

HB0087/353492/3

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL 87
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Zucker” and substitute “Zucker, Carter, and Glenn”; in line 5, strike “consider” and substitute “use”; in line 6, after “circumstances;” insert “providing that, for the purpose of this Act, a position for which an employer has a bona fide purpose that is substantially job-related for requesting or using information in a credit report or credit history includes a position that meets certain criteria;”; and in line 7, strike “civil actions under certain circumstances” and substitute “individuals to file a complaint with the Commissioner of Labor and Industry; requiring that a complaint filed by an employee under this Act be investigated promptly by the Commissioner; requiring the Commissioner to attempt to resolve a certain matter informally; authorizing the Commissioner to assess certain civil penalties and send a certain order to pay a certain penalty to certain parties under certain circumstances; authorizing an employer to request a certain hearing under certain circumstances; requiring the Commissioner to schedule a certain hearing under certain circumstances; establishing that an order to pay a civil penalty becomes final under certain circumstances; authorizing the Commissioner or a complainant to bring certain court actions under certain circumstances”.

AMENDMENT NO. 2

On page 2, in lines 4 and 5, strike “, **OR AN AFFILIATE OR SUBSIDIARY OF THE FINANCIAL INSTITUTION,**”; in line 6, after “AGENCY” insert “, OR AN AFFILIATE OR SUBSIDIARY OF THE FINANCIAL INSTITUTION”; in the same line, strike “OR”; after line 6, insert:

“(3) A CREDIT UNION SHARE GUARANTY CORPORATION THAT IS APPROVED BY THE MARYLAND COMMISSIONER OF FINANCIAL REGULATION; OR”;

(Over)

in line 7, strike “(3)” and substitute “(4)”; in line 10, strike “AN” and substitute “EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN”; in line 16, after “(C)” insert “(1)”; in the same line, strike “CONSIDER” and substitute “USE”; in line 18, strike “(1) (I)” and substitute “(I) 1.”; in line 20, strike “(II)” and substitute “2.”; in line 23, strike “(2)” and substitute “(II)”; in the same line, strike “OBTAINING” and substitute “REQUESTING”; in line 25, strike “(I)” and substitute “1.”; in line 26, strike “(II)” and substitute “2.”; after line 27, insert:

“(2) FOR THE PURPOSES OF THIS SUBSECTION, A POSITION FOR WHICH AN EMPLOYER HAS A BONA FIDE PURPOSE THAT IS SUBSTANTIALLY JOB-RELATED FOR REQUESTING OR USING INFORMATION IN A CREDIT REPORT OR CREDIT HISTORY INCLUDES A POSITION THAT:

(I) IS MANAGERIAL AND INVOLVES SETTING THE DIRECTION OR CONTROL OF A BUSINESS, OR A DEPARTMENT, DIVISION, UNIT, OR AGENCY OF A BUSINESS;

(II) INVOLVES ACCESS TO PERSONAL INFORMATION, AS DEFINED IN § 14-3501 OF THE COMMERCIAL LAW ARTICLE, OF A CUSTOMER, EMPLOYEE, OR EMPLOYER, EXCEPT FOR PERSONAL INFORMATION CUSTOMARILY PROVIDED IN A RETAIL TRANSACTION;

(III) INVOLVES A FIDUCIARY RESPONSIBILITY TO THE EMPLOYER, INCLUDING THE AUTHORITY TO ISSUE PAYMENTS, COLLECT DEBTS, TRANSFER MONEY, OR ENTER INTO CONTRACTS;

(IV) IS PROVIDED AN EXPENSE ACCOUNT OR A CORPORATE DEBIT OR CREDIT CARD; OR

(V) HAS ACCESS TO:

1. INFORMATION, INCLUDING A FORMULA, PATTERN, COMPILATION, PROGRAM, DEVICE, METHOD, TECHNIQUE, OR PROCESS, THAT:

A. DERIVES INDEPENDENT ECONOMIC VALUE, ACTUAL OR POTENTIAL, FROM NOT BEING GENERALLY KNOWN TO, AND NOT BEING READILY ASCERTAINABLE BY PROPER MEANS BY, OTHER PERSONS WHO CAN OBTAIN ECONOMIC VALUE FROM THE DISCLOSURE OR USE OF THE INFORMATION; AND

B. IS THE SUBJECT OF EFFORTS THAT ARE REASONABLE UNDER THE CIRCUMSTANCES TO MAINTAIN ITS SECRECY; OR

2. OTHER CONFIDENTIAL BUSINESS INFORMATION.”;

in line 28, after “(D)” insert “(1)”; in the same line, strike “OR (C)”; and strike beginning with “BRING” in line 29 down through the second “RELIEF” in line 30 and substitute “FILE A WRITTEN COMPLAINT WITH THE COMMISSIONER.”

(2) IF THE COMMISSIONER RECEIVES A WRITTEN COMPLAINT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER SHALL INVESTIGATE THE MATTER PROMPTLY.

(3) IF THE COMMISSIONER DETERMINES THAT THE EMPLOYER HAS WILLFULLY OR NEGLIGENTLY VIOLATED SUBSECTION (B) OR (C) OF THIS SECTION, THE COMMISSIONER SHALL TRY TO RESOLVE THE MATTER INFORMALLY.

(4) IF THE COMMISSIONER IS UNABLE TO RESOLVE THE MATTER INFORMALLY, THE COMMISSIONER MAY:

(Over)

(I) ASSESS A CIVIL PENALTY OF:

1. UP TO \$500 FOR AN INITIAL VIOLATION OF SUBSECTION (B) OR (C) OF THIS SECTION; OR

2. UP TO \$2,500 FOR A REPEAT VIOLATION OF SUBSECTION (B) OR (C) OF THIS SECTION; AND

(II) SEND AN ORDER TO PAY THE CIVIL PENALTY TO THE COMPLAINANT AND THE EMPLOYER.

(5) (I) WITHIN 30 DAYS AFTER AN EMPLOYER RECEIVES AN ORDER TO PAY A CIVIL PENALTY UNDER PARAGRAPH (4) OF THIS SECTION, THE EMPLOYER MAY REQUEST A DE NOVO ADMINISTRATIVE HEARING, SUBJECT TO THE REQUIREMENTS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(II) ON RECEIPT OF A REQUEST FOR A HEARING UNDER ITEM (I) OF THIS PARAGRAPH, THE COMMISSIONER SHALL SCHEDULE A HEARING.

(III) IF A HEARING IS NOT REQUESTED UNDER ITEM (I) OF THIS PARAGRAPH, THE ORDER TO PAY A CIVIL PENALTY BECOMES A FINAL ORDER OF THE COMMISSIONER.

(6) IF AN EMPLOYER FAILS TO COMPLY WITH A FINAL ORDER TO PAY A CIVIL PENALTY, THE COMMISSIONER OR THE COMPLAINANT MAY BRING AN ACTION TO ENFORCE THE ORDER TO PAY A CIVIL PENALTY IN THE CIRCUIT

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**COURT IN THE COUNTY WHERE THE EMPLOYER OR THE COMPLAINANT IS
LOCATED**".