

# SENATE BILL 132

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CF HB 87

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By: **Senators Pugh, Currie, Jones–Rodwell, Kelley, Madaleno, Manno,  
Montgomery, Peters, and Raskin**  
Introduced and read first time: January 24, 2011  
Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Job Applicant Fairness Act**

3 FOR the purpose of prohibiting an employer from using the credit report or credit  
4 history of an employee or applicant for employment for certain purposes;  
5 authorizing an employer to request or consider an applicant's or employee's  
6 credit report or credit history under certain circumstances; authorizing certain  
7 civil actions under certain circumstances; providing that this Act does not apply  
8 to certain employers; specifying that this Act does not prohibit an employer  
9 from performing an employment–related background investigation that meets  
10 certain requirements; and generally relating to the use by employers of credit  
11 reports and credit histories of employees and applicants for employment.

12 BY adding to  
13 Article – Labor and Employment  
14 Section 3–711  
15 Annotated Code of Maryland  
16 (2008 Replacement Volume and 2010 Supplement)

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

19 **Article – Labor and Employment**

20 **3–711.**

21 **(A) THIS SECTION DOES NOT APPLY TO AN EMPLOYER THAT IS:**

22 **(1) REQUIRED TO INQUIRE INTO AN APPLICANT'S OR EMPLOYEE'S**  
23 **CREDIT REPORT OR CREDIT HISTORY UNDER FEDERAL LAW OR ANY PROVISION**  
24 **OF STATE LAW FOR THE PURPOSE OF EMPLOYMENT;**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1           **(2) A FINANCIAL INSTITUTION, OR AN AFFILIATE OR SUBSIDIARY**  
2 **OF THE FINANCIAL INSTITUTION, THAT ACCEPTS DEPOSITS THAT ARE INSURED**  
3 **BY A FEDERAL AGENCY; OR**

4           **(3) AN ENTITY, OR AN AFFILIATE OF THE ENTITY, THAT IS**  
5 **REGISTERED AS AN INVESTMENT ADVISOR WITH THE UNITED STATES**  
6 **SECURITIES AND EXCHANGE COMMISSION.**

7           **(B) AN EMPLOYER MAY NOT USE AN APPLICANT'S OR EMPLOYEE'S**  
8 **CREDIT REPORT OR CREDIT HISTORY IN DETERMINING WHETHER TO:**

9                   **(1) DENY EMPLOYMENT TO THE APPLICANT;**

10                   **(2) DISCHARGE THE EMPLOYEE; OR**

11                   **(3) DETERMINE COMPENSATION OR THE TERMS, CONDITIONS, OR**  
12 **PRIVILEGES OF EMPLOYMENT.**

13           **(C) AN EMPLOYER MAY REQUEST OR CONSIDER AN APPLICANT'S OR**  
14 **EMPLOYEE'S CREDIT REPORT OR CREDIT HISTORY IF:**

15                   **(1) (I) THE APPLICANT HAS RECEIVED AN OFFER OF**  
16 **EMPLOYMENT; AND**

17                           **(II) THE CREDIT REPORT OR CREDIT HISTORY WILL BE**  
18 **USED FOR A PURPOSE OTHER THAN A PURPOSE PROHIBITED BY SUBSECTION**  
19 **(B) OF THIS SECTION; OR**

20                   **(2) THE EMPLOYER HAS A BONA FIDE PURPOSE FOR OBTAINING**  
21 **OR USING INFORMATION IN THE CREDIT REPORT OR CREDIT HISTORY THAT IS:**

22                           **(I) SUBSTANTIALLY JOB-RELATED; AND**

23                           **(II) DISCLOSED IN WRITING TO THE EMPLOYEE OR**  
24 **APPLICANT.**

25           **(D) IF AN EMPLOYER VIOLATES SUBSECTION (B) OR (C) OF THIS**  
26 **SECTION, THE APPLICANT OR EMPLOYEE MAY BRING AN ACTION FOR**  
27 **INJUNCTIVE RELIEF, DAMAGES, OR OTHER RELIEF.**

28           **(E) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT AN**  
29 **EMPLOYER FROM PERFORMING AN EMPLOYMENT-RELATED BACKGROUND**  
30 **INVESTIGATION THAT:**

1                   **(1) INCLUDES USE OF A CONSUMER REPORT OR INVESTIGATIVE**  
2 **CONSUMER REPORT;**

3                   **(2) IS AUTHORIZED UNDER THE FEDERAL FAIR CREDIT**  
4 **REPORTING ACT; AND**

5                   **(3) DOES NOT INVOLVE INVESTIGATION OF CREDIT**  
6 **INFORMATION.**

7                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2011.