

AN ACT relating to prospective employee consumer credit information.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Consumer reporting agency" means an entity that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties; and*

(b) *"Credit information" means a written, oral or other communication prepared by a consumer reporting agency or provided by a prospective employee to a prospective employer, bearing on the prospective employee's creditworthiness, credit standing, credit history, or credit capacity.*

(2) *It shall be an unlawful employment practice for any employer to directly or indirectly use a job applicant's personal credit information as hiring criteria.*

(3) *This section shall not apply to an employer that is:*

(a) *Required to inquire into an applicant's or employee's credit information under federal law or any provision of state law for the purpose of employment;*

(b) *Any bank holding company, financial holding company, bank, savings and loan association, credit union, or trust company, or any subsidiary or affiliate thereof, that is authorized to do business under the laws of this state or of the United States;*

(c) *Any company authorized to engage in any kind of insurance or surety business under the laws of this state, including any employee, agent, or employee of an agent acting on behalf of a company engaged in the*

insurance or surety business;

(d) Any state law enforcement agency; or

(e) Any state or local government agency which otherwise requires use of the employee's credit information.

(4) An employer may request a credit information background check as part of the application process if that information is shown to be directly related to the occupational position sought by the job applicant.

(5) Credit information is not directly related to the occupational position sought unless at least one (1) of the following circumstances is present:

(a) State or federal law requires bonding or other security covering an individual holding the position;

(b) The position is a managerial position which involves setting the direction or control of the business;

(c) The position meets criteria in administrative regulations that the United States Department of Labor or the Kentucky Labor Cabinet has adopted to establish the circumstances in which satisfactory credit information is a bonafide occupational requirement;

(d) The duties of the position involve access to customers', employees', or the employer's personal or financial information other than information customarily provided in a retail transaction;

(e) The duties of the position involve a fiduciary responsibility to the employer, including but not limited to the authority to issue payments, transfer money, or enter into contracts; or

(f) The position includes an expense account.

➔Section 2. KRS 336.990 is amended to read as follows:

(1) Upon proof that any person employed by the Labor Cabinet as a labor inspector has taken any part in any strike, lockout or similar labor dispute, the person shall forfeit

his or her office.

(2) The following civil penalties shall be imposed, in accordance with the provisions in KRS 336.985, for violations of the provisions of this chapter:

(a) Any person who violates KRS 336.110 shall for each offense be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000);

(b) Any corporation, association, organization, or person that violates KRS 336.190 and 336.200 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense. Each act of violation, and each day during which such an agreement remains in effect, shall constitute a separate offense; and

(c) 1. Any employer who violates the provisions of KRS 336.220 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation.

2. Any employer who violates Section 1 of this Act shall be assessed a civil penalty of five hundred dollars (\$500) for each violation.