



# HOSPITALITY ALERT

## GOVERNOR BROWN SIGNS A.B. 22 RESTRICTING EMPLOYERS' USE OF CREDIT REPORTS

On October 10, 2011, Governor Brown signed Assembly Bill 22 ("A.B. 22") which limits the ability of California employers to rely on an applicant's or employee's credit report or other credit history when making employment decisions. This represents a major change in California employment law.

### *What is A.B. 22?*

Sponsored by Tony Mendoza (D-56<sup>th</sup> District), A.B. 22 amends California Civil Code §1785.20.5 and adds §1024.5 *et seq.* to the California Labor Code. In general, A.B. 22 bans employers in California (with the exception of certain financial institutions) from running credit checks for any employment purpose, unless the position at issue is:

1. A managerial position;
2. A state Department of Justice position;
3. A sworn peace officer or other law enforcement position;
4. A position which the information contained in the credit report is required by law to be obtained or disclosed;
5. A position that involves regular access to confidential personal information, such as credit card information, Social Security account number, or date of birth;
6. A position which would allow the applicant, if hired, to enter into financial transactions on behalf of the employer;
7. A position that involves access to confidential or proprietary business information; and/or
8. A position that involves regular access to cash belonging to the employer, a customer, or a client totaling \$10,000 or more.

Under A.B. 22, if a California employer wishes to obtain a credit report based upon one of these limited exceptions, the employer must first provide the applicant/employee with written notice (1) informing the applicant/employee that a credit report is being requested, and (2) detailing the specific reasons that a credit report is allowed under the statute. In addition, the employer must provide the applicant/employee with a check box where the applicant/employee can request a free copy of the credit report which must be delivered to the applicant/employee at the same time as to the employer.

If employment is denied based on information contained in a credit report, A.B. 22 requires that the employer (1) advise the applicant/employee of that fact and (2) provide the name and address of the credit reporting agency that supplied the report.

### *Impact on California Employers*

A.B. 22 goes into effect on January 1, 2012. Therefore, before that date, employers in California who use credit history or other credit information as part of their hiring process should consult with competent employment counsel to ensure compliance with all requirements of A.B. 22 and all other relevant state and federal laws.

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