

New Rules On Credit Checks Are In The Works

Publication

3.11.10

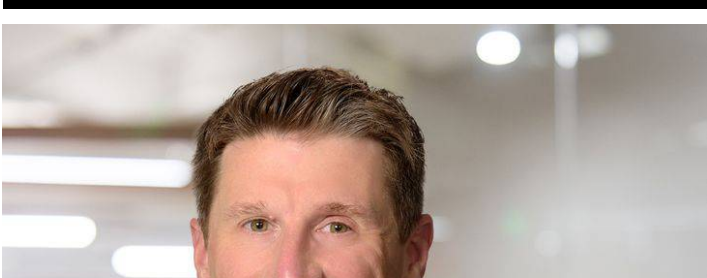
Effective July 1, most Oregon businesses will no longer be able to review applicants' credit history before deciding whether to hire them. The Oregon Legislature last month passed a new law, billed as a means to help out-of-work Oregonians find jobs more easily, that will greatly restrict employers' ability to perform credit checks on applicants and employees. Once signed into law by the governor (which is fully expected), Oregon will become the third state in the country - joining Washington and Hawaii - to prohibit this common practice.

Like most laws, there are exceptions. Excluded from the new prohibition on credit checks are federally insured banks and credit unions, businesses required by law to consider employee credit history, and police and other public employers hiring for law enforcement and airport security. In addition to these clear exclusions, there is an important but somewhat vague exception: any employer may obtain or use a credit report if the information is "substantially job-related." In order to take advantage of this exception, the employer's reasons for the use of such information must be disclosed to the employee or prospective applicant in writing.

Businesses that presently perform credit checks for Oregon employees as part of their hiring processes should plan to discontinue that practice, unless they fall under the four exceptions to the general prohibition. Before attempting to use the "substantially job-related" exception, a firm should carefully examine the reasons for conducting the check and consult with legal counsel. If the exception is applied for any reason, ensure that the reasons for the credit check are disclosed to applicants or employees in writing. Given the present uncertainty in how this standard will be interpreted, caution should be considered before proceeding.

This article appeared in the March 11, 2010 issue of the *Daily Journal of Commerce*.

Related People





Richard R. Meneghello

Chief Content Officer

503.205.8044

Email