

REMINDER - FCRA Changes Effective Jan. 1, 2013

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Employers who routinely use third party credit reporting agencies for their pre-employment background screening are familiar with the requirements of the Fair Credit Reporting Act (FCRA). Effective Jan. 1, 2013, employers that utilize background checks must use a new "Summary of Consumer Rights" form to notify job applicants and employees of their rights under the FCRA.

Under the new changes to the regulations, employers must make clear that the newly-created Consumer Financial Protection Bureau (CFPB), and not the Federal Trade Commission (FTC), is the agency that applicants and employees should contact with questions about their FCRA rights. FCRA permits employers to obtain background information after obtaining written consent from the employee or applicant. The employer will have to give this notification in any pre-adverse action notification that comes as a result of the background check. In addition, an employer must also provide this notification before obtaining a background check if the report includes information stemming from personal interviews conducted by a consumer reporting agency. These regulations are a by-product of the CFPB taking control of overseeing the Fair Credit Reporting Act from the FTC.

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