

Employment Law Advisory for September 14, 2011

Checking An Applicant's Credit History-Part 2: Assembly Bill 22

Last week we discussed the federal and state rules that apply to obtaining and using credit checks in the process of screening applicants for employment. On Thursday last week, the California Legislature approved Assembly Bill 22 ("AB 22"), which if signed by Governor Brown, will dramatically limit a California employer's ability to use an applicant's credit history in the hiring process. AB 22 prohibits most private sector employers from conducting credit checks on applicants for employment. The bill makes exceptions for positions in law enforcement or with the state Department of Justice, certain management positions and for positions in which the employee will have access to money, other assets or confidential information.

AB 22 has been opposed by the California Chamber of Commerce on the grounds that employers routinely and legitimately rely on credit reports as one factor in gauging the overall responsibility and trustworthiness of an applicant for employment. The California Labor Federation has been a supporter of the bill and has argued forcefully that many individuals are blameless victims of the recent economic collapse and their credit history should not be used to limit future employment opportunities. The Legislature sent similar bills to Governor Schwarzenegger, but he vetoed each such bill. The sponsors of this bill are hoping for a different decision by Governor Brown and are pushing the idea that the bill is particularly important in the current economic climate.

We will follow the Governor's action on AB 22 and report on whether the bill becomes California law. If you have any questions about AB 22, or any other issue relating to employment law, please contact one of our attorneys:

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