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“HOW TO” USER’S GUIDE

The information analyzed in this document is intended to be comprehensive, and is provided in two formats — a chart at the beginning and a textual summary at the end. The chart provides a quick but detailed analysis of state and local restrictions on credit history inquiries and background checks. The information in the chart is abstracted to the point of allowing comparisons across jurisdictions, even when the exact text of the law is different. The summary gives a sense of the substantive details of the law, but is not written to be comparable across jurisdictions. The two formats are best used together to get a more complete understanding of the legal restrictions and obligations placed on employers when using credit history information for employment purposes typically as a prelude to reading the law itself.

We designed this chart to support two scenarios.

In the first scenario, you already have a policy on asking your applicants about their credit or getting credit reports, but you want to make sure that it complies with the law. In this scenario, we see you identifying the restrictions that need to be in your policy from the chart, based on the jurisdictions in which you operate, then identifying the part of your policy that handles each restriction.

In the second scenario, you don’t have a formal, written policy on the subject, and are trying to write one. In this scenario, we see you identifying the types of restrictions that need to be in your policy from the chart, based on the jurisdictions in which you operate. We then see you writing draft policy language for each restriction and checking that language against the underlying statutes using the links to the laws in our footnotes.

In either scenario, we recommend the following steps to get familiar with the information in this document.

- Use the following page to learn about the layout and the various components of the chart.
- Identify the jurisdiction(s) where you have employees or otherwise have an interest in knowing the laws about credit history inquiries and background checks. Keep those jurisdictions on the chart and delete all other information that will not be used. For example, if you have employees in California, Nevada, and Oregon, keep those jurisdictions and delete all other rows of information that will not be used.
- Familiarize yourself with the columns of information — the who, what, when, and processes of the laws. Refer to the legend at the bottom of the page to understand the provisions of the law. An “x” indicates that a provision applies. Also note that “public contractors” do not include all private employers — it usually means private businesses that accept contracts from that level of government, or its sublevels. It may be useful for you to pick a jurisdiction with lots of restrictions and read its law while reviewing the chart for the first time. This would introduce you to how the chart and the law correlate to each other.
- When you have an understanding of the types of restrictions, exemptions, etc., refer to the summary highlights for the key provisions of the law.
- Finally, go back to the chart and click on the referenced footnote for a complete reading of the law.

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# Restrictions on Credit History Inquiries and Background Checks

Dated: 7/1/2015

## State and Local Restrictions on Credit History Inquiries and Background Checks

Page 4 of 4

Indicates last date the chart was revised

Identifies the state, county, or city that restricts credit history inquiries and background checks

Identifies the types of employers affected. Letters specify aspects of the law.

Identifies whether the restrictions apply to asking about credit history and/or obtaining a credit report. It also identifies whether access and/or the use of credit information is prohibited. The "x" indicates the restriction applies.

Access to personal or financial information  
Access to confidential or proprietary information  
Access to credit

When Allowed  
Identifies exemptions to the restrictions. Identifies positions and other job-related criteria that permit an employer to obtain credit history on an applicant or employee. The "x" indicates this type of restriction applies.

Process  
Identifies specific actions employers must take when using credit history information

Jurisdiction	Who	What Prohibitions Apply					When Allowed					Process					
		Inquire about credit	Obtain credit report	Use credit information	Access to personal or financial information	Access to confidential or proprietary information	Access to credit	Positions or other security	Allowed for other positions	Otherwise sufficiently	No	Co	Em	R			
California <sup>1</sup>	A	X	X	X	X	X	X	X	X	X	X	X	X				
Colorado <sup>2</sup>	A	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X
Connecticut <sup>3</sup>			X	X	X	X	X	X	X	X	X	X	X	X	X		
Hawaii <sup>4</sup>			X											X			
Illinois <sup>5</sup>	A	X	X	X	X	X	X	X	X	X	X	X	X	X			
↳ Cook County <sup>5</sup>	A	X	X	X	X	X	X	X	X	X	X	X	X	X	X		
Maryland <sup>7</sup>			X		X	X	X	X	X	X	X	X	X	X	X	X	X
Nevada <sup>8</sup>			X											X	X		
Nevada <sup>9</sup>				X	X	X	X	X	X	X	X	X	X	X	X		
New York																	
↳ New York City <sup>10</sup>			X	X	X	X	X	X	X	X	X	X	X	X	X		
Oregon <sup>11</sup>			X	X	X						X			X	X	X	
Vermont <sup>12</sup>			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Washington <sup>13</sup>	A		X			X								X	X		X

