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**Insurance, Financial Services &  
Consumer Protection Committee**

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**ESSB 5827**

**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 Summary of Engrossed Substitute Bill**

- Prohibits a person from procuring a consumer report for employment purposes if any information in the report "bears on" the credit worthiness, credit standing, or credit capacity of an applicant or current employee. This prohibition does not apply when the information is: (1) substantially job related and the employer discloses the use of the information to the consumer in writing; or (2) required by law.

**Hearing Date:** 3/22/07

**Staff:** Jon Hedegard (786-7127).

**Background:**

Consumer reports

A consumer report is a written, oral, or other communication of information by a consumer reporting agency (CRA) bearing on a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is used or expected to be used or collected in whole or in part for:

- the purpose of serving as a factor in establishing the consumer's eligibility for credit or insurance to be used primarily for personal, family, or household purposes;
- employment purposes; or
- other authorized purposes.

The use of credit reports and consumer reports is regulated under the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.) and the state Fair Credit Reporting Act (Chapter 19.182

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*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.*

RCW). Both the federal and state laws require that consumer reporting agencies establish procedures to ensure that the information is accurate and is provided only for appropriate purposes. State procedures include a requirement that prospective users identify themselves, certify the use of the purpose for which the information will be used, and certify that the information will not be used for other purposes. A CRA must take reasonable effort to verify the identity of a prospective user and the uses certified by the prospective user before providing a report.

It is unlawful to obtain information knowingly and under false pretenses. A person who violates the law is subject to a fine of \$5,000, up to a year in prison, or both. It is also unlawful to knowingly provide information to a person who is not authorized to receive the information. An officer or employee of a CRA who violates the law is subject to a fine of \$5,000, up to a year in prison, or both.

There are mechanisms in state and federal law to dispute the completeness and accuracy of information on a consumer report.

#### Use of credit reports by employers under state law

Consumer reports may be used for employment purposes. Employment purposes include evaluating applicants for employment, promotion, reassignment or retention. A person may not obtain a consumer report for employment purposes with respect to any consumer who is not an employee at the time unless either:

- the consumer has received written disclosure that a consumer report may be obtained for purposes of considering the consumer for employment. This disclosure must be made prior to the employer obtaining the report. The disclosure may be contained in a written statement contained in employment application materials; or
- the consumer authorizes the procurement of the report.

A person may not obtain a consumer report for employment purposes with respect to an employee unless the employee was provided with written notice that consumer reports may be used for employment purposes. A written statement in employee guidelines or manuals available is adequate notice. These requirements do not apply with respect to a consumer report of an employee who the employer has reasonable cause to believe has engaged in specific activity that constitutes a violation of law.

In using a consumer report for employment purposes, before taking any adverse action based in whole or part on the report, a person must provide to the consumer with:

- the name, address, and telephone number of the consumer reporting agency providing the report;
- a description of the consumer's rights regarding consumer reports obtained for employment purposes; and
- a reasonable opportunity to respond to any information in the report that is disputed by the consumer.

#### **Summary of Bill:**

A person may not procure a consumer report for employment purposes where any information contained in the consumer report "bears on" the credit worthiness, credit standing, or credit capacity of an applicant or current employee, unless the information is either:

- substantially job related and the employer discloses the use of the information to the consumer in writing; or
- required by law.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.