Credit History Complaint Instructions

(for use with violations of the Colorado Employment Opportunity Act, § 8-2-126, C.R.S.)

Colorado Department of Labor and Employment | Division of Labor

www.colorado.gov/cdle/eoa

What is a credit history complaint?

A credit history complaint is a written complaint filed with the Colorado Division of Labor against your current or prospective employer for violations of the Employment Opportunity Act (EOA). The complaint form may be used when an applicant or employee believes that their employer or potential employer improperly requested, accessed, or used their credit report, or other personal credit history or credit information, in violation of the law.

What is the Employment Opportunity Act?

The Colorado Employment Opportunity Act (EOA) prevents employers from requesting or using credit information (such as credit reports) in employment decisions for certain employees and job applicants in Colorado (See § 8-2-126, C.R.S.). The law applies to actions taken on or after July 1, 2013.

According to the law, employers may not request a prospective or current employee's credit report, or use consumer credit information for employment purposes, unless: (1) the credit information is "substantially related" to the employee's current or potential job, or (2) the person being evaluated or the employer are exempt as provided by the law.

For more information on when your employer can and cannot request your credit information under this law, please refer to the Division of Labor's Employment Opportunity Act Fact Sheet and Frequently Asked Questions at www.colorado.gov/cdle/eoa

What are some common scenarios where an employer has potentially violated the law?

If you are an applicant or employee working or applying to work in the State of Colorado, and the employer has 4 or more employees, the following scenarios are considered potential violations under the Employment Opportunity Act, § 8-2-126, C.R.S.:

1) The employer or job application required that I give consent to allow the employer to access my credit report, and my credit report is not "substantially related" to the job position.
2) My potential/current employer obtained my credit report without my written consent, and/or did not disclose in writing how my credit report was "substantially related" to the job.
3) I was denied employment based on my credit history, and my credit history is not "substantially related" to the job position.
4) My current employer made an adverse employment decision based upon my credit information (e.g., demotion, decrease in pay, reassignment, termination, etc.) and my credit history is not "substantially related" to the job position.
5) My potential employer decided not to hire me based upon my credit information, and they did not disclose to me the particular information in my credit history upon which they relied.
6) My current employer made an adverse employment decision based upon my credit information (e.g., demotion, decrease in pay, reassignment, termination, etc.) and they did not disclose to me the particular information in my credit history upon which they relied.

However, an employer's actions may be lawful (and by submitting the complaint you could be liable for penalties) if:

1) The position is with a bank or financial institution.
2) The position is an executive, management, or officer position, or the position is considered professional staff to executive and management personnel, and the job involves: (1) setting the direction or control of the business; (2) a fiduciary responsibility to the employer; (3) access to customers', employees', or the employer's personal or financial information other than information customarily provided in a retail transaction; and/or (4) the authority to issue payments, collect debts, or enter into contracts.
3) The employer is a state or local law enforcement agency.
4) The employer employs less than four employees.
5) The employer employs private domestic servants or farm and ranch labor.
6) You are an independent contractor.
7) The employer was allowed to view your credit history based on a separate state or federal law.
8) The position involves contracts with defense, intelligence, national security, or space agencies of the federal government.

For more information on the coverage of the law and the various exemptions, please contact the Division at (303) 318-3441 or toll free 1-888-390-7936.

How do I file a credit history complaint?

The Division only accepts complaints in writing or electronically. The complaint must be filed by the individual (or the individual's representative) who has been directly affected by the employer's prohibited consumer credit practices. The individual needs to be the specific employee or applicant whose consumer credit information was involved.

If you believe your employer has violated the law, you may file a complaint by filling out the "Credit History Complaint" form. Please complete the form and answer all questions. If your complaint form is not completed, the process may be delayed.

May I file a complaint anonymously?

The Division does not accept anonymous complaints, or complaints from individuals not directly affected by the employer's practices. The individual needs to be the specific employee or applicant whose consumer credit was involved.

How do I include supporting documentation?

