

## NOTICE REGARDING CREDIT REPORT PURSUANT TO MARYLAND LAW

The "Job Applicant Fairness Act" (Maryland House Bill 87) took effect October 1, 2011 and enacted new legislation placing restrictions on so-called credit checks by employers that use the credit report or credit history of job applicants or employees for employment decisions. The Act reads as follows:

(c) When employer may request or use employee's credit history. --

(1) An employer may request or use an applicant's or employee's credit report or credit history if:

- (i) 1. the applicant has received an offer of employment; and 2. the credit report or credit history will be used for a purpose other than a purpose prohibited by subsection (b) of this section; or
- (ii) the employer has a bona fide purpose for requesting or using information in the credit report or credit history that is: 1. substantially job-related; and 2. disclosed in writing to the employee or applicant.

(2) 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:

- (i) is managerial and involves setting the direction or control of a business, or a department, division, unit, or agency of a business;
- (ii) 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;
- (iii) involves a fiduciary responsibility to the employer, including the authority to issue payments, collect debts, transfer money, or enter into contracts;
- (iv) is provided an expense account or a corporate debit or credit card; or
- (v) has access to: 1. information, including a formula, pattern, compilation, program, device, method, technique, or process, that: A. 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 B. is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; or 2. other confidential business information

Along with prohibiting an employer from using the credit report or credit history of an employee or job applicant for employment purposes, the Act specifically prohibits most employers from using credit checks to determine whether to:

- Deny employment to a job applicant;
- Discharge an employee;
- Decide compensation; or
- Evaluate other terms and conditions of employment.

While the Act applies to Maryland employers of any size, some employers are excluded from the Act's prohibitions, including financial institutions and employers required under federal or state law to inquire into the credit history of job applicants or employees.

The Act also requires that employers wishing to request or use credit information of job applicants and employees for a bona fide purpose must disclose the intent to do so in writing to the job applicant or employee.