State and county laws identified

States with multiple laws are listed multiple times

No state law identified; analysis provided for local jurisdiction only

Provides the specific aspects of the laws identified in the chart

Footnotes provide active links to the laws analyzed

- <sup>1</sup> [CA Labor Code § 1024.5](#)
- <sup>2</sup> [Colo. Rev. Stat. § 8-2-126](#)
- <sup>3</sup> [Conn. Gen. Stat. § 31-51tt](#)
- <sup>4</sup> [Haw. Rev. Stat. § 378-2\(a\)\(8\)](#)
- <sup>5</sup> [Ill. Public Act 96-1426.10](#)
- <sup>6</sup> [Cook County Ordinance File #15-3088](#)
- <sup>7</sup> [MD Labor Code § 3-711](#)
- <sup>8</sup> [Nev. Rev. Stat. § 613.570](#)
- <sup>9</sup> [Nev. Rev. Stat. § 613.580](#)
- <sup>10</sup> [NYC Legislative File 261-2014](#)
- <sup>11</sup> [OR Rev. Stat. § 659A.320](#)
- <sup>12</sup> [VT Stat. 21 § 495I](#)
- <sup>13</sup> [Wash. Rev. Code § 19.182.020\(2\)\(d\)\(i\),\(ii\)](#)

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A = Applies to private employers  
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## State and Local Restrictions on Credit History Inquiries and Background Checks

Jurisdiction	Who	What Prohibitions Apply				When Allowed											Process					
		Limited application of rule	Inquire about credit information with individual	Obtain credit report	Access other credit information	Use of credit information	Positions involving public safety	Exempt by federal or state law	Access to personal or financial information	Access to confidential or proprietary information	Access to cash or equivalent	Fiduciary or managerial position	Authorized to enter into financial contracts	Bank or financial institution	Insurance or surety business	Position requires bonding or other security	Allowed for other positions	Otherwise sufficiently related	Notice to applicant	Consent required	Emp. Offer required	Right to appeal
California <sup>1</sup>	A		X		X	X	X	X	X	X	X	X				X						
Colorado <sup>2</sup>	A		X		X		X	X		X	X	X	X				X	X				X
Connecticut <sup>3</sup>	A		X		X		X	X	X	X	X	X					X	X				
Hawaii <sup>4</sup>	A				X												X					
Illinois <sup>5</sup>	A	X	X		X	X	X	X	X	X	X	X	X	X	X	X						
↳ Cook County <sup>6</sup>	A	X	X		X	X	X	X	X	X		X	X	X	X	X						
Maryland <sup>7</sup>	A				X		X	X	X	X		X					X	X		X		
Nevada <sup>8</sup>	A	X	X	X	X																	
Nevada <sup>9</sup>	A					X	X	X	X	X	X		X			X	X					
New York																						
↳ New York City <sup>10</sup>	A	X		X	X	X	X		X	X				X	X							
Oregon <sup>11</sup>	A		X		X	X	X					X			X	X	X					
Philadelphia <sup>12</sup>	A	X	X	X	X		X				X	X	X									
Vermont <sup>13</sup>	A	X	X	X	X	X	X	X	X		X	X	X			X	X	X	X			X
Washington <sup>14</sup>	A		X				X										X	X				X