You may mail, fax, or email all supporting documents to the Division of Labor. Attach copies of supporting documentation that may substantiate your complaint, such as:

- Job description which describes the duties and responsibilities of your position
- Job advertisement
- Job application form
- Consent forms provided by the employer
- Copy of your credit report given to you by the employer
- Disclosures provided by the employer

- Employment contracts, policies, or handbooks related to use of credit information
- Any additional e-mails and/or letters

On all pages of your documents, please include your name and the name of the employer you are filing the complaint against. Do not send the originals; please make copies of all supporting documentation.

What is the next step after I've filed a complaint, and how long can an investigation take?

Once a complaint is received by the Division, it is assigned to an investigator and given a claim number. The investigator will contact you to follow up on the matter. The Division does not provide a specific timeframe for investigating a dispute. In general, the time it takes to resolve or complete an investigation depends on the complexity of each complaint and other factors.

What can I do to help expedite the process?

- Answer all questions on the "Credit History Complaint" form accurately and provide a detailed explanation where necessary.
- Provide all information in detail and supply supporting documentation with your initial written complaint. Failure to supply information may result in delays.
- Attach copies of any supporting documentation. DO NOT SEND ORIGINALS.
- Contact the Division of Labor immediately if your address or contact information changes.

What is the status of my complaint?

If you would like to inquire about the status of your complaint, please contact the Division of Labor to talk to an investigator.

What are the possible outcomes?

The Division of Labor investigates complaints, and when applicable, conducts hearings of appeals. The Division may award a penalty of up to $2,500 to the prevailing party.

Do I have to pay a penalty to my employer if my complaint is unsuccessful?

If you file a complaint, and the employer is ultimately determined to be the prevailing party (for example, they did not violate the law), you may have to pay the employer up to $2,500 in penalties.

How do I know the outcome?

The Division will notify you of the outcome of your complaint using the contact information you provided.

Before submitting the complaint:

By filling out, signing, and filing the "Credit History Complaint" form, you agree to the following:

- I have been notified and understand that any person providing false information to the Division of Labor in order to obtain and/or retain anything of value may be subject to criminal prosecution under the laws of the State of Colorado with possible penalties of fines, imprisonment, or both.
- I hereby certify that this is a true and accurate statement of the alleged violation, and authorize the Division of Labor to investigate and assist in this matter.

- I hereby certify that I have reviewed the Employment Opportunity Act (EOA) Fact Sheet and Frequently Asked Questions on the Division of Labor's website www.colorado.gov/cdle/eoa
- I hereby grant the Division of Labor permission to access and review my credit history report.
- I understand that any information supplied to the Division may be provided to the employer, the agents of the employer involved in the dispute, and other agencies or individuals as the Division deems appropriate.
- I understand the law provides the possibility of penalties being awarded to the prevailing party; the prevailing party can be the employee, applicant, or employer.
- I understand that this complaint and all associated documentation may be subject to the Colorado Open Records Act, and is potentially reviewable by the public.

What is the Division's contact information if I have additional questions?

Contact the Division of Labor using the information listed below. You may also visit our website at www.colorado.gov/cdle/eoa

Mailing Address:
Colorado Division of Labor
633 17th Street, Suite 200
Denver, Colorado 80202-3611

Phone: (303) 318-3441

Toll Free: 1-888-390-7936

Fax: (303) 318-8400

Email: cdle_labor_standards@state.co.us

Colorado Division of Labor
CREDIT HISTORY COMPLAINT FORM
(for use with violations of the Employment Opportunity Act, § 8-2-126, C.R.S.)

Colorado Division of Labor
633 17th Street, Suite 200
Denver, Colorado 80202-3611
Telephone (303) 318-8441
Fax (303) 318-8400
Toll Free (888) 390-7936
www.colorado.gov/cdle/eoa

This form is to be used to report ***employers, or potential employers***, who may be in violation of the Employment Opportunity Act § 8-2-126, C.R.S. You must sign and date this form at the bottom.

