



Federal Legislation Could Limit Credit Reports for Employment Screening Purposes

For many of our clients, credit checks are a vital part of their background screening programs. These programs have been specifically designed to help grow and protect businesses and their consumers through due diligence to ensure the best possible applicants are considered for work. Amendment 3795, a recent amendment to Senate Bill 3217 is seeking to limit the use of credit reports for employment screening purposes.

This bill would prohibit an employer from using an applicant's or employee's credit report or credit history for employment purposes with the exceptions of various government jobs, jobs involving the handling or supervision of customer funds or accounts, or other areas where use of a credit report is required by law.

For the full language of the amendment, please visit

<http://www.kstreetresearch.com/documents/050410Amendments/FEINSTEINAMENDMENTS3795.pdf>.

This effectively limits the employer's discretion, regardless of their strict compliance with rules regarding written consumer authorization. If you support the use of credit reports for employment purposes, you are encouraged to make your voice heard.

We urge you to send the below letter to your senator and representative to communicate the impact this will have on your business. If you are not sure who this is, please visit

<http://www.usa.gov/Contact/Elected.shtml>.

Dear [Senator/Representative],

Oppose Senate Amendment 3795 to S. 3217

I am writing to express my company's opposition to Senator Feinstein's amendment to the Financial Services regulatory reform bill, Senate Amendment 3795, that would in effect prohibit the use of credit in employment background checks in all but an extremely limited number of circumstances mostly involving government employment.

As an employer we use credit history checks as part of a background check to help us determine whether a prospective employee is a possible risk to the financial health of a business or to our customers.

Our company uses credit checks as part of a background check very responsibly, and prohibiting their use in assessing employees makes employers, other employees and customers more vulnerable to fraud and identity theft. As an employer we do not have access to credit scores and do not use credit scores when evaluating credit for employment.

Generally our company uses credit history if it is applicable or appropriate for the position, such as hiring a Chief Financial Officer, an Accountant or Bookkeeper outside of a financial institution. When doing so, we request that check through a background screening company, and it is with the consent of the potential employee.

Consumers have significant protections when employers use credit as a part of the hiring process. Namely, (1) prior to requesting a consumer credit report, an employer must provide to the prospective employee a written notice stating the source of the information and how it will be used; (2) the employer must also provide a copy of the consumer credit report to the consumer upon request, and prior to taking an adverse action; (3) if an adverse employment action is taken against a prospective employee due to the information contained in a consumer credit report, the user must provide the name and contact information for the reporting agency to the consumer and explain the reasons for the action; (4) under the FCRA, any person who willfully fails to comply is liable to that consumer in an amount equal to the sum of (1) any actual damages sustained by the consumer as a result of the failure or damages of not less than \$100 and not more than \$1,000; or (2) such amount of punitive damages as the court may allow; and (3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

We respectfully request that you reconsider including the language of S.3795 relative to the use of credit in employment background checks in S.3217.

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