

VIRGINIA ACTS OF ASSEMBLY -- 2005 RECONVENED SESSION

CHAPTER 944

An Act to amend the Code of Virginia by adding a section numbered 60.2-114.01, relating to access by consumer reporting agencies to Virginia Employment Commission wage information.

[S 1276]

Approved April 6, 2005

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 60.2-114.01 as follows:

§ 60.2-114.01. Furnishing information to consumer reporting agencies.

A. Notwithstanding the provisions of subsection A of § 60.2-114, the Commission shall be authorized to enter into agreements with any consumer reporting agency pursuant to which the consumer reporting agency is provided secure electronic access to information contained in quarterly wage reports submitted to the Commission by employing units, as set forth in this section.

B. The Commission shall:

1. Establish minimum audit, security, net worth, and liability insurance standards, technological requirements, and any other terms and conditions deemed necessary in the discretion of the Commission to safeguard the confidentiality of the information and to otherwise serve the public interest;

2. Require a contracting consumer reporting agency to pay all costs associated with the establishment or maintenance of the access to information provided for by this section, including but not limited to the costs of any audits of the consumer reporting agency or users by the Commission;

3. Be authorized to cancel any contract authorized by this section if the consumer reporting agency fails to comply with any requirement of this section or of the contract;

4. Be authorized to provide to a consumer reporting agency only information regarding the amount of wages for an individual reported by each employing unit, with the employing unit's name and address, as may be further specified in the terms of the contract; and

5. Deposit any fees received by the Commission from a consumer reporting agency pursuant to this section into the state treasury for credit to the Special Unemployment Compensation Administration Fund pursuant to § 60.2-314.

C. The consumer reporting agency shall:

1. Require that any user of the information shall, prior to obtaining the wage report information, obtain a written consent from the individual to whom that wage report information pertains. The written consent shall prominently contain language specifying the following:

a. The individual's consent to the Commission's disclosure of the wage report information is voluntary, and the individual's refusal to consent to the disclosure of wage information shall not be the basis for the denial of credit;

b. If the consent is granted, the information shall be released to specified parties;

c. Authorization by the individual is necessary for the release of wage and employment history information;

d. The specific application or transaction that constitutes the sole purpose for which the release is made;

e. That Commission files containing wage and employment history information submitted by employers may be accessed; and

f. The identity and address of parties authorized to receive the released information.

2. Require the use of the information only for purposes permitted under § 604 of the federal Fair Credit Reporting Act, 15 U.S.C. § 1681(b); and

3. Require that the information released shall be used only to verify the accuracy of the wage or employment information previously provided by an individual in connection with a specific transaction, to satisfy the user's standard underwriting requirements or those imposed upon the user, and to satisfy the user's obligations under applicable state or federal fair credit reporting laws.

D. In addition to any limitation on the use or release of the wage reporting information set forth in this section, release and use of the information shall be subject to the privacy laws of the Commonwealth and the federal Fair Credit Reporting Act.

E. Except in cases of willful and malicious misconduct, the Commission and its employees shall be immune from any liability in connection with information provided under this section, including but not limited to liability with regard to the accuracy or use of the information.

F. An annual audit of a contracted consumer reporting agency shall be conducted by an independent certified public accountant to ensure compliance with the provisions of this section, and such audit shall be reviewed by the Auditor of Public Accounts.

G. For the purposes of this section, "consumer reporting agency" has the meaning assigned by

§ 603(f) of the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f).

2. That the provisions of § 60.2-114.01 shall become effective on January 1, 2007.