

CREDIT REPORT DATA END USER CERTIFICATION OF PERMISSIBLE PURPOSE

Initial all that apply

<p>If Employer or position is in:</p>	<p>There are ten states with restrictions on the use of credit reports for employment purposes. These are the only exceptions that allow for a credit report for employment purposes in those states:</p>
<p>California</p>	<p>A managerial position. [note: "Managerial position" means an employee covered by the executive exemption set forth in subparagraph (1) of paragraph (A) of Section 1 of Wage Order 4 of the Industrial Welfare Commission (8 Cal. Code Regs. 11040)]</p>
	<p>A position in the state Department of Justice.</p>
	<p>A sworn peace officer or other law enforcement position.</p>
	<p>A position for which the information contained in the report is required by law to be disclosed or obtained.</p>
	<p>A position that involves regular access to all of the following types of information of any one person: Bank or credit card account information, and Social security number and date of birth.</p>
	<p>A position in which the person is, or would be, any of the following: 1-A named signatory on the bank or credit card account of the employer. 2- Authorized to transfer money on behalf of the employer or 3- Authorized to enter into financial contracts on behalf of the employer.</p>
	<p>A position that involves access to confidential or proprietary information, including a formula, pattern, compilation, program, device, method, technique, process or trade secret that (i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who may obtain economic value from the disclosure or use of the information, and (ii) is the subject of an effort that is reasonable under the circumstances to maintain secrecy of the information.</p>
	<p>A position that involves regular access to cash totaling ten thousand dollars (\$10,000) or more of the employer, a customer, or client, during the workday.</p>
<p>Colorado</p>	<p>Colorado's law generally prohibits employers from using "consumer credit information" for employment purposes. This means that employers may not use any written or oral information bearing on a consumer's credit worthiness, credit standing, credit capacity or credit score in "evaluating a person for employment, hiring, promotion, demotion, reassignment, adjustment in compensation level, or retention as an employee."</p>
	<p>Two types of employers are generally exempt from the law's prohibitions: (1) banks or financial institutions; and (2) employers who are required by law to procure consumer credit information. These two classes of employers are permitted to obtain and use credit information for all their employees, regardless of specific positions or responsibilities and need only abide by the law's additional adverse action requirements</p>
	<p>The vast majority of employers, however, are prohibited from requesting or using an applicant or employees' consumer credit information unless that information is "<i>substantially related to the employee's current or potential job.</i>" The statute defines the substantially related language to mean one of two types of positions:</p> <ol style="list-style-type: none"> 1. A position that constitutes executive or management personnel (or officers or employees who constitute professional staff to executive and management personnel) and which involves one or more of the following: <ul style="list-style-type: none"> • 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. 2. A position that involves contracts with defense, intelligence, national security, or space agencies of the federal government.
	<p>Even for these positions where credit information is "substantially related to the employee's current or potential job", an employer must satisfy two additional requirements before it uses and applicant or employee's consumer credit information in making an employment decision. First, the employer must have a "bona fide purpose" for requesting or using the information in the credit report. Second, the employer must disclose its bona fide purpose to the applicant employee. Notably, the law is silent as to when this disclosure must be made and does not define the term "bona fide purpose."</p>
	<p>Also, when consumer credit information is "substantially related to the employee's current or potential job" an employer may, but is not required to, afford the applicant or employee an opportunity to explain any unusual or mitigating circumstances (e.g. error, lay off, identity theft, medical expenses etc.) unless: 1) an employer is a bank or financial institution; (2) the report is required by law; or (3) the report is substantially related to the employee's current or potential job and meets the additional requirements detailed above; an employer may not require an employee to consent to a request for a credit report that contains information about the employee's credit score, credit account balances, payment history, account balances and the like as a condition of employment.</p>

