



New Illinois Law Prohibits Most Employment Credit Checks

The state of Illinois recently passed new legislation (Employee Credit Privacy Act H.B. 4658) which will greatly restrict your organization's ability to perform credit checks on candidates and employees. These new requirements are similar to those in [Oregon](#), [Washington](#), and [Hawaii](#).

Who does this law affect?

This legislation applies to Illinois employers of any size however certain employers are excluded from the Act's coverage. Those entities excluded include many governmental employers, banks, savings and loan associations, other financial institutions, debt collectors, insurance companies and surety businesses. In addition, the Act provides limited exceptions that allow employers to use credit information if it is related to a "bona fide occupational requirement" for a particular position or group of employers. As a best practice, employers outside of Illinois that hire people to work in Illinois are advised to follow these same guidelines.

When does this law go into effect?

January 1, 2011

What does this law prohibit?

The Act prohibits most employers from:

- Using a candidate's or employee's credit history or other credit information as a factor in any employment decision (i.e. hire, discharge, terms of employment).
- Inquiring into a candidate's or employee's credit history or obtaining a credit history report from a consumer reporting agency like Accurate Background.

Are there examples of a "bona fide occupational requirement"?

The bona fide occupational qualification applies generally to those positions involving money handling or other confidential job duties. For example, employers may use credit information for employees whose duties:

- Require bonding by state or federal law
- Involve unsupervised access to cash or certain assets valued at \$4500 or more
- Involve signatory power of \$100 or more per transaction
- Are in a managerial position which involves setting direction or control of the business
- Involve access to confidential information, financial information, or trade secrets

Recommendations

If your organization does not meet one of the clear exceptions above, you should plan to discontinue use of credit reports until you are able to confer with your legal counsel for guidance. If you plan to use the "bona fide occupational requirement" exception, it is recommended that you carefully examine each job position and the job responsibilities before continuing to use credit reports in a hiring decision or as part of any decision involving a current employee or job candidate. Also, job responsibilities that require handling company finances or access to company and customer financial data should be carefully considered for the "bona fide occupational requirement" exception.

Click [here](#) for more in-depth information from law firm Seyfarth Shaw regarding this new legislation. For additional questions, please contact Accurate Background at 800.784.3911.