

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1643

By: Gumm

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6 AS INTRODUCED

7 An Act relating to consumer credit reports; stating  
8 Legislative findings and intent; defining terms;  
9 prohibiting discriminatory practice by using certain  
10 information from a consumer report for certain  
11 purposes; exempting use of certain information under  
12 certain condition; requiring employer compliance with  
13 Fair Credit Reporting Act; stating adverse action  
14 notification procedure; providing for codification;  
15 providing for noncodification; and providing an  
16 effective date.

17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. NEW LAW A new section of law not to be  
19 codified in the Oklahoma Statutes reads as follows:

20 The federal Fair Credit Reporting Act requires that consumer  
21 reporting agencies adopt reasonable procedures for meeting the needs  
22 of commerce for consumer credit, personnel, insurance, and other  
23 information in a manner that is fair and equitable to the consumer  
24 with regard to the confidentiality, accuracy, and proper utilization  
of information contained in consumer reports. The Legislature finds  
that consumers have a vital interest in establishing, maintaining  
and protecting their creditworthiness, reputation and character.

1 The Legislature further finds that an elaborate mechanism using  
2 credit reports has developed for investigating and evaluating an  
3 individual's creditworthiness, credit capacity, and general  
4 reputation and character. As such, credit reports are used for  
5 evaluating credit card, loan, mortgage, and small business financing  
6 applications, as well as for decisions regarding insurability,  
7 employment, and the rental or leasing of dwellings.

8 Financial institutions and other creditors depend upon fair and  
9 accurate credit reports to make credit granting decisions directly  
10 affecting individual consumers. Any unfair practice, inaccurate  
11 report, or misuse of information contained in such reports  
12 undermines both the public and creditor confidences in the  
13 reliability of credit granting systems.

14 The Legislature finds that there has been an increased reliance  
15 on consumer information obtained from web-based and third-party  
16 sources. This practice increases the possibility of misleading or  
17 inaccurate information and the potential for discrimination or  
18 adverse action against individual consumers. Adverse action affects  
19 a consumer's ability to obtain credit, insurance, employment, and  
20 housing.

21 With the current economic conditions adversely affecting many  
22 consumers' jobs, housing and credit involuntarily, the Legislature  
23 finds that a credit score or credit history cannot necessarily  
24 determine character or predict a consumer's future creditworthiness

1 or insurability, nor should these reports of creditworthiness  
2 restrict opportunity for employment, insurance or housing. The  
3 citizens of Oklahoma deserve a measure of protection from misuse,  
4 unfair practices, and adverse action resulting from information  
5 obtained from consumer reports.

6 Since the Federal Bankruptcy Act prohibits discrimination  
7 against a consumer who sought protection under the bankruptcy law,  
8 consumers who did not seek bankruptcy but chose to work through  
9 difficult financial, credit and housing circumstances should not be  
10 discriminated against based upon credit score, payment history, or  
11 other information obtained from consumer reports. Therefore, the  
12 Legislature finds that employers, labor organizations and employment  
13 agencies should not use information in consumer reports for  
14 employment decisions or participation in labor organizations.  
15 Without the ability to find employment and housing, a consumer  
16 cannot establish and maintain creditworthiness or reputation or  
17 reestablish or improve creditworthiness and reputation after  
18 financial difficulty or loss of employment.

19 SECTION 2. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 1306.1 of Title 25, unless there  
21 is created a duplication in numbering, reads as follows:

22 A. For purposes of this act:

23 1. "Adverse action" means:  
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1 a. denial of, increase in any charge for, or reduction in  
2 the amount of, insurance or benefits for personal,  
3 family or household purposes, or

4 b. denial of employment or any other decision for  
5 employment purposes that adversely affects a current  
6 or prospective employee;

7 2. "Consumer" means an individual;