CREDIT REPORT DATA END USER CERTIFICATION OF PERMISSIBLE PURPOSE

Initial all that apply

<p>Colorado (continued)</p>	<p>Unless, (1) an employer is a bank or financial institution; (2) the report is required by law; or (3) the report is substantially related to the employee's current or potential job and meets the additional requirements detailed above; an employer may not require an employee to consent to a request for a credit report that contains information about the employee's credit score, credit account balances, payment history, account balances and the like as a condition of employment.</p>
	<p>WARNING: Adverse Action Based on Credit Report Data</p> <p>The new Colorado law also expands requirements for employers wishing to take adverse action in whole or in part based on information in a credit report. Any employer that relies, in whole or in part, upon consumer credit information to take any adverse action against an applicant or employee, must make a written disclosure to the employee or applicant explaining that it has relied on credit information to make an adverse action and <i>noting the specific information which the employers relied</i>.</p> <p>This is different from and more burdensome than the federal Fair Credit Reporting Act's (FCRA) requirements. 15 U.S.C. Sec. 1681 et. seq. The term "adverse action" is defined broadly to include denial of employment, demotion, reassignment, a decrease in compensation, denial of promotion, termination or any other decision for employment purposes that adversely affects an employee or applicant. The law provides that the disclosure must be made in writing or "using the same medium in which the application was made". Although the law does not detail when the disclosures must be made, in order to comply with the FCRA as well, employers should consider doing so prior to making any employment decisions.</p>
	<p>PENALTIES: Although the law does not create a private cause of action, aggrieved individuals may file a complaint with the Colorado Division of Labor. The law empowers the Division of Labor in the Department of Labor and Employment to enforce its provisions by investigating alleged violation and issuing findings after a hearing. The Division may award civil penalties up to two thousand five hundred dollars (\$2,500) to a prevailing party.</p>
<p>Connecticut</p>	<p>The employer is a financial institution,</p>
	<p>The credit report is required by law,</p>
	<p>The credit report is substantially related* to the employee's current or potential job or the employer. * "Substantially related" is defined in CT Public Act N. 11-223</p>
	<p>The employer has a bona fide purpose for requesting or using information in the credit report that is substantially job-related is disclosed in writing to the employee or applicant.</p>
	<p>If already an employee, the employer reasonably believes that the employee has engaged in specific activity that constitutes a violation of the law related to the employee's employment.</p>
<p>Hawaii</p>	<p>The prospective employee has received a conditional offer of employment.</p>
	<p>The employer is expressly permitted or required to inquire into an individual's credit history for employment purposes pursuant to any federal or state law;</p>
	<p>The prospective employee is a managerial or supervisory employees; "Managerial employee" means an individual who formulates and effectuates management policies by expressing and making operative the decisions of the individual's employer. "Supervisory employee" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.</p>
	<p>The employer is a financial institution in which deposits are insured by a federal agency having jurisdiction over the financial institution.</p>
<p>Illinois</p>	<p>State or federal law requires bonding or other security covering an individual holding the position.</p>
	<p>The duties of the position include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more.</p>
	<p>The duties of the position include signatory power over business assets of \$100 or more per transaction.</p>
	<p>The position is a managerial position which involves setting the direction or control of the business.</p>
	<p>The position involves access to personal or confidential information*, financial information*, trade secrets*, or State or national security information. * As defined in Illinois Code Chapter 820 ILCS 70/1)e</p>
	<p>The position meets criteria in administrative rules, if any, of the U.S. Department of Labor or the Illinois Department of Labor that establish the circumstances in which a credit history is a bona fide occupational requirement.</p>
	<p>The employee's or applicant's credit history is otherwise required by or exempt under federal or State law.</p>
<p>Maryland</p>	<p>Employer is required to inquire into an applicant's or employee's credit report or credit history under federal law or any provision of State law for the purpose of employment;</p>
	<p>Employer is financial institution that accepts deposits that are insured by a federal agency, or an affiliate or subsidiary of the financial institution; a credit union share guaranty corporation that is approved by the Maryland Commissioner of Financial Regulation; or an entity, or an affiliate of the entity, that is registered as an investment advisor with the United States Securities and Exchange Commission.</p>
	<p>The applicant has received an offer or employment and the credit report will not be used to deny employment, discharge the employee or determine compensation or terms, conditions, or privileges of employment.</p>
	<p>The employer has a bona fide purpose for requesting or using information in the credit report or credit history that is substantially job-related* and the purpose has been disclosed in writing to the employee or applicant. **"Substantially job-related" is limited to the following four situations:.</p>
	<p>1. The position is managerial and involves setting the direction or control of a business, or a department, division, unit, or agency of a business</p>
	<p>2. The position involves access to personal information, as defined in § 14-3501 of the Commercial Law Article, of a customer, employee, or employer, except for personal information customarily provided in a retail transaction</p>
	<p>3. The position involves a fiduciary responsibility to the employer, including the authority to issue payments, collect debts, transfer money, or enter into contracts</p>

