



Vermont Becomes the 8th State to Restrict Use of Credit Checks from Employers in Hiring Decisions

The state of Vermont has passed new legislation [Act No. 154 (S. 95)] and joins seven 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](#), and [Illinois](#) with other states continuing to evaluate similar pending laws.

Who does this law affect?

This legislation applies to Vermont employers who may inquire to or request consumer credit reports on candidates and/or employees for employment purposes.

When does this law go into effect?

The law goes into effect **July 1, 2012**.

What does this law state?

This law generally prohibits employers from inquiring into an applicant or employee's credit history or utilizing a credit report in making an employment decision unless the position meets the criteria outlined in the statute. Even if the employer is permitted to conduct a credit check and use such information in their employment decision, the employer is prohibited from using the credit report or history as the sole factor in their decision.

Are there any additional processes employers must follow?

Yes, just as with the Fair Credit Reporting Act (FCRA):

- The employer must obtain the employee or applicant's consent. In addition, the employer must disclose, in writing, the reasons for accessing the credit report.
- If the employer decides to take adverse action based on the credit history / report, they must provide written notification to the applicant / employee as to the reasons they are taking adverse action. Also, just as with the FCRA, the employer must allow them to dispute the accuracy of the credit report.

When can an employer obtain, and use, a credit report in Vermont?

Employers may obtain a consumer credit report for employment purposes if at least one of the following applies:

- The information is required by state or federal law or regulation;
- The position of employment:
 - Involves access to "confidential financial information," defined as sensitive financial information of commercial value that consumers or clients explicitly authorize the employer to have and which the employer only entrusts to certain employees;
 - Is that of a law enforcement officer, emergency medical personnel or a firefighter (as these terms are defined by state law);
 - Requires a financial fiduciary responsibility to the employer or its clients, including authority to issue payments, collect debts, transfer money, or enter into contracts; or involves access to employer's payroll information.
- The employer is a financial institution or credit union (as these terms are defined by state law); or
- The employer can demonstrate that the information is "valid and reliable predictor of employee performance in a specific position of employment."

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, 2012 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 800.784.3911.