8 3. "Consumer report" means a written, oral, or other  
9 communication of information by a consumer reporting agency, or  
10 third-party investigation, bearing on a consumer's creditworthiness,  
11 credit standing, credit capacity, credit score, character, general  
12 reputation, personal characteristics, or mode of living, and  
13 includes investigative or background check reports and credit  
14 reports that are used or expected to be used or collected in whole  
15 or in part for:

16 a. the purpose of serving as a factor in establishing the  
17 consumer's eligibility for credit, insurance or  
18 benefits to be used primarily for personal, family or  
19 household purposes; or

20 b. employment purposes;

21 4. "Consumer reporting agency" means an individual,  
22 corporation, partnership, governmental agency, or any other  
23 business, legal or commercial entity, who, for monetary fees, dues,  
24 or on a cooperative nonprofit basis, regularly engages in whole or

1 part in the business of assembling or evaluating consumer credit  
2 information or other information on consumers for the purpose of  
3 furnishing consumer reports to third parties, and who uses any means  
4 or facility of commerce for the purpose of preparing or furnishing  
5 consumer reports;

6 5. "Employment purposes" when used in connection with a  
7 consumer report, means a report used for the purpose of evaluating a  
8 consumer for employment, promotion, reassignment, or retention as an  
9 employee or for offering any employment benefit, opportunity or pay;

10 6. "Preemployment screening" means the process in which an  
11 employment agency, or the employer's agent or staff, compiles or  
12 edits for the client or employer a list of individuals who meet  
13 specified characteristics and provides this list, or individual  
14 contact information from the list, to the client or employer, or to  
15 a third party on behalf of the client or employer, for use in  
16 soliciting one or more of those individuals for an employment  
17 interview or offer of employment; and

18 7. "Investigative consumer report" means a background check or  
19 consumer report or portion of it in which information on a  
20 consumer's character, general reputation, personal characteristics,  
21 or mode of living is obtained through Internet or web-based sources  
22 or personal interviews with neighbors, friends, or associates of the  
23 consumer reported on or with others with whom the consumer is  
24 acquainted or who may have knowledge concerning any items of

1 information. However, the information does not include specific  
2 factual information on a consumer's credit record obtained directly  
3 from a creditor of the consumer or from a consumer reporting agency  
4 when the information was obtained from a creditor of the consumer or  
5 from the consumer.

6 B. It is an unlawful discriminating practice for any employer,  
7 labor organization, or employment agency to use a person's credit  
8 rating, credit score, credit capacity, credit history or other  
9 information from a consumer report as a factor in making decisions  
10 regarding that person's employment, including preemployment  
11 screening, hiring, tenure, terms, conditions, promotion, retention,  
12 privileges of employment, insurance, benefits, pay, or any matter  
13 directly or indirectly related to employment, or for participation  
14 in a labor organization. However, it shall not be considered a  
15 discriminating practice to use such information directly or  
16 indirectly related to employment or participation in a labor  
17 organization when the information directly relates to a bona fide  
18 occupational qualification.

19 SECTION 3. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 1306.2 of Title 25, unless there  
21 is created a duplication in numbering, reads as follows:

22 A. It shall be a violation of this act if any employer, labor  
23 organization or employment agency in this state shall fail to comply  
24 with the provisions of the federal Fair Credit Reporting Act.

1 B. An employer, labor organization or employment agency that  
2 relies upon a consumer report to support an adverse action shall  
3 provide:

4 1. The consumer with a preadverse action disclosure that  
5 includes a copy of the consumer's consumer report and a summary of  
6 the consumer's rights;

7 2. Notice of the adverse action in writing;

8 3. The name, address, and phone number of the consumer  
9 reporting agency or source that supplied the report; and

10 4. Notice of the consumer's right to dispute the accuracy or  
11 completeness of any information the consumer reporting agency or  
12 source furnished and the consumer's right to an additional consumer  
13 report from the agency or source upon request within sixty (60)  
14 days.

15 SECTION 4. This act shall become effective November 1, 2010.

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