or licensing.
- 63 (5) 'Substantially related to the employee's current or potential job' means the
64 information contained in the consumer report is related to the position for which an
65 employee who is the subject of the report is being evaluated because the position:

66 (A) Constitutes executive or management personnel or officers or employees who
67 constitute professional staff to executive and management personnel, and the position
68 involves one or more of the following:

69 (i) Setting the direction or control of a business, division, unit, or an agency of a
70 business;

71 (ii) A fiduciary responsibility to the employer;

72 (iii) Access to customers', employees', or the employer's personal or financial
73 information other than information customarily provided in a retail transaction; or

74 (iv) The authority to issue payments, collect debts, or enter into contracts;

75 (B) Involves contracts with defense, intelligence, national security, or space agencies
76 of the federal government; or

77 (C) Is with a bank or financial institution.

78 (b) A consumer reporting agency which furnishes a consumer report for employment
79 purposes and which for that purpose compiles and reports items of information on
80 consumers which are matters of public record and are likely to have an adverse effect upon
81 a consumer's ability to obtain employment shall:

82 (1) At the time such public record information is reported to the user of such consumer
83 report, notify the consumer of the fact that public record information is being reported by
84 the consumer reporting agency, together with the name and address of the person to
85 whom such information is being reported; or

86 (2) Maintain strict procedures designed to ensure that whenever public record
87 information which is likely to have an adverse effect on a consumer's ability to obtain
88 employment is reported it is complete and up to date. For purposes of this paragraph,
89 items of public record relating to arrests, indictments, and convictions shall be considered
90 up to date if the current public record status of the item at the time of the report is
91 reported.

92 (c) A consumer reporting agency shall be considered to be conducting business in this state
93 if it provides information to any individual, partnership, corporation, association, or any
94 other group however organized that is domiciled within this state or whose principal place
95 of business is within this state.

96 (d) A consumer reporting agency that provides a consumer report for employment
97 purposes that is in compliance with the federal Fair Credit Reporting Act, 15 U.S.C.
98 Section 1681, et seq., in existence on March 11, 2015, shall be deemed to have complied
99 with subsection (b) of this Code section.

100 (e) An employer shall not use a consumer report for employment purposes unless the
101 information is substantially related to the employee's current or potential job. An
102 employer, or such person's designee, shall not require an employee to consent to a request
103 for a consumer report as a condition of employment unless:

104 (1) The employer is a bank or financial institution;

105 (2) The report is required by state or federal law; or

106 (3) The report is substantially related to the employee's current or potential job and the
107 employer has a bona fide purpose for requesting or using information in the consumer
108 report that is substantially related to the employee's current or potential job and is
109 disclosed in writing to the employee.

110 (f) If an employer relies, in whole or in part, on a credit report to take an action that has
111 an adverse effect on the employee whose information was obtained, such employer shall
112 disclose such fact and the particular information upon which the employer relied to the
113 employee in writing.

114 (g) An individual who is aggrieved by an employer's violation of any provision of
115 subsection (e) of this Code section may institute a civil action against any person engaged
116 in such prohibited conduct. An action may be maintained as a class action as provided for
117 in Code Section 9-11-23. The court may grant such legal or equitable relief as it deems

118 appropriate to remedy such violation, including, but not limited to, damages, injunctive
119 relief, and reasonable attorney's fees and court costs.
120 (h) An employer that uses a consumer report for employment purposes and is compliant
121 with the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq., in existence on
122 January 1, 2024, shall be deemed to have complied with subsections (e) and (f) of this
123 Code section."

124 **SECTION 4.**

125 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
126 revising Code Section 33-24-93, relating to disclosure by insurer of use of credit information,
127 as follows:

128 "33-24-93.

129 (a) If an insurer writing personal insurance uses credit information in underwriting or
130 rating a consumer, the insurer or its agent shall disclose, either on the insurance application
131 or at the time the insurance application is taken, that it may obtain credit information in
132 connection with such application. Such disclosure shall be either written or provided to an
133 applicant in the same medium as the application for insurance. The insurer ~~need not~~ shall
134 provide the disclosure statement required under this Code section to any insured on a
135 renewal policy, even if such consumer has previously been provided a disclosure statement.

136 (b) The disclosure required by this Code section shall be in substantially the following
137 form: 'In connection with this application for insurance, we may review your credit report
138 or obtain or use a credit based insurance score based on the information contained in that
139 credit report. We may use a third party in connection with the development of your
140 insurance score.'

141 (c) Prior to taking an adverse action based on credit information from a credit report, an
142 insurer shall inquire further of the applicant or insured to give him or her the opportunity
143 to explain any extenuating circumstances, including, but not limited to: a disputed item in

144 the credit report, as provided for in Code Section 33-24-92; other error in the credit
145 information; act of identity theft; lack of credit history; student debt; employment changes;
146 illness; emergency; medical expenses; family changes; birth; adoption; divorce; separation;
147 military obligations or separation; or death. Such applicant or insured shall have ten days
148 to respond to the insurer."

149 **SECTION 5.**

150 Said title is further amended by revising Code Section 33-24-94, relating to adverse action
151 based on credit information and notice to consumer, as follows:

152 "33-24-94.

153 If an insurer takes an adverse action based upon credit information, the insurer must meet
154 the notice requirements of this Code section. Such insurer shall provide notification to the
155 consumer that an adverse action has been taken, in accordance with the requirements of the
156 federal Fair Credit Reporting Act, 15 ~~U.S.C.~~ U.S.C. Section 1681m(a), and shall provide
157 notification to the consumer explaining the reason or reasons for the adverse action. The
158 reasons must be provided in sufficiently clear and specific language so that a person can
159 identify the basis for the insurer's decision to take an adverse action. Such notification
160 shall include a description of up to four factors that were the primary influences of the
161 adverse action. The insured shall explain its review and determination of any extenuating
162 circumstance as provided for in Code Section 33-24-93. The use of generalized terms such
163 as 'poor credit history,' 'poor credit rating,' or 'poor insurance score' does not meet the
164 explanation requirements of this Code section. Standardized credit explanations provided
165 by consumer reporting agencies or other third party vendors are deemed to comply with
166 this Code section."

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SECTION 6.

168 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
169 is amended by adding a new Code section to read as follows:

170 "34-1-11.

171 (a) It shall be unlawful for an employer to use a consumer report for employment purposes
172 as provided in Code Section 10-1-393.14.

173 (b) The department shall conduct a public awareness outreach campaign, which shall
174 include making information available on its internet website, informing employees,
175 employers, and the general public of the provisions in state law regarding the use of
176 consumer reports for employment purposes.

177 (c) The Commissioner shall implement and maintain a streamlined process for accepting,
178 evaluating, and responding to complaints from employees, employers, and the general
179 public regarding the use of consumer reports for employment purposes.

180 (d) The Commissioner shall transfer complaints to, share information with, and cooperate
181 with state and federal agencies to ensure compliant use of consumer reports in this state."

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SECTION 7.

183 All laws and parts of laws in conflict with this Act are repealed.