

Maine Revises State FCRA to be More Consistent with Federal Law

July 10, 2013

On June 11, 2013, Maine's governor signed LD 1410 to update the state's consumer reporting law by adopting, in large part, the provisions of the federal Fair Credit Reporting Act ("FCRA"). Even with this harmonization, the revised Maine FCRA contains certain state-specific obligations^[1] and sets forth slightly different enforcement and remedial schemes than its federal counterpart.

Employers also should note that the revised Maine FCRA explicitly repealed the prior Maine FCRA, which had required that employers provide additional state-specific disclosures to job applicants and employees prior to obtaining a consumer credit report. The revised Maine FCRA does not contain such a requirement, and we presume that employers in that state need only comply with the notice requirements set forth in the federal FCRA.

It is vital that employers stay current with their obligations under the federal FCRA and any state law equivalents. Within the last few years, employers have paid out millions of dollars to settle class action lawsuits involving alleged violations of the federal FCRA. Moreover, employers must remember to follow the many federal, state, and local laws that restrict the use of information retrieved from a background check. Many of these laws also include steep penalties and promise employers protracted litigation for non-compliance.

* * *

If you have any questions or concerns regarding the federal FCRA or any state law equivalents, please contact your Proskauer lawyer or any co-chair of the Employment Law Counseling & Training Group.

[1] The additional requirements set forth in the revised Maine FCRA primarily concern "security freezes," *i.e.*, when a notice is placed in a consumer report at the request of the consumer prohibiting a consumer reporting agency from releasing any information contained in the report without the consumer's express authorization. The revised Maine FCRA expressly provides, however, that these requirements do not apply to an employer's use of credit information for prescreening.

Authors of this alert:

Katharine H. Parker, Leslie E. Silverman, Daniel L. Saperstein and Kelly Anne Targett.