

*Special Announcement to all State of Maryland employers :*

The State of Maryland has passed an law entitled the “Job Applicant Fairness Act (HB 87)”, which limits the use of credit reports in the hiring process and decision.

The law states the following:

- (1) AN EMPLOYER MAY REQUEST OR USE AN APPLICANT’S OR EMPLOYEE’S CREDIT REPORT OR CREDIT HISTORY IF:
- a. THE APPLICANT HAS RECEIVED AN OFFER OF EMPLOYMENT; AND
  - b. THE CREDIT REPORT OR CREDIT HISTORY WILL BE USED FOR A PURPOSE OTHER THAN A PURPOSE PROHIBITED BY SUBSECTION (B) OF THIS SECTION \*\*\*See below for Sec B\*\*\*

OR

- (2) THE EMPLOYER HAS A BONA FIDE PURPOSE FOR OBTAINING REQUESTING OR USING INFORMATION IN THE CREDIT REPORT OR CREDIT HISTORY THAT IS:
- a. SUBSTANTIALLY JOB-RELATED; AND
  - b. DISCLOSED IN WRITING TO THE EMPLOYEE OR APPLICANT.

FOR THE PURPOSES OF THIS SUBSECTION, A POSITION FOR WHICH AN EMPLOYER HAS A BONA FIDE PURPOSE THAT IS SUBSTANTIALLY JOB-RELATED FOR REQUESTING OR USING INFORMATION IN A CREDIT REPORT OR CREDIT HISTORY INCLUDES A POSITION THAT:

- 1) IS MANAGERIAL AND INVOLVES SETTING THE DIRECTION OR CONTROL OF A BUSINESS, OR A DEPARTMENT, DIVISION, UNIT, OR AGENCY OF A BUSINESS;
- 2) 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;
- 3) INVOLVES A FIDUCIARY RESPONSIBILITY TO THE EMPLOYER, INCLUDING THE AUTHORITY TO ISSUE PAYMENTS, COLLECT DEBTS, TRANSFER MONEY, OR ENTER INTO CONTRACTS;
- 4) IS PROVIDED AN EXPENSE ACCOUNT OR A CORPORATE DEBIT OR CREDIT CARD; OR
- 5) HAS ACCESS TO
  - a. INFORMATION, INCLUDING A FORMULA, PATTERN, COMPILATION, PROGRAM, DEVICE, METHOD, TECHNIQUE, OR PROCESS, 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 CAN OBTAIN ECONOMIC VALUE FROM THE DISCLOSURE OR USE OF THE INFORMATION; AND
- ii. IS THE SUBJECT OF EFFORTS THAT ARE REASONABLE UNDER THE CIRCUMSTANCES TO MAINTAIN ITS SECRECY; OR

b. OTHER CONFIDENTIAL BUSINESS INFORMATION.

\*\*\* (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN EMPLOYER MAY NOT USE AN APPLICANT'S OR EMPLOYEE'S CREDIT REPORT OR CREDIT HISTORY IN DETERMINING WHETHER TO:

- DENY EMPLOYMENT TO THE APPLICANT;
- DISCHARGE THE EMPLOYEE; OR
- DETERMINE COMPENSATION OR THE TERMS, CONDITIONS, OR PRIVILEGES OF EMPLOYMENT.

This law will require a review of the hiring process in place and may require changes to that process. The complete text can be found here:

<http://mlis.state.md.us/2011rs/billfile/hb0087.htm>

Justifacts recommends that you consult with your legal department to determine what changes, if any, need to be made to your hiring process in order to comply with this law.

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