

LEGAL UPDATE



New Oregon Law Prohibits Most Employment Credit Checks

The Oregon legislature recently passed new legislation which will greatly restrict your organization's ability to perform credit checks on applicants and employees.

Who does this law affect?

This legislation bans Oregon employers from obtaining or using information in a credit report to make a hiring decision regarding most job applicants, or as part of any decision involving most current employees.

When does this law go into effect?

Immediately (Original law was scheduled to go into effect on July 1st, 2010. The Governor of Oregon declared it effective immediately on March 29th, 2010.)

Are there any exceptions to this new law?

Clearly excluded from the new ban on credit checks are:

- Federally insured banks and credit unions
- Businesses required by law to consider employee credit history
- Police and other public employers hiring for law enforcement and airport security

Vaguely excluded from the new ban on credit checks are:

- Any employers that obtain or use a credit report when the information is "substantially job-related."

Are there concerns with using the "substantially job-related" exception?

This exception is somewhat vague in that it does not expressly explain what types of jobs and responsibilities constitute the credit report being "substantially job-related". It is anticipated that Oregon's Bureau of Labor and Industries will be asked to define what constitutes substantial job-relatedness however those definitions will most likely take several months to complete. In addition, in order to comply with this exception, the employer's reasons for using the credit report must be disclosed to the employee or job applicant in writing.

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 "substantial job-related" 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. Also, job responsibilities that require handing company finances or access to company and customer financial data should be carefully considered for the "substantial job-related" exception.

Visit this [link](#) to review Oregon Senate Bill 1045. For more information regarding these changes in Oregon state law, please contact Accurate Background at 800.784.3911.