

SENATE BILL REPORT

ESSB 5827

As Passed Senate, March 12, 2007

Title: An act relating to consumer privacy.

Brief Description: Regarding consumer privacy.

Sponsors: Senate Committee on Consumer Protection & Housing (originally sponsored by Senators Hobbs, Weinstein, Oemig, Fairley, Pridemore, Keiser, Regala, Kohl-Welles, Prentice, Kline and Rasmussen).

Brief History:

Committee Activity: Consumer Protection & Housing: 2/08/07, 2/23/07 [DPS].
Passed Senate: 3/12/07, 43-3.

SENATE COMMITTEE ON CONSUMER PROTECTION & HOUSING

Majority Report: That Substitute Senate Bill No. 5827 be substituted therefor, and the substitute bill do pass.

Signed by Senators Weinstein, Chair; Kauffman, Vice Chair; Honeyford, Ranking Minority Member; Delvin, Haugen, Jacobsen, Kilmer and Tom.

Staff: Vanessa Firnhaber-Baker (786-7471)

Background: A consumer credit report contains: (1) information on the consumer's identity, including current and previous addresses, number of dependents, marital status, date of birth, and social security number; (2) the consumer's employment history, including income information; (3) the consumer's credit history; and (4) public records regarding the consumer, including civil judgments and suits, bankruptcies, and other legal proceedings.

The disclosure of consumer credit reports by credit reporting agencies is governed by federal and state law. A consumer credit agency may disclose a consumer's credit report to any person or entity that has a legitimate business need involving a transaction with the consumer. Situations where an entity may have a legitimate business need for a consumer's credit report include: extension of credit, insurance underwriting, security clearances, and where a credit report is needed for employment purposes, including hiring.

An employer may only request a job applicant's credit report if the employer either: (1) conspicuously discloses to the applicant in writing that s/he will be requesting the applicant's credit report; or (2) the applicant authorizes the request.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

An employer may only request an employee's credit report if the employee received written notice that the employer may use such credit reports for employment purposes.

If an employer takes any adverse action against an employee or job applicant based on a consumer credit report, the employee or applicant must be given an opportunity to respond and the employer must inform the employee or applicant how to obtain a free copy of his or her credit report.

Summary of Engrossed Substitute Bill: An employer may not request a consumer credit report for employment purposes that contains information on the consumer's credit worthiness, credit standing, or credit capacity unless: (1) that credit information is substantially job related; and (2) the employer discloses to the consumer in writing the reasons the employer is using that information. Employers may also request consumer reports that contain credit information about the consumer if such a request is required by other law.

Employers must disclose the following to both current employees and job applicants before taking adverse action based on the content of a consumer report: (1) contact information for the reporting agency that furnished the report; and (2) description of the consumer's rights under the state law regarding employment and consumer reports. Employers must also give both current employees and job applicants an opportunity to respond to information in the report that is disputed.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Substitute Bill: PRO: People have a right to keep the information in their credit reports private. People who have had financial problems in the past because of student debt or unlucky circumstances, such as domestic violence, should not be denied employment because of their bad credit. Permitting employers to screen job applicants based on their credit makes it more difficult for low-income workers to move into the middle class. Many credit reports contain errors and not every employer is going to take the time to ask a job applicant whether the information in the report is correct. There are plenty of other reliable ways to screen employment applicants. Credit checks by employers unfairly penalize lower class and middle class people who have had financial difficulties in the past; these are often the people who need employment the most. It is unfair to assume that someone is a criminal just because they are in a precarious financial situation. The exemptions in the bill are adequate to ensure that employers will be able to obtain credit reports on job applicants when the applicant's credit is truly relevant.

CON: Current law already strikes a fair balance between the consumer's need for privacy and employers' need for this information. Credit reports contain a lot of information that is highly relevant to all employers such as employment history and criminal history. There are employers who are not exempt under this bill who have a genuine need to look at potential employee's credit report, such as employment that involves vulnerable populations or access to confidential information. Retailers need to be able to check job applicant's credit reports to

reduce the risk of employee theft. Under current law, applicants receive notice that a credit check will be conducted and they can choose not to apply to the job if they do not want their credit checked. If an employer is hiring a bookkeeper, that employer has a right to know whether the potential employee is responsible with his or her own money. Credit reports are an important tool to ensure that an employee is trustworthy; this is an especially important need for small businesses who rely very deeply on their employees. Employers are not abusing credit report requests; they only request these reports when they are truly relevant to the position they are hiring.

Persons Testifying: PRO: Senator Hobbs, prime sponsor; Paul Benz, Lutheran Public Policy and Washington Association of Churches; Bill Daley, Washington Community Action Network; Aiko Schaefer, Statewide Poverty Action Network.

CON: Cliff Webster, Consumer Data Industry Association; Carolyn Logue, National Federation of Independent Businesses; Vicky Marin, Washington Retail Association.