CREDIT REPORT DATA END USER CERTIFICATION OF PERMISSIBLE PURPOSE

Initial all that apply

Maryland	4. The applicant/employee is provided an expense account or a corporate debit or credit card
(continued)	5. The position has access to information, including a formula, pattern, compilation, program, device, method, technique, or process, that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from the disclosure or use of the information; and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; or other confidential business information.
NEVADA	<p>2005 Nevada Code - Chapter 613 — Employment Practices</p> <p><u>Prohibitions</u></p> <p>Unless otherwise permitted by the new Nevada law, it is unlawful for any employer in the state to:</p> <ul style="list-style-type: none"> ▪ 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 on the basis of the results of a consumer credit report or other credit information, or who: <ul style="list-style-type: none"> ▪ Refuses, declines or fails to submit a consumer credit report or other credit information; ▪ Filed any complaint or instituted (or caused to be instituted) any legal proceeding pursuant to the new Nevada law; ▪ Testified or may testify in any legal proceeding instituted pursuant to the new Nevada law; or ▪ Exercised his or her rights, or has exercised on behalf of another person the rights afforded to him or her pursuant to the new Nevada law. <p><u>Exceptions</u></p> <p>Notwithstanding the general prohibition on credit checks, an employer may request or consider a consumer credit report or other credit information for the purpose of evaluating an employee or prospective employee for employment, promotion, reassignment or retention as an employee (hereinafter, "an accepted purpose") if:</p> <ul style="list-style-type: none"> ▪ The employer is required or authorized, pursuant to state or federal law, to use a consumer credit report or other credit information for an accepted purpose; ▪ The employer reasonably believes that the employee or prospective employee has engaged in specific activity that may constitute a violation of state or federal law; or ▪ The information contained in the consumer credit report or other credit information is reasonably related to the position for which the employee or prospective employee is being evaluated for an accepted purpose. <p>As for the final exception, the new Nevada law defines "reasonably related" to mean, where the duties of the position involve:</p> <ul style="list-style-type: none"> ▪ The care, custody and handling of, or responsibility for, money, financial accounts, corporate credit or debit cards, or other assets; ▪ Access to trade secrets or other proprietary or confidential information; ▪ Managerial or supervisory responsibility; ▪ The direct exercise of law enforcement authority as an employee of a state or local law enforcement agency; ▪ The care, custody and handling of, or responsibility for, the personal information of another person; ▪ Access to the personal financial information of another person; ▪ Employment with a financial institution chartered under state or federal law, including a subsidiary or affiliate of such a financial institution; or ▪ Employment with a licensed gaming establishment (as defined by statute). <p><u>Remedies</u></p> <p>The law provides for a private right of action by employees and prospective employees, pursuant to which a plaintiff may obtain legal or equitable relief, including employment of a prospective employee, reinstatement or promotion of an employee, and the payment of lost wages and benefits. The statute also permits the court to award attorneys' fees and costs to the prevailing party. Moreover, the statute allows for class claims. There is a three-year statute of limitations applicable to claims under the new law. In addition to private enforcement actions, Nevada's Labor Commissioner also may bring a civil action to obtain remedies similar to those afforded to private claimants, as well as assess an administrative penalty of up to \$9,000 for each violation.</p>

CREDIT REPORT DATA END USER CERTIFICATION OF PERMISSIBLE PURPOSE

Initial all that apply

Oregon	Employer is a federally insured banks or credit unions
	Employer is required by state or federal law to use individual credit history for employment purposes;
	Employment of a public safety officer who is a member of a law enforcement unit, who is employed as a peace officer commissioned by a city, port, school district, mass transit district, county, Indian reservation, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission or the Governor and who is responsible for en-forcing the criminal laws of this state or laws or ordinances related to airport security;
	The credit report is substantially job-related and the employer's reasons for the use is disclosed to the employee or prospective employee in writing.
Vermont	The information is required by state or federal law or regulation.
	The position of employment involves access to confidential financial information.
	The employer is a financial institution or credit union as defined by state law.
	The position of employment is that of a law enforcement officer, emergency medical personnel, or a firefighter as defined by state law.
	The position of employment requires a financial fiduciary responsibility to the employer or a client of the employer, including the authority to issue payments, collect debts, transfer money, or enter into contracts.
	The employer can demonstrate that the information is a valid and reliable predictor of employee performance in the specific position of employment.
	The position of employment involves access to an employer's payroll information
	HOWEVER: However, even exempted employers that seek to obtain or act upon the credit information of an applicant or employee are prohibited by the Act from using credit report or credit history as the sole factor in making any employment decision. In addition, the Act requires employers to first obtain the written consent of the employee or applicant to the disclosure of the credit information and must also disclose in writing its reasons for accessing the report.
Washington	Credit history is substantially job related and the employer's reasons for the use of such information are disclosed to the consumer in
	Credit report is required by law.