

# Universal Background Screening

## Part III: Adverse Action Process



August 2021

# Fair Credit Reporting Act (FCRA)

## ▶ The FCRA is a Consumer Protection Statute

- Passed by Congress in 1970
  - Amended by the Crediting Reporting Reform Act in 1996
  - Amended 2003 by the Fair and Accurate Credit Transactions Act (FACTA)

## ▶ It is designed to:

- Ensure accurate information is reported
- Restrict/Limit what information is reported
- Provides a dispute mechanism for consumers



# What is the Adverse Action Process?

- ▶ Any decision by an “End User” (client) that has a negative impact on the consumer.
  - Examples:
    - Denying employment (rescinding conditional offer)
    - Terminating employment (existing or new hire)
    - Denying promotion, transfer, etc.
- ▶ Why does the law require this process?
  - To provide the **opportunity for the consumer to dispute** any information that may be incomplete or inaccurate
    - Identity theft, common/limited identifiers, human error



# “Pre” Adverse Action

Before taking Adverse Action, you must:

1

- Notify the consumer that you may take adverse action based on the consumer report (Pre-Adverse Action Letter)

2

- Provide the consumer a copy of the report

3

- Provide the consumer a copy of the document *A Summary of Your Rights Under the Fair Credit Reporting Act* and any other applicable state notices

4

- Provide a “reasonable” amount of time for the consumer to receive the notice, review the report and initiate a dispute

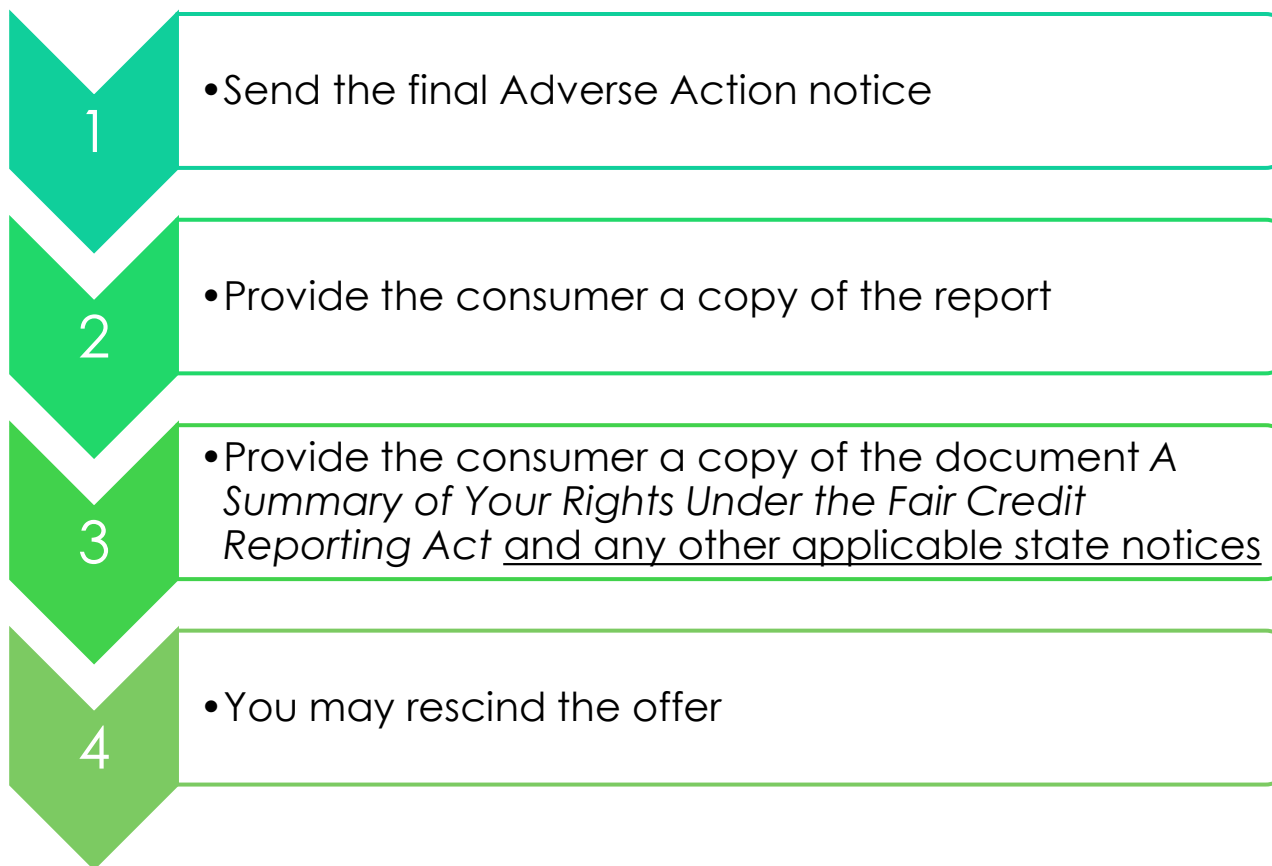
5 to 10  
business days

- March 2021 – New Form in Illinois to be provided -

<https://www.jdsupra.com/legalnews/illinois-enacts-new-background-check-4625056/>

# “Final” Adverse Action

IF the candidate does not dispute within the “reasonable amount of time”:



# Compliance – Adverse Action

## ► If Disputed by Candidate:

- Background Screening Firm contacted by candidate or client and discuss dispute with candidate - updating the client
- 30-day process as per federal law
- Update to report and client if any changes from dispute

DISPUTE  
RESOLUTION

