

Chapter 167

(House Bill 1152)

AN ACT concerning

Commissioner of Financial Regulation – Applicant and Staff Criminal Background Checks

FOR the purpose of requiring the Commissioner of Financial Regulation to apply to the Criminal Justice Information System Central Repository for a State and national criminal history records check for each applicant for employment with the Commissioner; authorizing the Commissioner to apply to the Central Repository for a State and national criminal history records check for each employee of the Commissioner; requiring the Commissioner to submit certain fingerprints and fees as part of the application for the criminal history records check; requiring the Central Repository to forward certain information to the applicant or employee and the Commissioner; requiring that the information obtained by the Central Repository be confidential and used only for certain purposes; prohibiting the information obtained by the Central Repository from being redisseminated; authorizing certain individuals to contest the contents of certain statements; requiring the Commissioner to consider certain factors in considering certain convictions as they relate to the individual's qualifications for employment with the Commissioner; defining certain terms; and generally relating to criminal history records checks for applicants for employment with and employees of the Commissioner of Financial Regulation.

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 2–104
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Financial Institutions

2–104.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “APPLICANT” MEANS AN APPLICANT FOR EMPLOYMENT WITH THE COMMISSIONER.

(3) “CENTRAL REPOSITORY” MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(4) “EMPLOYEE” MEANS A FULL-TIME OR PART-TIME EMPLOYEE OF THE COMMISSIONER, INCLUDING A TEMPORARY EMPLOYEE OR A CONTRACTUAL EMPLOYEE.

(B) The Commissioner may employ a staff in accordance with the State budget.

(C) THE COMMISSIONER SHALL APPLY TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR EACH APPLICANT PRIOR TO AN OFFER OF EMPLOYMENT.

(D) THE COMMISSIONER MAY APPLY TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR AN EMPLOYEE.

(E) AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE COMMISSIONER SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(1) TWO COMPLETE SETS OF THE LEGIBLE FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

(2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS; AND

(3) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(F) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-234 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE SUBJECT APPLICANT OR EMPLOYEE AND THE COMMISSIONER THE APPLICANT’S OR EMPLOYEE’S CRIMINAL HISTORY RECORD INFORMATION.

(G) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SECTION:

- (1) SHALL BE CONFIDENTIAL;**
- (2) MAY NOT BE REDISSEMINATED; AND**
- (3) SHALL BE USED ONLY FOR THE EMPLOYMENT PURPOSE AUTHORIZED BY THIS SECTION.**

(H) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL PROCEDURE ARTICLE.

(I) IN CONSIDERING ANY FELONY OR MISDEMEANOR CONVICTION OF AN INDIVIDUAL AS IT RELATES TO THE INDIVIDUAL'S QUALIFICATION FOR EMPLOYMENT WITH THE COMMISSIONER, THE COMMISSIONER SHALL CONSIDER:

- (1) THE NATURE OF THE CRIME;**
- (2) THE RELEVANCE OF THE CRIME TO THE DUTIES AND RESPONSIBILITIES RELATED TO EMPLOYMENT;**
- (3) THE LENGTH OF TIME SINCE THE CONVICTION; AND**
- (4) THE BEHAVIOR AND ACTIVITIES OF THE INDIVIDUAL SINCE THE CONVICTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.