Effective on and after July 1, 2013, the Employment Opportunity Act, § 8-2-126, C.R.S. prohibits employers from requesting or using credit information (such as credit reports) in employment decisions for certain employees and job applicants in Colorado. For more information on the Colorado Employment Opportunity Act, go to www.colorado.gov/cdle/eoa

Section I: Contact Information for Complainant
(Your information is required. The Division does not accept anonymous claims.)

Your First Name		Your Home Phone
Your Last Name		Your Current Work Phone
Your Mailing Address		Your Current Cell Phone
City	State	Zip Code
Your Email Address		

Section II: Contact Information for Employer, or Potential Employer Allegedly Violating § 8-2-126, C.R.S.

Employer/Business Name		Employer Phone
Owner or Supervisor's Name		Employer Alternate Phone
Employer/Business Mailing Address		
City	State	Zip Code
Employer/Business Email Address		

Section III: Current or Former Employees
(Only complete Section III (for Employees) OR Section IV (for Applicants). Do not complete both).

Your job title associated with the employer listed in Section II	Date of Hire
Your job responsibilities/duties	

Your job responsibilities/duties (continued)
Your employment status (i.e. still employed, fired, laid off, resigned)

Section IV: Applicants Who Applied For a Job

The job position you applied for associated with the employer listed in Section II	
Your job responsibilities/duties of the job you applied for	
Date Applied	Date of Hire (if applicable)
Was the job position advertised? (Attach a copy of the job advertisement)	
Interview Date (if applicable)	Rejection Date (if applicable)

Section V: Description of Alleged Violation

Did the employer request your credit history?	Date of Request (if applicable)
How was the request communicated to you? (e.g., verbally, in a letter, etc. If in writing, attach a copy of the consent form)	

Did you consent to the credit history request?	Date of Consent (if applicable)

Person's name and title to whom you gave consent:

First and Last Name: _____

Title: _____

Email Address: _____

Phone Number: _____

Did you receive a copy of your credit report from the employer? (Attach a copy of the credit report given to you by the employer)

Date credit report was received (if applicable)	Did employer request any additional reports? (e.g., background, employment, etc.)

Do you believe your credit information was used for employment purposes? How was it used? Please explain.

Did employer act adversely? Check all that apply:	Date of Adverse Action (if applicable)
Did not get the job you applied for ……..… ☐ Terminated ……... ☐ Denied a promotion.……. ☐ Demoted……...……. ☐ Reassigned to a lower-ranked position…… ☐ Decrease in compensation Level …….. ☐ Other, please describe:..…… ☐	How was the adverse action communicated to you? (If in writing, attach a copy of the communication)

Did the employer tell you that the adverse action was based on your credit history? Please explain.

Did the employer disclose the particular information in your credit history they relied on when acting adversely? Please explain. (Be specific, i.e., late payments on mortgage, amount of medical debt, etc. If disclosed in writing, attach a copy of the disclosure).

On what date did the employer provide the particular information?

Section VI: Witnesses Who Have Evidence of the Violation *(Note: The Division may contact these individuals)*

Witness 1:

First Name		Relationship
Last Name		Home Phone
Mailing Address		Cell Phone
City	State	Zip Code
Email Address		

Witness 2:

First Name		Relationship
Last Name		Home Phone
Mailing Address		Cell Phone
City	State	Zip Code
Email Address		

Describe in detail any additional information for your allegation that this employer has violated the Employment Opportunity Act, § 8-2-126, C.R.S. Please include copies of any relevant documents or information and additional pages as necessary (i.e., job posting, disclosure forms, consent forms, credit report, employment handbook, letters, emails, etc.)

I declare under penalty of perjury § 18-8-501 et seq., C.R.S. that the information I have provided is true and correct.

Name	Signature	Date

Please mail or deliver this complaint and any attached documentation to:

Mailing Address:
Colorado Division of Labor
633 17th Street, Suite 200
Denver, Colorado 80202-3611

Fax: (303) 318-8400

Email: cdle_labor_standards@state.co.us