

**ORDINANCE NO. \_\_\_\_\_, SERIES 2021**

**AN ORDINANCE AMENDING THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT CODE OF ORDINANCES (“LMCO”) CHAPTER 92 TO PROHIBIT CREDIT DISCRIMINATION IN EMPLOYMENT (AS AMENDED).**

**SPONSORED BY: COUNCIL MEMBER MCCRANEY**

**WHEREAS**, the Legislative Council of the Louisville/Jefferson County Metro Government (“Council”) prohibits discrimination in employment, public accommodations and housing in Chapter 92 of the Louisville/Jefferson County Metro Government Code of Ordinances (“LMCO”); and

**WHEREAS**, Council authorizes the Human Relations Commission, an agency within Louisville/Jefferson County Metro Government (“Metro”), to enforce violations of Council’s anti-discriminatory ordinances; and

**WHEREAS**, Council views an individual’s creditworthiness to rarely be relevant to employment decisions, and that consumer reports should not be requested for most employment positions available within Metro; and

**WHEREAS**, recent job losses due to the Covid-19 pandemic have caused many of Metro’s citizens to need to re-apply for employment; and

**WHEREAS**, Council intends to stop employers from using consumer credit history when making employment decisions – a practice Council believes to have a disproportionately negative effect on unemployed people, low income communities, communities of color, women, domestic violence survivors, families with children, divorced individuals, and those with student loans and/or medical bills; and

**WHEREAS**, Metro has an interest in enforcing its anti-discrimination employment ordinances to ensure that all Metro residents are free from unlawful discrimination with regard to employment opportunities; and

**WHEREAS**, Council intends to amend Title 9, Chapter 92 and include a provision that prevents employers from using consumer credit history to work a discriminatory effect against Metro's citizens.

**NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:**

**SECTION I:** That the Council does hereby amend Metro's Code of Ordinances Chapter 92.02:

**CONSUMER CREDIT HISTORY.** An individual's credit worthiness, credit standing, credit capacity, or payment history, as indicated by: (1) a consumer credit report; (2) credit score; or (3), notwithstanding the provisions of 15 U.S.C.A. § 1681(b)(2) information an employer obtains directly from the individual regarding details about credit accounts, including the individual's number of credit accounts, late or missed payments, charged-off debts, items in collections, credit limit, prior credit report inquiries, or bankruptcies, judgments or liens.

**SECTION II:** That the Council does hereby amend Metro's Code of Ordinances Chapter 92.06:

(G) Employment; consumer credit history.

(1) Except as provided in this subsection, it shall be an unlawful discriminatory practice for an employer, labor organization, employment agency, or agent thereof to

request or to use for employment purposes the consumer credit history of an applicant for employment or employee, or otherwise discriminate against an applicant or employee with regard to hiring, compensation, or the terms, conditions or privileges of employment based on the consumer credit history of the applicant or employee.

(2) Paragraph (1) of this subdivision shall not apply to:

(a) An employer or agent thereof, that is required by state or federal law or regulations or by a self-regulatory organization as defined in section 3(a)(26) of the Securities Exchange Act of 1934, as amended to use an individual's consumer credit history for employment purposes;

(b) Persons applying for positions as or employed:

(A) As police officers or peace officers, or in a position with a law enforcement or investigative function;

(B) In a position that is subject to background investigation by the Louisville Metro Police Department or Kentucky State Police;

(C) In a position in which an employee is required to be bonded under city, state or federal law;

(D) In a position in which an employee is required to possess security clearance under federal law or the law of any state;

(E) In a non-clerical position having regular access to trade secrets, intelligence information or national security information;

(F) In a position:

(i) having possession or control handling or having access to, during the normal course of one's employment responsibilities, over third-party funds or assets valued at \$10,000 or more; or

(ii) that involves a fiduciary responsibility to the employer with the authority to enter financial agreements valued at \$10,000 or more on behalf of the employer; or

(iii) Subject to the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act); or

(G) In a position with regular duties that allow the employee to modify digital security systems established to prevent the unauthorized use of the employer's or client's networks or databases.

(3) Prior to requesting a consumer credit report as authorized in this subsection, an employer shall disclose the request to the employee and obtain the employee's express written consent.

(4) Nothing in this subdivision precludes an employer from requesting or receiving consumer credit history information pursuant to a lawful subpoena, court order or law enforcement investigation.

**SECTION III:** This Ordinance shall be effective upon its passage and approval.

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Sonya Harward  
Metro Council Clerk

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David James  
President of the Council

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Greg Fischer  
Mayor

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Approval Date

**APPROVED AS TO FORM AND LEGALITY:**

Michael J. O'Connell  
Jefferson County Attorney

By: \_\_\_\_\_

O-XXX-21 Preventing Credit Worthiness Discrim. in Employment jdf 080421