

Employers Need to Know Employment Law Alerts from Ober|Kaler's Employment Group



New Law Prohibits Maryland Employers from Using Applicant and Employee Credit Information

Effective October 1, 2011, Maryland employers, with limited exception, will no longer be able to request or use an applicant's or employee's credit report or credit history to make employment decisions.

The Job Applicant Fairness Act, passed by the Maryland General Assembly this session, applies to employers of all sizes. The Act allows an employer to request or use an applicant's or employee's credit information only after an offer of employment has been extended. Yet, even then, credit information cannot be used to deny employment, terminate the employee, or determine the terms, conditions and privileges of employment, including compensation.

However, an employer with a "bona fide purpose" that is "substantially job-related" can continue to request and use an applicant's or employee's credit information, if such use is disclosed in writing to the applicant or employee, and the position available, is managerial, allows the employee access to personal information, involves a fiduciary responsibility to the employer, provides for an expense account, debit or credit card for the employee or allows the employee access to confidential business information.

The Act does not apply to employers that are (1) required under federal or state law to request an applicant's or employee's credit information, (2) financial institutions and subsidiaries that accept federally insured deposits, (3) credit union share guaranty corporations approved by the Maryland Commissioner of Financial regulation or (4) investment advisors registered with the U.S. Securities and Exchange Commission.

The Maryland Commissioner of Labor and Industry will enforce this Act. Violators can be assessed a civil penalty of up to \$500 for an initial violation and up to \$2500 for repeat violation.

Maryland is the fifth state to adopt this type of statute, after Hawaii, Oregon, Washington and Illinois. Eighteen other states are considering or have recently considered similar legislation.

For more information on this Act and how it applies to your business please contact your [Ober|Kaler Employment and Labor attorney](#) (www.ober.com/practices/employment-attorneys).

About Ober|Kaler

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