A bill to be entitled
An act relating to employment practices; prohibiting
an employer from using a job applicant’s credit report
or credit history to make certain hiring,
compensation, or other employment decisions; providing
specific situations where an employer may use such
information; providing definitions; providing
exemptions for certain types of employers; providing
remedies for aggrieved persons; providing for court
costs; providing for a plaintiff to post a bond to
indemnify the defendant for damages, including
attorney fees, in certain situations; providing an
effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Use of a job applicant’s credit report or credit

history.—

(1) Except as provided in subsection (2), an employer may
not use an applicant’s credit report or credit history for the
purpose of denying employment to the applicant or for
determining the applicant’s compensation or the terms,
conditions, or privileges of employment.

(2) An employer may request or use an applicant’s credit
report or credit history if:

(a) The information will be used for a purpose other than
one prohibited by this section;

(b) The employer has a bona fide purpose for requesting or
using information in the credit report or credit history which
is substantially related to the job; and

(c) The ability to request such information was disclosed to the applicant and the employer obtained permission from the applicant to request the information.

(3) For purposes of this section, a position for which an employer has a bona fide purpose includes a position that:

(a) Is managerial or supervisory;
(b) Involves access to personal information of a customer, employee, or employer, except for personal information customarily provided in a retail transaction;
(c) Involves a fiduciary responsibility to the employer, including the authority to issue payments, collect debts, transfer money, or enter into contracts;
(d) Involves the use of an expense account or a corporate debit or credit card;
(e) Authorizes the employee to have access to information, including a trade secret, formula, pattern, compilation, program, device, method, technique, or process, which derives actual or potential independent economic value from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from the disclosure or use of the information and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; or
(f) Involves public safety, such as a law enforcement officer, peace officer, or other position involving enforcement of state or federal criminal laws.

(4) As used in paragraph (3)(a), the term:
(a) “Managerial” means a position that requires an
an individual to formulate and effectuate management policies by expressing and making operative the decisions of the employer.

(b) “Supervisory” means a position in which an individual has the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, adjust their grievances, or recommend such action where the authority or responsibility is not merely routine or clerical, but requires the use of independent judgment.

(5) This section does not apply to an employer that is:

(a) Expressly permitted or required to inquire into an applicant’s credit report or credit history for employment purposes pursuant to a federal or state law.

(b) A financial institution that accepts deposits that are insured by a federal agency, or an affiliate or subsidiary of the financial institution.

(c) A credit union or state-chartered bank registered with the Office of Financial Regulation.

(d) An entity that is registered as an investment advisor with the United States Securities and Exchange Commission, or an affiliate of the entity.

(6)(a) Without regard to any other remedy or relief to which a person is entitled, a person aggrieved by a violation of this section may bring an action to obtain a declaratory judgment that an act or practice violates this section and to enjoin the violator from further violations.

(b) A person who has suffered a loss as a result of a violation of this section and prevails may recover actual damages plus court costs.
(c) In any action brought under this section, upon motion of the defendant, alleging that the action is frivolous, without legal or factual merit, or brought for the purpose of harassment, the court may, after hearing evidence as to the necessity therefor, require the plaintiff to post bond in an amount that the court finds reasonable to indemnify the defendant for any damages incurred, including reasonable attorney fees. This subsection does not apply to any action initiated by the enforcing authority.

Section 2. This act shall take effect July 1, 2013.