

House Bill 163

By: Representatives Dukes of the 154th and Henson of the 86th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 34 of the Official Code of Georgia Annotated, relating to
2 general provisions regarding labor and industrial relations, so as to prohibit employers from
3 requesting credit checks on employees or prospective employees with certain exceptions; to
4 provide for penalties; to provide a civil cause of action; to provide for definitions; to provide
5 a short title; to provide for legislative findings; to provide for related matters; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 This Act shall be known and may be cited as the "Fair Chance at Employment Act."

10 **SECTION 2.**

11 The General Assembly finds that employees and job applicants should be protected from
12 unfair practices in the work place by prohibiting the use of credit checks for employment
13 purposes.

14 **SECTION 3.**

15 Chapter 1 of Title 34 of the Official Code of Georgia Annotated, relating to general
16 provisions regarding labor and industrial relations, is amended by adding a new Code section
17 to read as follows:

18 "34-1-8.

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

20 (1) 'Bona fide occupational qualification' means the information contained in the credit
21 check is related to the position for which the employee or prospective employee who is
22 the subject of the credit check is being evaluated because the position:

23 (A) Is a managerial position which involves setting the direction or control of the
24 business;

- 25 (B) Involves access to customers', employees', or the employer's personal or financial
 26 information other than information customarily provided in a retail transaction;
 27 (C) Involves a fiduciary responsibility to the employer, including, but not limited to,
 28 the authority to issue payments, transfer money, or enter into contracts; or
 29 (D) Provides an expense account.
- 30 (2) 'Credit check' means a credit report that contains information about an individual's
 31 credit score, credit worthiness, credit standing, credit account balances, payment history,
 32 savings or checking account balances, or savings or checking account numbers.
- 33 (3) 'Employee' means any individual engaged in service to an employer in a business of
 34 the employer.
- 35 (4) 'Employer' means any person engaged in business and having 50 or more employees,
 36 including the state or any political subdivision of the state.
- 37 (5) 'Person' means an individual, a public or private corporation, an incorporated
 38 association, government, government agency, partnership, or unincorporated association.
- 39 (b) Neither an employer nor an employer's agent, representative, or designee shall:
 40 (1) Request or require that an employee or prospective employee consent to or provide
 41 the results of a credit check as a condition of employment;
 42 (2) Obtain a credit check or cause a credit check to be obtained that pertains to an
 43 employee or prospective employee; or
 44 (3) Fail or refuse to hire, bar, discharge from employment, or otherwise discriminate
 45 against an employee or prospective employee because of information contained in a
 46 credit check
 47 unless the information contained in such credit check is a bona fide occupational
 48 qualification or such credit check is otherwise required by law.
- 49 (c) The provisions of this Code section shall not apply to:
 50 (1) Employers which are federally insured banks or credit unions; or
 51 (2) Employers which are required by local, state, or federal law, rules, or regulations to
 52 use an individual's credit check or credit history for employment purposes.
- 53 (d) Any person that violates any provision of subsection (b) of this Code section shall be
 54 guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not
 55 less than \$500.00 nor more than \$1,000.00 for a first offense. Upon conviction of a second
 56 offense or subsequent offense, such person shall be guilty of a misdemeanor of a high and
 57 aggravated nature and shall be punished by a fine of not less than \$1,000.00 nor more than
 58 \$2,500.00.
- 59 (e)(1) Notwithstanding the criminal sanction in subsection (d) of this Code section, an
 60 individual who is aggrieved by a violation of any provision of subsection (b) of this Code

61 section may institute a civil action against any person engaged in such prohibited
62 conduct.

63 (2) The court may grant such legal or equitable relief as it deems appropriate to remedy
64 such violation, including, but not limited to, damages, injunctive relief, and reasonable
65 attorney's fees and court costs."

66 **SECTION 4.**

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