



### **New Maryland Law Prohibits Most Employment Credit Checks – Effective October 1, 2011**

The state of Maryland passed legislation (Job Applicant Fairness Act) which will generally prohibit most organizations from utilizing credit checks in employment decisions on candidates and employees. This legislation is similar to those in [Oregon](#), [Washington](#), [Hawaii](#), and [Illinois](#).

#### **Who does this law affect?**

This legislation applies to Maryland employers of any size, however certain employers are excluded from the Act's coverage. Financial institutions as well as those required to conduct a credit check under federal or state law are exempt from this Act's provisions. In addition, the Act provides limited exceptions that allow employers to request or use credit information if it is related to a "bona fide purpose that is substantially job related."

#### **When does this law go into effect?**

The law goes into effect **October 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, compensation and terms of employment) unless it meets specific timing and job-relatedness requirements.

#### **Are there examples of a "bona fide purpose that is substantially job related"?**

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

- Are in a managerial position which involves setting direction or control of the business
- Involve access to confidential information, financial information, or trade secrets
- Involve having a corporate credit card

#### **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, 2011 or until you are able to confer with your legal counsel for guidance. If you plan to use the "bona fide purpose that is substantially 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 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 purpose that is substantially job related" exception.

#### **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 800.784.3911.