



Nevada Becomes the 10th State to Prohibit Employers from Using Credit Reports and Other Credit Information in Employment Decisions

Nevada has passed a new law [Senate Bill 127] and joins nine other states in restricting an employer's ability to perform credit checks on candidates and employees. This legislation is similar to those that have passed in [California](#), [Oregon](#), [Washington](#), [Hawaii](#), [Maryland](#), [Connecticut](#), [Illinois](#), [Vermont](#), and, just last month, [Colorado](#). Legislation surrounding the use of credit checks is becoming more common in the industry as seen in these states as well as a number of other states evaluating similar pending laws.

Who does this law affect?

This legislation applies to private employers as well as "any person acting directly or indirectly in the interest of an employer in relation to an employee or potential employee" (collectively "employers").

When does this law go into effect?

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

What does this law state?

Employers are now prohibited to:

- Directly or indirectly, require, request, suggest or cause any employee or prospective employee to submit a consumer credit report or other credit information as a condition of employment;
- Use, accept, refer to or inquire concerning a consumer credit report or other credit information;
- Discharge, discipline, discriminate against in any manner or deny employment or promotion to, or threaten to take any such action against any employee or prospective employee:
 - (a) who refuses, declines or fails to submit a consumer credit report or other credit information; or
 - (b) on the basis of the results of a consumer credit report or other credit information; or
- Discharge, discipline, discriminate against in any manner or deny employment or promotion to, or threaten to take any such action against any employee or prospective employee who has pursuant to the new law:
 - (a) filed any complaint or instituted or caused to be instituted any legal proceeding;
 - (b) testified or may testify in any legal proceeding instituted; or
 - (c) exercised his or her rights, or has exercised on behalf of another person the rights afforded to him or her.

What are the exceptions in which credit may be used in employment decisions?

- The employer is required or authorized, pursuant to state or federal law, to use a consumer credit report or other credit information for that purpose;
- The employer reasonably believes that the employee or prospective employee has engaged in specific activity which may constitute a violation of state or federal law; or
- The information contained in the consumer credit report or other credit information is "job related" or reasonably related to the position for which the employee or prospective employee is being evaluated for employment, promotion, reassignment or retention as an employee.

What is considered to be job related?

Job-relatedness is defined as: (a) Responsibility for financial assets or employment with a financial institution; (b) Access to confidential information; (c) Managerial or supervisory responsibility; (d) Direct exercise of law enforcement authority; (e) Responsibility for or access to another person's financial information; and (f) Employment with a licensed gaming establishment.

Recommendations

If your organization does not meet one of the clear exceptions above, you should plan to discontinue use of credit reports prior to October 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.