<sup>1</sup> [CA Labor Code § 1024.5](#)  
<sup>2</sup> [Colo. Rev. Stat. § 8-2-126](#)  
<sup>3</sup> [Conn. Gen. Stat. § 31-51tt](#)  
<sup>4</sup> [Haw. Rev. Stat. § 378-2\(a\)\(8\)](#)  
<sup>5</sup> [Ill. Public Act 96-1426.10](#)  
<sup>6</sup> [Cook County Ordinance File #15-3088](#)  
<sup>7</sup> [MD Labor Code § 3-711](#)  
<sup>8</sup> [Nev. Rev. Stat. § 613.570](#)  
<sup>9</sup> [Nev. Rev. Stat. § 613.580](#)  
<sup>10</sup> [NYC Legislative File 261-2014](#)  
<sup>11</sup> [OR Rev. Stat. § 659A.320](#)  
<sup>12</sup> [The Philadelphia Code Chapter 9-1100](#)  
<sup>13</sup> [VT Stat. 21 § 495j](#)

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**Employer Use of Criminal History Records Highlights**

These highlights provide a qualitative sense for what these laws are about. They are not a complete analysis. We have generally omitted any relevant exceptions. We have not analyzed situations where these laws might be pre-empted.

CALIFORNIA

- Employers or prospective employers must not use a consumer credit report for employment purposes unless specific exceptions apply.
- Employers may not require an employee or applicant to consent to a request for a credit report that contains information about the employee or applicant’s credit score, credit account balances, payment history, savings or checking account balances or numbers as a condition of employment unless an exception applies. [CA Labor Code § 1024.5](#)

COLORADO

- Employers must not use consumer credit information for employment purposes unless the information is substantially job-related.
- Employers must not require an employee to consent to a request for a credit report that contains information about the employee's credit score, credit account balances, payment history, savings or checking account balances, or savings or checking account numbers as a condition of employment unless specific exceptions apply.
- In the event that an employment decision is made adverse to an employee or applicant whose record was obtained, employers must inform the individual that it relied on consumer credit information. The disclosure must be made in writing or in the same medium as the application.
- When consumer credit information is substantially related to an employee's current or potential job, an employer may inquire further of the employee to give him or her the opportunity to explain any unusual or mitigating circumstances where the consumer credit information may not reflect money management skills, but is rather attributable to some other factor, including a layoff, error in the credit information, act of identity theft, medical expense, military separation, death, divorce, or separation in the employee's family, student debt, or a lack of credit history. [Col. Rev. Stat. §8-2-126](#)

CONNECTICUT

- Employers must not require an employee or applicant to consent to a request for a credit report that contains information about the individual’s credit score, credit account balances, payment history, savings or checking account balances or account numbers as a condition of employment unless it is job-related and certain other exception apply. [Conn. Gen. Stat. §31-51tt](#)

HAWAII

- Employers must not refuse to hire or employ, or bar or discharge from employment, or otherwise discriminate against any individual in compensation or in terms, conditions, or privileges of employment of any individual because of the individual’s credit history or credit report, unless the

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<sup>14</sup> [Wash. Rev. Code § 19.182.020.\(2\)\(c\)\(i\),\(ii\)](#)

information in the individual's credit history or credit report directly relates to a bona fide qualification. [Haw. Rev. Stat. § 378-2\(a\)\(8\)](#)

### ILLINOIS

- Employers must not inquire about or use an employee's or applicant's credit history as a basis for employment, recruitment, discharge, or compensation unless exceptions apply. [IL Public Act 96-1426.10](#)

### COOK COUNTY, IL

- Employers must not (i) fire, refuse to hire, recruit, discharge, or otherwise take any adverse action against an employee or applicant because of the individual's credit history or credit report; (ii) inquire about an applicant or employee's credit history; or (iii) order or obtain a credit report from a consumer reporting agency pertaining to an employee or applicant. Exceptions apply. [Cook County Ordinance File #15-3088](#)

