Engage PEO Client Alert: Florida

Miya's Law

Changes to Florida's Residential Landlord and Tenant Act

What's New: Effective July 1, 2022, Florida employers that operate apartments (essentially those holding a transient or non-transient license) must perform a background screening on all employees as a condition of employment and an individual may be disqualified from employment based on certain offenses involving violence or disregard for safety.

Why it Matters: Failure to comply with the background screening requirement may result in civil damages and administrative action including fines and suspension or revocation of licensure.

What Employers Should Do: Florida employers that operate apartments should familiarize themselves with this new law, review current policies regarding background screening of employees, ensure that current employees have been background screened in accordance with the new requirements, and implement or update policies if necessary to comply.

The new law expands landlord duties under the Florida Residential Landlord and Tenant Act which applies to employers that rent residential units which are licensed as nontransient or transient apartments. Employers will now be required to subject all employees to a background screening as a condition of employment. The background screening must be performed by a consumer reporting agency in accordance with the Fair Credit Reporting Act (FCRA). It must also include a screening of criminal history records and sexual predator and sexual offender registries of all 50 states and the District of Columbia. Employers have the option to disqualify a person from employment if they have been convicted or found guilty or pled nolo contendere to specific offenses involving violence or the disregard for the safety of others.

An employer may end up being held responsible for any damages incurred by a tenant, guest, or worksite employee that result from an employer's failure to background screen an employee or disqualify an employee that has a specified offense. It may also result in criminal liability on the part of the employer and place any licenses that they hold in danger of fines, suspension, or revocation.

Employers should also note that denying employment based on incomplete or mistaken criminal history can create additional areas of concern for liability involving employment discrimination. An employee that files a successful claim with the Florida Commission on Human Relations (FCHR) alleging unlawful employment discrimination under the FCRA has the right to file a lawsuit against an employer. The employee may request a jury trial. Penalties that may be imposed on an employer include administrative remedies (i.e. fines, reinstatement of employment), compensatory damages (i.e. backpay, emotional distress), punitive damages, and attorney's fees.

Please reach out to your assigned Engage Human Resources Consultant if you have any questions concerning this alert or other HR-related matters. In addition, Engage may be able to assist through some of its vendors with your background check needs.