



Colorado Becomes the 9th State to Restrict Use of Credit Checks in Hiring Decisions

The state of Colorado has passed new legislation [the "Employment Opportunity Act," Colo. Rev. St 8-2-126] and joins eight other states in greatly restricting an employer's ability to perform credit checks on candidates and employees. This legislation is becoming more common in the industry as these new requirements are similar to those in [California](#), [Oregon](#), [Washington](#), [Hawaii](#), [Maryland](#), [Connecticut](#), [Illinois](#), and [Vermont](#) with other states continuing to evaluate similar pending laws.

Who does this law affect?

This legislation applies to private employers with 4 or more employees who may inquire to or request consumer credit information on individuals for employment purposes.

When does this law go into effect?

The law goes into effect **July 1, 2013**.

What does this law state?

The Employment Opportunity Act specifies the purposes in which consumer credit information can be used by a potential employer or current employer. Specifically the law:

- Prohibits an employer's use of consumer credit information for employment purposes unless the information is substantially related to the individual's current or potential job which is defined as:
 - A position that constitutes executive or management personnel and which involves one or more of the following:
 - sets the direction or control of a business, division, unit or an agency of the business;
 - owes a fiduciary responsibility to the employer;
 - has access to customers', employees' or the employer's financial information; or
 - has the authority to make payments, collect debts or enter into contracts.
 - A position that involves contracts with intelligence, national security, defense, or space agencies of the federal government.
- There are two types of employers in which this prohibition does not apply and they are permitted to use credit check information: (1) banks and financial institutions and (2) employers who are required by law to conduct credit checks.
- Authorizes an employee aggrieved by a violation of the provisions to bring suit for an injunction, damages, or both; and
- Requires the department of labor and employment to enforce the laws related to employer use of consumer credit information.

Are there any additional processes employers must follow?

Yes:

- If the employer meets the requirements in which a credit check may be requested, they must:
 - Have a "bona fide" purpose for requesting and/or using the credit information in an employment decision and
 - Disclose the bona fide purpose to the applicant / employee.
- Requires an employer to provide a written disclosure to an employee or applicant when the employer uses the employee's consumer credit information to take adverse action against him or her related to the employment decision and noting the particular credit information upon which the employer relied;

Recommendations

If your organization does not meet one of the clear exceptions above, you should plan to discontinue use of credit reports prior to July 1, 2013 or until you are able to confer with your legal counsel for guidance. If you plan to use consumer credit reports for employment purposes, 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.

Contact Accurate Background

Click [here](#) for more in-depth information from law firm Seyfarth Shaw regarding this new legislation. For additional questions, please contact Accurate Background at 800.216.8024.