### MARYLAND

- Employers must not use an applicant or employee's credit report or credit history in determining whether to deny employment, discharge, or determine compensation or terms, conditions, or privileges of employment. [MD Labor Code § 3-711.\(b\)](#)
- An employer may request or use an applicant's or employee's credit report or credit history if: (i) the applicant has received an offer of employment; (ii) the credit report or credit history will be used for a purpose other than a purpose prohibited by subsection (b); or (iii) the employer has a bona fide purpose for requesting or using information in the credit report or credit history that is substantially job-related and disclosed in writing to the employee or applicant. [MD Labor Code § 3-711.\(c\)](#)

### NEVADA

- Employers must not: (i) directly or indirectly require, request, suggest, or cause any employee or prospective employee to submit to a consumer credit report or other credit information as a condition of employment; (ii) use, accept, refer to, or inquire concerning a consumer credit report or credit information; or (iii) discharge, discipline, or discriminate against an individual who refuses or declines to submit to a credit report. [Nev. Rev. Stat. § 613.570](#)
- Employers may request or consider a consumer credit report or other credit information for the purpose of evaluating an employee or prospective employee for employment, promotion, reassignment or retention as an employee if exceptions apply. [Nev. Rev. Stat. § 613.580](#)

### NEW YORK CITY

- Employers must not request or use the consumer credit history of an applicant for employment or employee, or otherwise discriminate against an applicant or employee with regard to hiring, compensation, or the terms, conditions or privileges of employment based on the consumer credit history of the applicant or employee unless exceptions apply. [NYC File 0261-2014](#)

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**OREGON**

- It is an unlawful employment practice for an employer to obtain or use for employment purposes information contained in the credit history of an applicant for employment or an employee, or to refuse to hire, discharge, demote, suspend, retaliate or otherwise discriminate against an applicant or an employee with regard to promotion, compensation or the terms, conditions or privileges of employment based on information in the credit history of the applicant or employee. [OR Rev. Stat. § 659A.320](#)

**PHILADELPHIA**

- Employers cannot use an applicant’s or employee’s credit information for most employment purposes (with some exceptions).
- Exempted employers who consider taking an adverse action against an applicant or employee based on their credit information must notify the individual in writing of the reliance on their credit information along with the specific credit information to be used in their decision.
- Exempted employers must allow the employee or applicant an opportunity to explain the circumstances surround the information at issue before taking an adverse action. [Chapter 9-1100 of The Philadelphia Code](#)

**VERMONT**

- An employer must not (1) fail or refuse to hire or recruit; discharge; or otherwise discriminate against an individual with respect to employment, compensation, or a term, condition, or privilege of employment because of the individual's credit report or credit history; or (2) inquire about an applicant or employee's credit report or credit history. [21 VSA § 495i.\(b\)\(1\),\(2\)](#)
- An employer that is exempt may not use an employee or applicant's credit report or history as the sole factor in decisions regarding employment, compensation, or a term, condition, or privilege of employment. [21 VSA § 495i.\(c\)\(2\)](#)
- If an employer seeks to obtain or act upon an employee's or applicant's credit report or credit history, the employer shall: (1) obtain the employee's or applicant's written consent each time the employer seeks to obtain the employee's or applicant's credit report; (2) disclose in writing to the employee or applicant the employer's reasons for accessing the credit report, and if an adverse employment action is taken based upon the credit report, disclose the reasons for the action in writing (the employee or applicant has the right to contest the accuracy of the credit report or credit history); (3) ensure that none of the costs associated with obtaining an employee's or an applicant's credit report or credit history are passed on to the employee or applicant; and (4) ensure that the information in the employee's or applicant's credit report or credit history is kept confidential and, if the employment is terminated or the applicant is not hired by the employer, provide the employee or applicant with the credit report or have the credit report destroyed in a secure manner which ensures the confidentiality of the information in the report. [21 VSA § 495i.\(d\)\(1\)-\(4\)](#)

**WASHINGTON**

- Employers must not obtain consumer reports about a consumer’s creditworthiness, credit standing, or credit capacity unless that information is substantially job-related and the employer’s reasons for the use of the information is disclosed to the consumer in writing, or it is required by law. [Wash. Rev. Code § 19.182.020\(2\)\(c\)\(i\),\(ii\)](#)

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