

## **SAMPLE COPY OF A LETTER OF PRE-ADVERSE ACTION**

*(Please consult your attorney for proper verbiage)*

**Under the Fair Credit Reporting Act, a notice must be sent if any information from a consumer credit report is used, in whole or in part, in the selection process for employment, promotion, discipline, retention, assignment or reassignment.**

*Dear Applicant,*

*A decision is currently pending concerning your application for employment at (company name). Enclosed for your information is a copy of the consumer report that you authorized in regard to your application for employment, together with a "Summary of Your Rights Under the Fair Credit Reporting Act.*

*If there is any information that is inaccurate or incomplete, you should contact this office as soon as possible so an employment decision may be completed.*

*Sincerely yours,*

**The purpose is to give an applicant the opportunity to see the report that contains the information that is being used against them. If the report is inaccurate or incomplete, the applicant then has the opportunity to contact the Consumer Reporting Agency to dispute or explain what is in the report. Otherwise, applicants may be denied employment without ever knowing they were the victims of inaccurate or incomplete data.**

**As a practical matter, by the time an applicant is the subject of a Consumer Report, an employer has spent time, money and effort in recruiting, and hiring. Therefore, it is in the employer's best interest to give an applicant an opportunity to explain any adverse information before denying a job offer. If there was an error in the public records, giving the applicant the opportunity to explain or correct it could be to the employer's advantage.**

**Even if there are other reasons for not hiring an applicant in addition to matters contained in a consumer report, the adverse action notification procedures still apply. If the intended decision was based in whole or part on the Consumer Report, the applicant has a right to receive the report. In fact, these rights apply even if the information in the consumer report used against an applicant is not even negative on its face. For example, an applicant may have a perfect payment record on his or her credit report, but an employer may be concerned that the debt level compared to the salary, is too high. The applicant still is entitled to a notice of pre-adverse action, because it is possible that the credit report is wrong about the applicant's outstanding debts. In a situation where the employer would have made an adverse decision anyway, regardless of the background report, following the adverse action procedures is still the best practice for legal protection.**