



CONNECTICUT PASSES LAW NARROWING SCOPE OF BACKGROUND CHECKS

The Connecticut Legislature recently passed a law (Public Act No. 11-223) prohibiting employers from requiring an employee or prospective employee to consent to a request for a credit report that contains information about the employee or prospective employee's credit score, credit account balances, payment history, savings or checking account balances or savings or checking account numbers as a condition of employment. The statute does contain exceptions for (1) financial institutions; and (2) where the report is required by law; (3) where 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; and (4) where the report is substantially related to the employee's current or potential job or the employer has a bona fide purpose for requesting or using the information in the credit report that is substantially job-related and is disclosed in writing to the employee or applicant.

The statute defines the phrase "substantially related to the employee's current or potential job" as meaning that the information contained in the credit report is related to the position for which the employee or prospective employee is being evaluated because the position: (A) is a managerial position which involves setting the direction or control of a business, division, unit or an agency of a business; (B) involves access to customers', employees' or the employer's personal or financial information other than information customarily provided in a retail transaction; (C) involves a fiduciary responsibility to the employer, including, but not limited to, the authority to issue payments, collect debts, transfer money or enter into contracts; (D) provides an expense account or corporate debit or credit card; (E) provides access to confidential, proprietary or trade secret information; or (F) involves access to the employer's nonfinancial assets valued at two thousand five dollars or more.

Any aggrieved employee or applicant can file a complaint with the Labor Commissioner. An employer is liable to the Labor Department for a civil penalty of \$300 for each inquiry made in violation of the statute. The statute does not create a private right of action for an employee or applicant.

The law goes into effect on October 1, 2011. Accordingly, employers must appropriately modify and tailor their background check authorizations and disclosures used to comply with the federal Fair Credit Reporting Act to avoid violating the new statute.

Hartford · New London
(860) 727-8900
www.siegelconnor.com