

ORCA TALES

September 2009 “We can tell you more about them than their mother” Volume 16 Issue 09

Using Consumer Reports: What EMPLOYERS Need to Know

Your advertisement for cashiers nets 100 applications. You want credit reports on each applicant. You plan to eliminate those with poor credit histories. What are your obligations?

You are considering a number of your long-term employees for major promotions. Can you check their credit reports to ensure that only financially responsible individuals are considered?

A job candidate has authorized you to obtain a credit report. The applicant has a poor credit history. Although the credit history is considered a negative factor, it's the applicant's lack of relevant experience that's more important to you. You turn down the application. What procedures must you follow?

As an employer, you may use consumer reports when you hire new employees and when you evaluate employees for promotion, reassignment, and retention — as long as you comply with the Fair Credit Reporting Act (FCRA). Sections 604, 606, and 615 of the FCRA spell out your responsibilities when using consumer reports for employment purposes.

The FCRA is designed primarily to protect the privacy of consumer report information and to guarantee that the information supplied by consumer reporting agencies is as accurate as possible. Amendments to the FCRA — which went into effect September 30, 1997 — significantly increase the legal obligations of employers who use consumer reports. Congress expanded employer responsibilities because of concern that inaccurate or incomplete consumer reports could cause applicants to be denied jobs or cause employees to be denied promotions unjustly. The amendments ensure (1) that individuals are aware that consumer reports may be used for employment purposes and agree to such use, and (2) that individuals are notified promptly if information in a consumer report may result in a negative employment decision.

What is a Consumer Report?

A consumer report contains information about your personal and credit characteristics, character, general reputation, and lifestyle. To be covered by the FCRA, a report must be prepared by a consumer reporting agency (CRA) — a business that assembles such reports for other businesses.

Employers often do background checks on applicants and get consumer reports during their employment. Some employers only want an applicant's or employee's credit payment records; others want driving records and criminal histories. For sensitive positions, it's not unusual for employers to order investigative consumer reports — reports that include interviews with an applicant's or employee's friends, neighbors, and associates. All of

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ORCA ♦ WISDOM ♦

Mind is the creator of everything.

You should therefore guide it to create only good. If you cling to a certain thought with dynamic will power, it finally assumes a tangible outward form. When you are able to employ your will always for constructive purposes, you become the controller of your destiny.

P.Y.

What People in the Know are Saying about Orca...

“Dear Orca staff members,

We would like to thank you for all of your assistance with our eviction. We're pleased to now have this new opportunity to attract and sign a new lease with a “good tenant”. All of your screening assistance, through the years has been priceless.

Best regards to each of you. We look forward to working with your company for many years to come.”

- Ron and Nichelle with Divine Dwellings, LLC

Protecting PERSONAL INFORMATION A Guide for Business

Most companies keep sensitive personal information in their files - names, Social Security numbers, credit card, or other account data - that identifies customers or employees.

If this sensitive data falls into the wrong hands, it can lead to fraud, identity theft, or similar harms. A security breach - losing your customers' trust and perhaps even defending yourself against a lawsuit can be **very expensive**. Safeguarding personal information is just plain good business. Some businesses may have the expertise in-house to implement an appropriate plan. Some hire a contractor.

5 KEY PRINCIPLES to sound data security plan:

1. **TAKE STOCK.** Know what personal information you have in your files and on your computers.
2. **SCALE DOWN.** Keep only what you need for your business.
3. **LOCK IT.** Protect the information that you keep.
4. **PITCH IT.** Properly dispose of what you no longer need.
5. **PLAN AHEAD.** Create a plan to respond to security incidents.

For more information go to the FTC website at www.ftc.gov/infosecurity

FOR SALE

Real Estate—Land and Homes

Lake Chelan, Washington

Dan Folsom

Real Estate Broker (& Rebekah's Brother)

509-682-2371

these types of reports are consumer reports if they are obtained from a CRA.

Applicants are often asked to give references. Whether verifying such references is covered by the FCRA depends on who does the verification. A reference verified by the employer is not covered by the Act; a reference verified by an employment or reference checking agency (or other CRA) is covered. Section 603(o) provides special procedures for reference checking; otherwise, checking references may constitute an investigative consumer report subject to additional FCRA requirements.

Key Provisions of the FCRA Amendments **Written Notice and Authorization.**

Before you can get a consumer report for employment purposes, you must notify the individual in writing — in a document consisting solely of this notice — that a report may be used. You also must get the person's written authorization before you ask a CRA for the report. (Special procedures apply to the trucking industry.)

Adverse Action Procedures

If you rely on a consumer report for an "adverse action" — denying a job application, reassigning or terminating an employee, or denying a promotion — be aware that:

Step 1: Before you take the adverse action, you must give the individual a pre-adverse action disclosure that includes a copy of the individual's consumer report and a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act" — a document prescribed by the Federal Trade Commission. The CRA that furnishes the individual's report will give you the summary of consumer rights.

Step 2: After you've taken an adverse action, you must give the individual notice — orally, in writing, or electronically — that the action has been taken in an adverse action notice. It must include:

*The name, address, and phone number of the CRA that supplied the report;

*A statement that the CRA that supplied the report did not make the decision to take the adverse action and cannot give specific reasons for it; and

*A notice of the individual's right to dispute the accuracy or completeness of any information the agency furnished, and his or her right to an additional free consumer report from the agency upon request within 60 days.

**In observance of Labor Day,
our office will be closed on
Monday, September 7th.**

Employment Screening: Hiring & Compliance

Selecting the right people for your company is extremely important. With increasing concerns more companies are performing background checks before hiring their employees. If you decide to use background screening as part of your selection process, you need to use the reports in a compliant manor or risk possible litigation. There are federal and state laws that regulate the use of arrest, conviction and misdemeanor information for employment purposes. The following information is to help comply with these laws and lower your exposure to discrimination lawsuits and other litigation.

The Equal Employment Opportunity Commission (EEOC) stipulates that employers can use arrest information, convictions and misdemeanor offenses in the selection process, but they cannot be the only criteria used to make a hiring decision. Employers, must consider the entire picture about the applicants when selecting and making the decision to hire. Decisions should be made from, interview performance, education, experience, job fit assessment results, and other qualifications need to be considered as well as his/her background screening results.

EEOC policy states, "An arrest record may be used as evidence of conduct upon which an employer makes an employment decision. An employer may deny employment opportunities to people based on any prior conduct which indicates that they would be unfit for the position in question, whether that conduct is evidenced by an arrest, conviction or other information provided to the employer. It is the conduct, not the arrest per se, which the employer may consider in relation to the position being sought."

Arrest information involves more analysis than convictions, but may play an important role in your selection process. Be sure to consider whether or not the applicant committed the offence and document your hiring practices to help combat possible discrimination charges.

The EEOC has developed four criteria to use when reviewing applicant background screening results:

1. Determine whether the applicant is likely to have committed the alleged conduct.
2. Consider the nature of the offense(s)
3. Consider the amount of time that has passed since the conviction occurred
4. Consider how the offenses relate to the nature of the job.

Employers have a high level of responsibility when using background screening results in their selection process. Selecting good employees, doesn't mean disqualifying individuals on the sole basis of their background screening results.

When used compliantly, background screening results can help your organization hire safe, honest and qualified employees, and reduce your exposure to potential liabilities.

For more information on Employment Screening, contact Rebekah at ext. #103 or email her at rebekahn@orcainfo-com.com